

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

3 -----
4 STATE OF MINNESOTA,

5 Plaintiff,

6 vs.

TRANSCRIPT OF PROCEEDINGS

7 TAMIKA SUTTLES and DANIEL DRLJIC,

8 Defendants.
9 -----

10 DISTRICT COURT FILES: 62-CR-10-1465 and 62-CR-10-1464
11 -----

12 The above-entitled matter came on for jury trial before
13 the HONORABLE GAIL CHANG BOHR, one of the judges of the
14 above-named court, on the 29th day of November, 2010, in the
15 Ramsey County Courthouse, St. Paul, Minnesota.

16 * * *

17 APPEARANCES

18 ELIZABETH LAMIN, of the RAMSEY COUNTY ATTORNEY'S
19 OFFICE, 50 West Kellogg Boulevard, Suite 315, St. Paul,
20 Minnesota 55102, appeared representing the Plaintiff.

21 JILL CLARK, of the LAW OFFICE OF JILL CLARK, P.A., 2005
22 Aquila Avenue North, Golden Valley, Minnesota 55427,
23 appeared representing the Defendants.
24

25 (Whereupon, the following proceedings were duly had.)

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1 THE CLERK: Page one, line one, and page one,
2 line two, Daniel Drljic and Tamika Suttles.

3 MS. LAMIN: Good morning.

4 THE COURT: Yes. Appearances, please.

5 MS. LAMIN: Good morning, Your Honor.
6 Elizabeth Lamin, Assistant Ramsey County Attorney,
7 appearing on behalf of the State.

8 MS. CLARK: And Jill Clark appearing on
9 behalf of Defendants Suttles and Drljic, who are
10 both here in person.

11 I do have some issues for the Court this
12 morning. Your Honor, I have my continuing list of
13 things to make a record of. I'm still willing to
14 defer it so we can get going, but there are some
15 things that do need to get raised yet this
16 morning.

17 THE COURT: Okay.

18 MS. CLARK: One is, I have discovered that I
19 was never provided a copy of the police supplement
20 for Officer Thomas Menton, M-E-N-T-O-N. It's
21 quite clear from police documentation that he
22 filed a supplement. I attempted to email Ms.
23 Lamin yesterday numerous times, I probably sent
24 her over 20 e-mails. Eventually, they all bounced
25 back to me. I was trying to get her to make sure

1 that she had all of the physical evidence from the
2 property room here so that we had it available for
3 us. I had told her that last week. I left her a
4 voicemail this morning. I don't know if it's
5 here, but we cannot go on with this -- I cannot do
6 the cross-examination of this officer if the
7 evidence isn't here, and I don't physically
8 possess it. So that's one issue.

9 The second issue is, I did --

10 THE COURT: Which officer are we talking
11 about now? Menton or the person who's been
12 testifying?

13 MS. CLARK: Gliske, who's been testifying,
14 yes.

15 THE COURT: And the physical evidence has
16 been around, as far as I could tell.

17 MS. CLARK: Not all of it.

18 MS. LAMIN: Well, we haven't put a lot of
19 things in yet.

20 MS. CLARK: But I have seen what they brought
21 over, Your Honor, and they are not bringing over
22 the rest of the evidence. There are some very,
23 very funky things going on with evidence in this
24 case -- physical evidence, and we need to see the
25 evidence here. I need to have access to it to put

1 it in through witnesses.

2 THE COURT: You know, Ms. Clark, if you're
3 going to make those kinds of allusions you need to
4 be very specific. So when we get to that point, I
5 want to know specifically what it is you think
6 that is not here.

7 MS. CLARK: That is not here?

8 THE COURT: Well, at this point, just keep
9 going. We need to know what happened to
10 Officer Menton.

11 MS. LAMIN: Your Honor, I provided --

12 MS. CLARK: I would like not to be
13 interrupted. I have waited for this floor.

14 THE COURT: Wait, wait. We are not going to
15 start with this. We need to get through this
16 trial in a timely manner. I think this jury has
17 been waiting now for 20 minutes.

18 MS. CLARK: I understand that.

19 THE COURT: So we've had now the
20 supplementary report that you're asking for, okay.

21 MS. CLARK: Thomas Menton --

22 THE COURT: That's your request?

23 MS. CLARK: Yes.

24 THE COURT: Okay. So let's just go from
25 that.

1 MS. CLARK: I'd like to say one more thing
2 about that. I sent an email this morning to
3 management, I called management, I called Ms.
4 Lamin, and then what I got in response was a
5 motion -- apparently new evidence still being
6 produced for the first time to the defense today,
7 which I object to -- new motions in limine, which
8 again were given to me just before court. I have
9 not had a chance to read them, let alone consider
10 them or research them.

11 And then what I got in the back of this
12 packet was a document called Report List For CN.
13 It appears the State wants to put this into
14 evidence, I don't know why, but what I need to
15 tell the Court is there was more than one CN for
16 this incident.

17 THE COURT: Okay. What's a CN?

18 MS. CLARK: I assume it's case number. And
19 this is a list of police supplements for
20 909258604, but there's at least two other CNs
21 relating to this case. So this is by no means
22 definitive proof that there is no supplement
23 created by Officer Menton. I now am extremely
24 curious to see the supplement created by Officer
25 Menton, and I believe that we will be extremely

1 prejudiced if the trial goes forward and, in
2 particular, Officer Gliske -- I have to cross
3 Officer Gliske before I've seen the supplement of
4 the second officer to arrive on the scene that
5 night.

6 THE COURT: All right.

7 MS. LAMIN: Your Honor, there is no
8 additional report by Officer Menton. I did this
9 morning try to provide defense counsel a list of
10 the police reports in this case. It's true --
11 defense points out that there are two other CNs..
12 That's because there were two other businesses
13 burglarized, but my understanding -- and, again,
14 we can get a list for the other two CNs, but there
15 is -- there's no report by Officer Menton.

16 THE COURT: No supplementary report by
17 Officer Menton, is that what you're telling me?

18 MS. LAMIN: Yes, Your Honor. And I can show
19 you a copy of this.

20 (Whereupon, Ms. Lamin handed the Court a
21 document.)

22 MS. LAMIN: (Indicating throughout.) This is
23 a list of police reports associated with this CN.
24 This was the primary CN, that's the case number,
25 and this is the one under which all of the reports

1 -- almost all of the reports were written. The
2 only additional reports were -- my understanding
3 is Mr. Gliske wrote two other kind of -- not even
4 -- no narrative, but because there were three
5 businesses burglarized, there were three CNs, and
6 I can provide a list for those other two as well
7 after lunch. But there is no report by Officer
8 Menton.

9 The State has continually provided defense
10 counsel with everything she has requested. We
11 have tried to meet all of her needs over and over
12 again, Your Honor, and we continue to do that
13 today. In fact, I had Officer Gliske bring
14 everything from the property room today.

15 I would note that that --

16 MS. CLARK: I'm sorry, Officer Gliske's in
17 the courtroom. He should be sequestered.

18 MS. LAMIN: I guess I'm not sure why.

19 MS. CLARK: Because this may come up in his
20 testimony.

21 THE COURT: Yeah, okay.

22 MS. LAMIN: Has there been a sequestration
23 order for Officer Gliske?

24 MS. CLARK: For all witnesses.

25 THE COURT: It is for all witnesses, so

1 Officer Gliske can sit outside. Thank you.

2 (Whereupon, Officer Gliske left the
3 courtroom.)

4 MS. LAMIN: Your Honor, I would note in terms
5 of this custody -- this physical evidence, Ms.
6 Clark had gone to the property room earlier in the
7 year and viewed all of physical evidence and took
8 photos. Officer Gliske brought some of the
9 physical evidence on Wednesday, and my motion in
10 limine is regarding that. When we began the
11 process to attempt to introduce some of the
12 physical evidence, Ms. Clark then objected to
13 chain of custody.

14 Your Honor, the defense cannot have it both
15 ways. They cannot, on the one hand, demand that
16 we bring on every whim all of the physical
17 evidence to them to inspect outside of the normal
18 course of proceedings and then, on the other hand,
19 object when we do that, Your Honor.

20 Officer Gliske today -- I asked him to bring
21 everything that was in the property room. He has
22 that with him -- everything that he could get. If
23 defense counsel wants to inspect property, they
24 can go to the property room and inspect it. The
25 State intends to introduce some of the physical

1 evidence, not all of it. If defense wants to
2 waive chain of custody issues, we can waive them
3 on both sides. However, defense cannot proceed in
4 this way, Your Honor, and that's why I filed some
5 motions in limine, Your Honor.

6 The defense on Wednesday was routinely --
7 instead of doing proper voir dire for foundation
8 was --

9 THE COURT: Hold on a second.

10 MS. LAMIN: Sorry.

11 THE COURT: You moved into the motion in
12 limine.

13 MS. LAMIN: I have. I'll sit down.

14 THE COURT: Okay. But I just want to make
15 clear --

16 MS. LAMIN: Let me know when I can --

17 THE COURT: -- with regard to the
18 supplementary report by Officer Menton, it is the
19 State's view that there is none, and I'm going to
20 accept that, Ms. Clark.

21 MS. LAMIN: Your Honor, I'm sorry, if I can
22 also note --

23 THE COURT: Let me just say --

24 MS. LAMIN: Sorry.

25 THE COURT: -- in fact, Officer Menton is on

1 the witness list, and if there's an issue, you can
2 certainly ask about a supplementary report.

3 However, that's it, there's none. And I'm just
4 going to say to Ms. Lamin that if there are any
5 other reports that have not been disclosed, as
6 weird as it may seem at this point in the trial
7 that I would even be saying this, please make sure
8 that they're all done and that I know that they've
9 all been done.

10 MS. LAMIN: Yes. And, Your Honor, my
11 understanding is Rick Dusterhoft disclosed all of
12 the police reports related to this case back in
13 July or August.

14 THE COURT: And there should be sort of a
15 record of what was disclosed, correct?

16 MS. LAMIN: He also sent them to you as part
17 of the Brady accusations and as part of the
18 probable cause. There has been no further
19 investigation and no further reports have been
20 produced since that time on this case, Your Honor,
21 and so you have all of the reports, as defense
22 counsel has all of the reports.

23 THE COURT: All right. Okay. Good. Now
24 with regard then to -- do we need to do anything
25 with the list for the case numbers? These are all

1 -- these reports are all part of this case number;
2 is that correct?

3 MS. LAMIN: Yes, Your Honor.

4 THE COURT: Any other case number that's out
5 there, I'd just like to make sure that we have
6 those and everybody has a copy of the same thing
7 with regard to what supplements are on those case
8 numbers. I imagine they're all going to say the
9 same thing, but I think if we can just head these
10 things off, then we don't have to deal with them
11 later.

12 MS. LAMIN: Your Honor, that's what I'm
13 trying to do.

14 THE COURT: Okay. Thank you. All right.
15 With regard to the motions in limine, they are --

16 MS. CLARK: Your Honor, one thing is the
17 physical evidence. The State, it appears, wants
18 to selectively bring over only the evidence that
19 they want to put in. I cannot get the evidence.
20 What I heard again today was that they brought
21 some of it with them.

22 THE COURT: Okay. Can I just mention, then,
23 Ms. Clark, because it is my -- okay. It is my
24 understanding that you were able to go to the
25 property room and that you took photographs; is

1 that correct?

2 MS. CLARK: Yes.

3 THE COURT: Okay.

4 MS. CLARK: And they apparently showed me
5 some of the evidence at that time. There are
6 property evidence sheets showing additional
7 physical evidence.

8 THE COURT: Okay. So if that isn't
9 corresponding, you are certainly free to raise
10 that issue at that time as evidence is coming in.
11 You can bring in that evidence, as well, if you
12 have some -- if you have seen it and you know it's
13 there, you can ask for it, but we need to have
14 some proof -- some proof and some factual basis
15 for evidence that you're asking to put in, not
16 just anything that you have. But if you've
17 actually gone and looked at things and you think
18 that what you looked at is not here, then you can
19 certainly say, what about this, what about that?
20 It just seems to be the best way to get that
21 information in. However, we're not going to go
22 off on speculation about what you thought was
23 there, because if you took photographs, that was
24 it. And let me just say, Ms. Clark, if the State
25 has not disclosed that information, then they

1 can't use it, period.

2 MS. CLARK: And thank you, Your Honor, and I
3 very much appreciate that. But here's my problem,
4 I have property and evidence forms. These are
5 police-generated forms. They list physical
6 evidence.

7 THE COURT: Okay.

8 MS. CLARK: I tried to email Ms. Lamin
9 yesterday. I was very specific in my emails, but
10 then they bounced back, and she refused to speak
11 with me this morning about it. I'm not
12 understanding why she won't speak with me. I just
13 don't know when and how I can make it happen if I
14 can't email, I leave voicemails, the prosecutor
15 won't speak with me before trial, and I don't know
16 how I can get the evidence physically here. If
17 they don't have it, maybe they can just let me
18 know that.

19 THE COURT: Right, and that will happen.

20 MS. LAMIN: And, Your Honor, if Ms. Clark
21 gives me a specific list of what it is she needs
22 that is missing in her mind, we would be happy to
23 accommodate. Ms. Clark previously when she viewed
24 the evidence contacted Sgt. Strickland directly
25 and set that up. She's free to do that again. My

1 understanding is she routinely calls Sgt.
2 Strickland and she can set up a time to see the
3 evidence.

4 Either way, Your Honor, the State, in an
5 attempt to meet all of Ms. Clark's demands,
6 brought -- I asked Officer Gliske to bring what he
7 could of the physical evidence. So he has what we
8 understand that we have. Does that make sense,
9 Your Honor?

10 THE COURT: No.

11 MS. LAMIN: I asked Officer Gliske to bring
12 the physical evidence related to this case that's
13 in the property room.

14 THE COURT: Okay.

15 MS. LAMIN: He has that with him.

16 MS. CLARK: Okay.

17 THE COURT: Okay. So there's no other parts
18 of that evidence that's sitting in the property
19 room because Officer Gliske has brought
20 everything. That's all I want to know.

21 MS. CLARK: Okay. Thank you.

22 THE COURT: Okay. So your first motion in
23 limine, which is that pry bars, bolt cutters, wire
24 cutters, and crowbars found in the duffel bag in
25 the trunk of Ms. Suttles' vehicle should be

1 admitted based on the testimony of Officer Gliske
2 recognizing the items and stating they are
3 substantially in the same condition without
4 requiring a full chain of custody -- that's the
5 State's request?

6 MS. LAMIN: Your Honor, can I articulate
7 that?

8 THE COURT: Yes, you certainly may.

9 MS. LAMIN: Your Honor, on Wednesday, towards
10 the end of the day, Ms. Clark indicated she was
11 going to object to the physical evidence of the
12 items within the duffel bag, in particular the pry
13 bars, the crowbars, the wire cutters.

14 Your Honor, Officer Gliske brought those
15 items on Wednesday, and Ms. Clark inspected those
16 items. He also labeled them. Now, in that duffel
17 bag, it did have some kind of unidentifiable
18 instruments. We wouldn't seek to include those;
19 however, photos of those have been included as
20 Exhibits 48, 49, and 50 already, Your Honor.

21 I am just making a motion because Ms. Clark
22 indicated she was going to object to chain of
23 custody based on case law, that if Officer Gliske
24 -- that this is a unique enough item, as you can
25 tell from the photos, that if Officer Gliske can

1 identify those and say that those are fairly
2 unique, he recognizes them, they have distinct
3 markings on them, that they are the same, and they
4 substantially appear to be in the same
5 condition -- and, again, we do have photos. We do
6 not want to waste the jury's time, that's why I'm
7 bringing this beforehand -- that Officer Gliske
8 can testify -- if he can testify that they are the
9 same and look in the same condition, that that is
10 more than enough adequate authentication and
11 foundation to admit those. And I did cite a
12 published case -- and I have a copy of that case.
13 That case involved glass from a burglary. And if
14 you look, in that situation, the officer testified
15 that it was somewhat unusual, that they could --
16 they could identify it, that it was in
17 substantially the same condition, the requirement
18 for authentication was satisfied and the evidence
19 is admissible.

20 THE COURT: All right.

21 MS. LAMIN: And they go on to say that, in
22 fact, even for chain of custody, every single
23 person is not required. Merely showing and
24 explaining the process is necessary to admit
25 something in chain of custody.

1 Your Honor, so I ask that under this
2 published case law of Bellikka, B-E-L-L-I-K-K-A --
3 this is 490 N.W.2d 660, this is Minnesota Court of
4 Appeals from 1992, review denied November 25, 1992
5 -- that we don't take a long sidebar to argue
6 about this --

7 THE COURT: Okay.

8 MS. LAMIN: -- that we address this now.

9 THE COURT: Okay.

10 MS. LAMIN: I can go on with my other motion
11 or just --

12 THE COURT: Let's go through each of these.
13 If we continue at this rate, we'll never get
14 through any testimony this morning.

15 MS. LAMIN: I apologize, Your Honor.

16 THE COURT: So let's get through your
17 motions.

18 MS. LAMIN: Your Honor, the other thing is --
19 again, I'm just trying to accelerate the trial.

20 THE COURT: Okay. Let's do that.

21 MS. LAMIN: That's what No. 2 is about.
22 Again, Officer Gliske -- on Wednesday, during
23 testimony, defense counsel routinely objected to
24 every single piece of evidence and sought
25 additional voir dire on every photograph. Your

1 Honor, the State just seeks -- again, the basis
2 for a photograph is that the officer recognizes
3 it, that he was there when the photograph was
4 taken, and that it fairly and accurately depicts
5 what it's purported to depict from that time and
6 date.

7 I would ask that I be able to introduce
8 photographs more quickly -- three or four or five
9 or six photographs at a time. I believe that
10 defense was using its opportunity to voir dire
11 instead to cross-examine Officer Gliske. If the
12 State meets that burden, Your Honor, I would ask
13 that you rule whether or not there's adequate
14 authentication and foundation to admit that photo.
15 And if there is, I ask that the photo be admitted.

16 I have bunched some of the remaining
17 photos -- and, again, these are all photos from
18 the scene of the burglary. I have bunched them
19 together just in terms of the numbers, and I'm
20 just going to ask Officer Gliske to go through
21 them at a quicker pace so we can move things
22 along.

23 THE COURT: Okay.

24 MS. LAMIN: That's my No. 2.

25 THE COURT: Okay.

1 MS. LAMIN: No. 3 is anticipating -- this is
2 -- again, I need to know this. Mr. Dana Rose, he
3 is the owner of Sharrett's Liquor Store, and
4 that's where the surveillance video is coming
5 from. We have some still photographs from that
6 liquor store's surveillance video. This is --
7 again, I intend to play the surveillance video one
8 time, but then I would intend to use just stills
9 for the remainder of the trial. At this time, I
10 would seek to clarify this issue, that Mr. Rose
11 can testify to the stills from the surveillance
12 photos without having -- my paralegal, Truda
13 Hanson with the Ramsey County Attorney's Office,
14 who's been sitting behind me, is the one who
15 produced the stills. So I need to know ahead of
16 time if you're going to require her to testify
17 because, you know, we're obviously going to need
18 someone else to take over and we'll have to deal
19 with that, but she can -- so, again, pretty
20 unusual to do in a case, usually that's not an
21 issue, but all of these unusual things seem to be
22 issues here.

23 Finally, No. 4, again, I've asked every
24 single day that the defense counsel please provide
25 a list of Mr. English's convictions that they're

1 going to seek to impeachment him with. I just
2 want to prohibit defense counsel without Your
3 Honor ruling on his convictions -- for them to
4 just start talking about them, that's all I ask.

5 And to expedite that process, Your Honor, I
6 provided an updated sentencing worksheet for
7 Mr. English to try to assist defense counsel.
8 Now, defense counsel earlier in discovery received
9 a full NCIC of Mr. English's record, as well as
10 his sentencing worksheet. In addition, the State
11 provided last week an updated NCIC record for
12 Mr. English and today I provided an updated
13 worksheet. I have to this point never received a
14 list of what exactly defense counsel seeks to
15 impeach Mr. English with. That's all I ask so
16 that Your Honor can rule without it being a
17 surprise for everyone.

18 Thank you.

19 THE COURT: All right. Okay. So let me just
20 say that with regard to the first issue --

21 MS. CLARK: I haven't made any argument on
22 any of these yet.

23 THE COURT: Okay. Go ahead.

24 MS. LAMIN: Your Honor, defense counsel did
25 indicate that she was objecting to chain of

1 custody.

2 THE COURT: Wait a second now. What are you
3 going to do with regard to the first one?

4 MS. CLARK: What am I going to do?

5 THE COURT: Are you going to make some
6 rebuttals on this now?

7 MS. CLARK: Well, the Court has a written
8 notion from the State and heard oral argument from
9 the State and we have not had any opportunity to
10 say anything, that's all I'm saying.

11 THE COURT: The motion in limine, is that
12 what you're saying?

13 MS. CLARK: Yes, I just heard new motions in
14 limine.

15 THE COURT: Do you not have a copy of it?

16 MS. CLARK: I got it around 10:00 this
17 morning.

18 THE COURT: Okay.

19 MS. CLARK: I haven't had a chance to read it
20 yet, Your Honor.

21 THE COURT: Okay. All right. Well --

22 MS. CLARK: So do these things have to be
23 dealt with now?

24 THE COURT: Yes, because Officer Gliske is
25 coming back on the stand and I need to --

1 MS. CLARK: I agree for Gliske, but it seems
2 that three and four -- Dana Rose, when's he
3 testifying? I mean, it can't possibly be this
4 morning.

5 THE COURT: We need to deal with Mr. English
6 and whatever convictions that you are going to
7 impeach him with.

8 MS. CLARK: Now?

9 THE COURT: No, not now, but before.

10 MS. CLARK: Oh, I know before. I'm not --
11 I'm just saying right now -- I thought you were
12 trying to get the jury, that's all I'm saying.

13 THE COURT: All right. With regard to one
14 and two?

15 MS. CLARK: With regard to one, we approached
16 and -- the State wanted to, in the last five
17 minutes of trial on Wednesday, get a bag full of
18 objects in, and we objected.

19 THE COURT: And I denied it.

20 MS. CLARK: Yeah, we objected to that.

21 THE COURT: Okay.

22 MS. CLARK: My concern was, I had heard from
23 Gliske on the stand a moment before that he did
24 not transport the objects to the Property &
25 Evidence Room. So I'm concerned that if the

1 evidence comes in and I try to ask him about those
2 things, the State will object and say, you can't
3 ask this witness about what was taken to the
4 Property & Evidence Room. So that's Point No. 1.

5 No. 2 is, in the case that was provided,
6 Bellikka, that was one unique glass, and it was
7 very unique. These are pretty fungible objects,
8 and I will point out that already in evidence
9 there's two different versions of what was in that
10 bag. If we look at the exhibits, you --

11 THE COURT: You know, Ms. Clark, this is
12 probably a good argument to make to a jury, if
13 they are different.

14 MS. CLARK: And I will, but I guess I want to
15 preserve the chain-of-custody objection because we
16 think they are -- they're not unique in that
17 sense.

18 I'm also concerned about -- this is the
19 problem that I'm having with the physical
20 evidence, that when it was booked into the
21 Property & Evidence Room, according to the police
22 property sheets, there were other unidentified
23 tools in there.

24 THE COURT: Right, okay.

25 MS. CLARK: Well, I don't know if they are

1 here or not.

2 THE COURT: Right.

3 MS. CLARK: So those are the kinds of
4 issues --

5 THE COURT: And you can object to those if
6 that comes up, but here's my other part to you,
7 you can certainly do your offer of proof and make
8 a record in terms of the chain of custody, but I'm
9 going to let this in.

10 MS. CLARK: Thank you, Your Honor. And then
11 with regard to the photos. I mean, I like to work
12 with counsel and streamline the trials, but the
13 State refused to show me its exhibits before
14 trial. The first day I got dumped on me -- I
15 won't use that word, but placed in front of me
16 numerous, numerous exhibits already marked, and I
17 had about two minutes to look at them. I can't do
18 my job if I just say, oh, sure, fine, put all
19 those in, you know, and now it sounds like they're
20 -- I'm sorry.

21 THE COURT: No, but I think the point of the
22 photographs is just that we have proper
23 authentication.

24 MS. CLARK: But here's what's going on: I
25 very much object to the characterization -- by the

1 way, the sideways slams on me throughout the
2 prosecution's delivery this morning. I'm doing my
3 job. I'm doing it the best that I possibly can.

4 And the problem that I have is this
5 officer -- frankly, I don't believe he was there
6 when a lot of those pictures were taken. I think
7 he's being put on instead of Alvarez, for reasons
8 that are unclear to me, to be the authentication
9 of these photographs, and just to say this is how
10 things were on December 6 doesn't authenticate the
11 photograph. In other words, when --

12 THE COURT: I believe, Ms. Clark, that the
13 officer has testified that he was present when the
14 other person took the photographs.

15 MS. CLARK: I understand that. I'm just
16 saying I doubt that. But what was happening was,
17 when I was voir diring him, it turns out it wasn't
18 what it was being purported to be, and that's a
19 very huge issue for foundation.

20 And I'll just take the one example, when I
21 asked, is this the position that you saw these
22 objects in the car when they were located, he said
23 no, and yet that's what the State had put the
24 photograph in for. And so then the State changed
25 and started saying, well, does this picture

1 accurately portray what a picture was being taken
2 of? Well, he can say that about any picture.
3 Anyone could say that about any picture. It
4 doesn't lay a proper foundation.

5 THE COURT: Okay.

6 MS. CLARK: But given all that, if the State
7 just shows me its exhibits, maybe I can agree to
8 them. However, I tried to see them before trial
9 and the prosecutor wouldn't talk to me.

10 So I guess that I resent any implication that
11 I'm slowing down the trial, because I've been
12 trying to work with Counsel, and I'm not -- I'm
13 getting things at the last minute, and I just --
14 I'm not superhuman.

15 THE COURT: Let me just say, Ms. Clark, with
16 regard to the photographs, you can also
17 cross-examine when that time comes. So if stuff
18 is not in a way that you think it was, that
19 certainly could come up then. In terms of the
20 photographs coming in, it's just a matter of
21 authenticating them.

22 MS. CLARK: But if she's putting in a batch
23 of them, may I see them, please? It was very hard
24 for me -- I have to say I was provided no copy of
25 these, and it's very hard for me to keep a list,

1 even, of any of the numbers.

2 THE COURT: Were they sent to you by email?

3 MS. CLARK: Your Honor, I have the pictures
4 themselves, but I don't have the exhibit numbers
5 on them.

6 THE COURT: Oh, but you do have the pictures?

7 MS. CLARK: I have the pictures on my
8 computer.

9 THE COURT: Okay. Well, I think the numbers
10 were -- when were they placed on them? Did we
11 just do those?

12 MS. LAMIN: Yes, Your Honor.

13 THE COURT: They were done in court?

14 MS. LAMIN: Yes.

15 THE COURT: So I didn't think that they could
16 have numbers without it being done by the court
17 reporter. So any previous numbers would not be
18 accurate.

19 All right. Let's bring the jury in. So
20 we'll hold off on No. 3 and No. 4 until -- are you
21 ready for the jury?

22 MS. LAMIN: Your Honor, does Ms. Clark want
23 Officer Gliske to come in here and deal with this
24 evidence stuff before he takes the stand or are we
25 going to have just a repeat of -- do you see what

1 I'm saying? She needed to inspect some evidence.
2 I guess I don't know what to do.

3 THE COURT: That was not my understanding.
4 My ruling is that he gets to testify and then
5 she'll have an opportunity.

6 MS. CLARK: I'll ask him on cross what else
7 he has with him, how about that?

8 THE COURT: Right. And I did say that if you
9 are concerned with chain of custody, you can make
10 your record later --

11 MS. CLARK: Sure, I understand.

12 THE COURT: -- but we're not going to take
13 time now because I'm going to let it in, okay?

14 MS. CLARK: I understand. Is Dana Rose
15 testifying today?

16 THE COURT: Well, we're not ready -- we
17 haven't gotten that far yet, okay.

18 MS. CLARK: So we're going to put those two
19 off, yeah. I think that's good.

20 THE COURT: Okay.

21 MS. LAMIN: Can I have -- I guess as we go
22 get the jury, can I just have a minute to have
23 Officer Gliske remove the things from -- you know,
24 to clarify the evidence, the physical evidence,
25 what we're going to introduce, what we're not,

1 because he brought everything?

2 THE COURT: Okay.

3 MS. LAMIN: Does that make sense?

4 THE COURT: Yes.

5 MS. LAMIN: I just need one minute. I'll
6 bring him in here.

7 THE COURT: Well, then he should do it in
8 front of us.

9 MS. LAMIN: Yes.

10 THE COURT: Okay. Thank you.

11 (Whereupon, after a brief off-the-record
12 discussion, the clerk left the courtroom briefly
13 and returned with the members of the jury.)

14 THE COURT: Good to see everybody. You had a
15 good Thanksgiving?

16 (Whereupon, the jurors responded
17 affirmatively.)

18 THE COURT: All right. Well, we are
19 proceeding with the trial, and I believe we were
20 still having an officer testify.

21 So, Ms. Lamin.

22 MS. LAMIN: Your Honor, the State would like
23 to recall Officer Jonathan Gliske to the stand.

24 THE COURT: Okay. And good morning, Officer,
25 and you are -- just a reminder, you are still

1 under oath.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Okay. And I know that we had to
4 stop your testimony on Wednesday. So I'm sorry we
5 have these days in here, that's something that was
6 unavoidable because it was Thanksgiving, and the
7 day after the courthouse was closed.

8 So just a reminder -- you may be seated. And
9 I just want to remind you, Officer, to speak up.
10 You have to actually make sure that the juror in
11 the back there can really hear you, so.

12 And if you can't, I need to see your hands go
13 up, all right?

14 And let me just make sure, is everybody able
15 to hear?

16 (Whereupon, the jurors responded
17 affirmatively.)

18 THE COURT: So far so good, right?

19 (Whereupon, the jurors responded
20 affirmatively.)

21 THE COURT: All right. Okay. Ms. Lamin.

22 MS. LAMIN: Thank you, Your Honor.

23 Q (By Ms. Lamin, continuing) Officer Gliske, since it's
24 been a few days, can you please just recap for us you
25 being dispatched on December 6, 2009?

1 A I was sent to an alarm at Raymond and University at a
2 business. I arrived on scene, saw Defendant Suttles in
3 the back, questioned her about what she was doing in
4 the back.

5 Q I'm sorry, Officer Gliske. Could you please just speak
6 up a little bit?

7 A Yes. I was sent to a liquor store at Raymond and
8 University on an alarm. I arrived on the scene -- I
9 was the first one on scene, went to the back alley to
10 the rear of the business, saw a vehicle parked with Ms.
11 Suttles outside of the vehicle, questioned her briefly
12 on what she was doing at a closed business. She said
13 that she was -- her car broke down and she had to pee
14 and she wanted to leave.

15 Due to her inconsistent story and her
16 nervousness, I secured her in my vehicle to check
17 the business to see if it was burglarized. As I
18 was doing so, a witness from a window saw me and
19 talked to me briefly and I saw Mr. English come
20 out of the business and run back inside when I
21 addressed him. I went up to the door that English
22 went into and it appeared to be pried, damaged. I
23 waited for assisting officers and K-9, and we
24 cleared the building and found the defendant and
25 Mr. English inside.

1 Q The defendant who?

2 A Daniel Drljic.

3 Q Inside which building?

4 A Of the liquor store.

5 Q Now, Officer Gliske, the individual that you saw exit
6 the building, was that definitely -- did you have a
7 good look at that individual?

8 A Yes, ma'am.

9 Q Okay. How certain are you that it was Mr. English and
10 not Mr. Drljic?

11 A 100 percent.

12 Q Was Mr. English alone?

13 A When he came out of the -- yes, I didn't see anybody
14 else in the alley.

15 Q Now, Officer Gliske, did you search Ms. Suttles'
16 vehicle?

17 A Yes, ma'am.

18 Q And, in particular, you searched the trunk area; is
19 that correct?

20 A Yes, ma'am.

21 Q And when you searched the vehicle, what did you find?

22 A In the trunk or the vehicle?

23 Q Yes.

24 A In the trunk, I found a duffel bag with tools.

25 Underneath the duffel bag were items that belonged to

1 the art studio inside the business. Under those were
2 numerous computer parts, electronics.

3 In the main cabin of the vehicle, I found rounds
4 -- pistol rounds, numerous pairs of gloves, a faceplate
5 to a Kenwood stereo, a couple other small items -- I
6 can't remember exactly what.

7 MS. LAMIN: Your Honor, may I approach?

8 THE COURT: Yes.

9 Q (By Ms. Lamin, continuing) Officer Gliske, I'm showing
10 you what's been marked as Exhibit 56. Do you recognize
11 what Exhibit 56 is?

12 A Yes, it is a duffel bag that I found in Ms. Suttles'
13 trunk.

14 Q Officer Gliske, I would ask you to examine the items
15 inside Exhibit 56.

16 A Yes, ma'am.

17 Q Okay. Do you recognize those items?

18 A Yes, ma'am.

19 Q And how do you recognize those?

20 A These are the items that were inside the duffel bag in
21 Ms. Suttles' trunk.

22 Q Now, those items in the duffel bag, are those fairly
23 unique items?

24 A Yes, ma'am.

25 Q Do the items -- the duffel bag and the items inside the

1 duffel bag appear to be in substantially the same
2 condition as when you recovered them from Ms. Suttles's
3 vehicle on December 6, 2009?

4 A Yes, they do.

5 Q Okay. Now, Exhibit 56 has a St. Paul Police property
6 label on it. Could you explain what that is and how
7 that works?

8 A When we collect evidence, we most of the time
9 photograph it and then we bring it down to our property
10 room, label it, fill out a sheet, and then put it into
11 property in the locked unit.

12 Q Now, Officer Gliske, do you recognize the writing on
13 that property label?

14 A Yes.

15 Q And can you show that property label for the jury,
16 please?

17 A (Indicating.)

18 Q What does that property label say, Officer Gliske?

19 A It has the case number, the time, the date, what squad
20 took it, the offense, location, descriptions of the
21 evidence, and reporting officer that put the evidence
22 in the property room.

23 Q And who put the evidence in?

24 A This was Thomas Menton.

25 Q Okay. Explain. Who is Thomas Menton?

1 A He was the second person sent to the alarm and he was
2 my assisting officer. So he actually physically put
3 everything into evidence for me.

4 Q What were you doing while he was doing that?

5 A Booking the three suspects, writing a report, and
6 gathering all of the other evidence on scene.

7 Q Now, you were the officer who located those items in
8 Ms. Suttles' car?

9 A Yes, I collected them also. He -- Thomas Menton just
10 put it into property for me.

11 Q Explain. How did that --

12 A When there's kind of a cluster of a call, you kind of
13 have other cops help you out because it probably would
14 have taken me forever to deal with everything on scene.
15 So I collected all of the evidence, brought it down to
16 the LEC, where me and Tom physically packaged it
17 together, and then he wrote out the labels and I stayed
18 at the jail and kept on writing my report while Tom
19 went across the street and actually put it into a
20 locker. That's why his name is on the property sheet
21 and not mine.

22 Q The bag and the items inside, are those unique enough
23 that you recognize them?

24 A Yes.

25 MS. LAMIN: Your Honor, I move to admit

1 Exhibit 56, and then I will review the items
2 inside.

3 MS. CLARK: Only as stated prior, Your Honor.

4 THE COURT: And Exhibit 56 is admitted.

5 Q (By Ms. Lamin, continuing) Now, Officer Gliske, can you
6 please go through the items and identify them by their
7 exhibit number as far as what we're looking at?

8 A Item No. 60 is a gooseneck crowbar.

9 Q And is -- I'm sorry, Officer Gliske -- that a gooseneck
10 crowbar you found in this duffel bag in Ms. Suttles'
11 vehicle?

12 A Yes, ma'am.

13 Q Okay. And that crowbar looks in substantially the same
14 condition as it looked on that evening?

15 A Yes, ma'am.

16 MS. LAMIN: I move to admit Exhibit 60.

17 MS. CLARK: Object only as stated prior.

18 THE COURT: Exhibit 60 is admitted.

19 Q (By Ms. Lamin, continuing) You can leave that up there,
20 Officer.

21 A Okay.

22 Q The next item, Officer, please?

23 A Exhibit 59 is a bolt cutters.

24 Q And, Officer Gliske, you recovered those bolt cutters
25 inside the duffel bag from Ms. Suttles' vehicle?

1 A Yes, ma'am.

2 Q And you did that on December 6?

3 A Yes, ma'am.

4 Q And those bolt cutters are in substantially the same
5 condition as when you recovered them from the duffel
6 bag on that day?

7 A Yes, ma'am.

8 MS. LAMIN: Your Honor, the State moves to
9 admit Exhibit 59.

10 MS. CLARK: For all of these, only as stated
11 prior.

12 THE COURT: And Exhibit 59 is admitted.

13 THE WITNESS: 57, it's a crowbar, cat's paw
14 or small gooseneck.

15 Q (By Ms. Lamin, continuing) I'm sorry, Officer Gliske,
16 you said cat's claw (sic)?

17 A Cat's paw.

18 Q Cat's paw. And that crowbar appears to be blue?

19 A Yes, ma'am.

20 Q Okay. And you recovered that item from Ms. Suttles'
21 vehicle on December 6, 2009?

22 A Yes, ma'am.

23 MS. CLARK: I'm sorry, what's that number?

24 THE WITNESS: 57.

25 MS. CLARK: Thank you.

1 Q (By Ms. Lamin, continuing) And that's in substantially
2 the same condition as when you recovered it?

3 A Yes, ma'am.

4 MS. LAMIN: Your Honor, I move to admit
5 Exhibit 57.

6 MS. CLARK: Only as stated prior.

7 THE COURT: Exhibit 57 is admitted.

8 THE WITNESS: And No. 54 is a wonder bar or a
9 flat crowbar.

10 Q (By Ms. Lamin, continuing) And you recovered that item
11 from the defendant Ms. Suttles' vehicle?

12 A Yes, ma'am.

13 Q And that appears to be in substantially the same
14 condition as when you recovered it?

15 A Yes.

16 MS. LAMIN: Your Honor, I move to admit
17 Exhibit 54.

18 MS. CLARK: Only as stated prior.

19 THE COURT: Exhibit 54 is admitted.

20 THE WITNESS: Exhibit 58 looks like a
21 punch -- some kind of a -- it's for woodworking.
22 It's an awl of some kind, I'm not exactly sure.

23 MS. CLARK: 55, is that --

24 THE WITNESS: 58.

25 MS. CLARK: Thank you.

1 Q (By Ms. Lamin, continuing) Now, do you recall seeing
2 that in the duffel bag that you recovered from
3 Ms. Suttles' car that evening?

4 A Yes, ma'am.

5 Q Okay. How did you or Mr. Menton, or Officer Menton,
6 list that on the property record?

7 A Undefined metal tools.

8 MS. LAMIN: Your Honor, I move to admit
9 Exhibit 58.

10 THE COURT: And Counsel?

11 MS. CLARK: No objection.

12 THE COURT: And Exhibit 58 is admitted.

13 THE WITNESS: 61, same, a little bit smaller
14 undefined metal tool.

15 Q (By Ms. Lamin, continuing) And you recovered that from
16 this duffel bag inside Ms. Suttles' vehicle on
17 December 6, 2009?

18 A Yes, ma'am.

19 MS. LAMIN: Your Honor, I move to admit
20 Exhibit 61.

21 MS. CLARK: No objection.

22 THE COURT: And Exhibit 61 is admitted.

23 Q (By Ms. Lamin, continuing) Now, Officer Gliske, we've
24 previously admitted photos of some of the items in the
25 duffel bag. These two metal tools were in those

1 photos; is that correct?

2 MS. CLARK: Objection, leading.

3 MS. LAMIN: Your Honor, I can rephrase.

4 THE COURT: Yes.

5 Q (By Ms. Lamin, continuing) Why were those two metal
6 tools excluded from the photos that we previously
7 admitted into evidence?

8 A I'm not sure. I didn't take the photos.

9 Q But you were there with the officer who did?

10 A Yes.

11 Q Now, Officer Gliske, I'm going to show you a series of
12 photos. Let me start, Officer Gliske, with Exhibit 9.
13 Do you recognize this (indicating)?

14 A Yes, ma'am.

15 Q What do you recognize that to be?

16 A Stuff in Ms. Suttles' trunk that was underneath the
17 duffel bag.

18 Q Is that photo a fair and accurate depiction of that
19 stuff as it looked on December 6, 2009?

20 A Yes, it is.

21 MS. LAMIN: Your Honor, I move to admit
22 Exhibit 9.

23 MS. CLARK: No objection.

24 THE COURT: And Exhibit 9 is admitted.

25 Q (By Ms. Lamin, continuing) Officer, I'm going to show

1 you Exhibits 26 through 29 -- I'm sorry, 25 through 29.
2 These are photos -- can you please -- do you recognize
3 Exhibits 25 through 29?

4 A Yes, ma'am.

5 Q Okay. What do you recognize -- are these photos from
6 the burglary?

7 A Yes.

8 Q Okay. Are these photos some of the items removed
9 during the burglary on December 6, 2009?

10 A Yes, ma'am.

11 Q Okay. Do those photos fairly and accurately depict
12 those items as you saw them on December 6, 2009?

13 A Yes.

14 MS. LAMIN: I move to admit Exhibits 25
15 through 29.

16 MS. CLARK: No objection.

17 THE COURT: And Exhibits 25 through 29 are
18 admitted.

19 Q (By Ms. Lamin, continuing) Officer Gliske, I'm next
20 going to show you Exhibits 30 through 36. Do you
21 recognize these photos (indicating)?

22 A Yes.

23 Q Do you recognize those photos as the damage done to The
24 Edge Coffee House on December 6, 2009?

25 A Yes, I do.

1 Q Okay. Do these photos fairly and accurately depict the
2 way those items looked on December 6, 2009?

3 A Yes.

4 MS. LAMIN: Your Honor, I move to admit
5 Exhibits 30 through 36.

6 MS. CLARK: No objection.

7 THE COURT: Exhibits 30 through 36 are
8 admitted.

9 Q (By Ms. Lamin, continuing) Officer Gliske, I'm showing
10 you what's been marked as Exhibits 37 through 45.

11 A Okay.

12 Q Do you recognize those exhibits (indicating)?

13 A Yes, ma'am.

14 Q What do you recognize those exhibits -- these
15 photographs to be?

16 A Items taken from inside the liquor store.

17 Q This is Sharrett's Liquor Store on December 6, 2009?

18 A Yes, ma'am.

19 Q Do you recognize these to be the items that you found
20 inside Sharrett's Liquor Store?

21 A Yes.

22 Q Items related to the -- that the defendant, Mr. Drljic,
23 left behind?

24 MS. CLARK: Objection, leading, foundation.

25 THE COURT: And I will sustain that

1 objection. Would you either rephrase or --

2 MS. LAMIN: Your Honor, I can withdraw.

3 Q (By Ms. Lamin, continuing) These are items that were
4 left in the liquor store connected to the burglary?

5 A Yes.

6 Q And these photos, they were taken on December 6, 2009?

7 A Yes, ma'am.

8 Q And do these photos fairly and accurately portray the
9 items as you saw them on December 6, 2009?

10 A Yes.

11 MS. LAMIN: Your Honor, I move to admit
12 Exhibits 37 through 45.

13 THE COURT: Counsel?

14 MS. CLARK: I'm just marking them down. I'm
15 not going to have an objection.

16 THE COURT: So there's no objection?

17 MS. CLARK: No objection -- I'm sorry, Your
18 Honor, I'm just marking down the numbers.

19 THE COURT: Exhibits 37 through 45 are
20 admitted.

21 Q (By Ms. Lamin, continuing) Officer Gliske, this one is
22 out of order. I'm showing you what's been marked as
23 Exhibit 52. Do you recognize that (indicating)?

24 A Yes, ma'am.

25 Q What do you recognize that to be?

1 A Gloves we found inside the liquor store.

2 Q And this is on December 6, 2009?

3 A Yes, ma'am.

4 Q Does that photo fairly and accurately depict the gloves
5 inside the liquor store on that day?

6 A Yes -- not exactly where we found them, but yes, on a
7 shelf.

8 Q You say not exactly where you found them. Can you
9 explain, please?

10 A It looks like Ms. Alvarez moved them to get a picture
11 of them better. I'm sure whoever put them there didn't
12 put them so neatly.

13 Q And were you with Ms. Alvarez -- she was the officer
14 who took the photographs?

15 A Yes, she was.

16 Q Were you with Ms. Alvarez when she took that
17 photograph?

18 A Yes, ma'am.

19 Q Does that photograph, Exhibit 52, fairly and accurately
20 depict the gloves after they were moved by yourself or
21 Officer Alvarez?

22 A Yes.

23 Q And this is from December 6, 2009?

24 A Yes, ma'am.

25 MS. LAMIN: Your Honor, I move to also admit

1 Exhibit 52.

2 THE COURT: Counsel?

3 MS. CLARK: No objection.

4 THE COURT: And Exhibit 52 is admitted.

5 Q (By Ms. Lamin, continuing) Officer Gliske, I'm now
6 showing you the last four photographs, Exhibits 64, 65,
7 66, and 67, and these are photographs from The Edge
8 Coffee House. Do you recognize those?

9 A Yes, ma'am.

10 Q Okay. What do you recognize those to be?

11 A It looks like the address and the office.

12 Q And these photographs, to your understanding, do they
13 fairly and accurately depict what you saw in the office
14 of The Edge Coffee House on December 6, 2009?

15 A Yes, ma'am.

16 MS. LAMIN: Your Honor, I move to admit
17 Exhibits 64 through 67.

18 MS. CLARK: No objection.

19 THE COURT: Exhibits 64, 65, 66, and 67 are
20 admitted.

21 MS. LAMIN: Thank you, Your Honor.

22 Q (By Ms. Lamin, continuing) Now, Officer Gliske, we're
23 just going to briefly walk through what you saw in some
24 of these photographs in each building.

25 (Whereupon, a photograph was displayed for

1 the members of the jury.)

2 Q (By Ms. Lamin, continuing) Now, Officer Gliske, if you
3 can again -- when you recapped, if you can identify
4 where -- where was Ms. Suttles' vehicle parked when you
5 arrived? You can use the pointer.

6 A Right about there (indicating), facing westbound in a
7 parking space.

8 Q And where were you when you saw Mr. English walk out of
9 the building?

10 A I was right about there (indicating), somewhere in here
11 (indicating).

12 Q And where did you see Mr. English?

13 A Very far door, which is located right here
14 (indicating).

15 Q And where was the witness, Thomas Nolan, when you first
16 saw him?

17 A When I first saw him, he was in his apartment, which is
18 right here (indicating) on the third floor, looking out
19 at me through a window.

20 Q How is it that you saw him?

21 MS. CLARK: Objection to the extent it calls
22 for hearsay.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: (Indicating throughout.) Well,

25 I noticed that there was a light on in that

1 apartment, and normally everyone in this area is
2 -- it's dead at this time of night. I saw a
3 shadow out of the corner of my eye so I shined my
4 flashlight to see if anybody was in the window,
5 and Mr. Nolan was staring at me.

6 Q (By Ms. Lamin, continuing) Can you point -- can you
7 point, as best you can with the pointer, where you were
8 and where he was?

9 A I was about -- (Indicating throughout.) My squad was
10 about here, Ms. Suttles' vehicle was here, and I was on
11 this side right about here.

12 Q And at this point, had you -- where was Ms. Suttles?
13 Was she secured in your vehicle?

14 MS. CLARK: Objection, leading.

15 THE COURT: You can rephrase that question,
16 please.

17 Q (By Ms. Lamin, continuing) At this point in your
18 encounter with Ms. Suttles, what stage was this in your
19 encounter of Ms. Suttles?

20 A I don't recall 100 percent, but I believe she was in my
21 squad already or I was putting her into my squad when I
22 looked up and saw him.

23 Q So when you looked up and saw him, what did you do?

24 A I shined my flashlight at him and he kind of waved and
25 kind of opened up the window, like he had something to

1 say.

2 Q Can you show us with the pointer, as best you can,
3 where --

4 A Where he was or where I was?

5 Q Both.

6 A (Indicating throughout.) I was about here and the
7 witness was right about here.

8 Q And this was inside the building?

9 A He was inside the building, yes, on the third floor.

10 Q Okay. And so at that point did you talk to him?

11 A I can't recall if I talked to him right there or if it
12 was as I was walking towards to check the business. I
13 can't remember if I talked to him as I was talking to
14 her, Ms. Suttles, or if I was walking towards, but I
15 had a brief conversation with him because he opened up
16 the window and said something to me.

17 Q And then when did you see him again?

18 A After we cleared the business, I went back and knocked
19 on his door to get a full statement and get his name
20 and address and everything for a witness.

21 Q Now, when you -- who did you go in with to clear the
22 building?

23 A Canine Officer Brady Harrison and his dog, Sully, and
24 Officer Lance Christensen.

25 Q And can you show us on the map how you went in and

1 where were other squad cars?

2 A (Indicating throughout.) I arrived first here. I
3 believe Tom was on the other side of the building
4 because I told him to go to this side.

5 Q I'm sorry, Officer Gliske, that's Tom Menton?

6 A Yes, ma'am.

7 Q Okay.

8 A (Indicating throughout.) We had squads here, here,
9 here, and then one covering the alley, and I believe
10 there might have been one back here. I think the
11 sergeant was back in here.

12 Q Okay. And so you and Canine Officer Brady Harrison and
13 Officer --

14 A Christensen.

15 Q -- Christensen, where did you go into the building?

16 A We went from here where I saw Mr. English come out
17 through the broken back door.

18 Q Okay. Is that the door that you went into?

19 A Yes, ma'am.

20 Q And that's the same door that you saw Mr. English come
21 out of?

22 A Yes, ma'am.

23 Q Okay. Did you ever see anyone else come out of that
24 door?

25 A I did not.

1 Q For a second, let's just talk about the damage done to
2 the door. The damage done to the door -- this is a
3 previously admitted exhibit -- from the inside
4 (indicating), which of those tools would do this type
5 of damage?

6 A One of the larger crowbars, either the wonder bar or a
7 gooseneck.

8 Q Can you identify that by the exhibit number, Officer,
9 please?

10 A The gooseneck is Item 60 (indicating) and the wonder
11 bar is Item 54 (indicating).

12 Q And what about the damage? This is looking at the door
13 from the outside (indicating).

14 A Is that the frame?

15 Q Yes.

16 A It looks like there's possibly pry marks above and
17 below the lock, the dead bolt, and then it looks like
18 the frame is broken out by pushing and prying.

19 Q Which of those tools would be -- would be used to make
20 that type of entry?

21 A Either the wonder bar or the crowbar. I'd probably use
22 the crowbar because it's larger and has more leverage.

23 Q Now, what are we looking at here (indicating)?

24 A That would be the wall in the basement that leads into
25 the liquor store that the suspects broke through in

1 order to gain access into the liquor store.

2 Q So this is the wall between the liquor store and what
3 business?

4 A I believe it's the basement of the art studio to the
5 liquor store.

6 Q What tools that you have there on the counter would be
7 necessary to --

8 A Same, either the crowbar or wonder bar. I'd probably
9 use the wonder bar because it's flatter and you'd get
10 more leverage in a smaller area.

11 Q Now, Officer Gliske, it's hard to see in the photo, but
12 did this damage appear fresh to you?

13 A Yes.

14 Q Okay. Why do you say that?

15 A (Indicating throughout.) There's -- it's hard to see,
16 but you can see wood chips on the floor here.

17 Obviously, if you're an art studio, you wouldn't have
18 liquor from inside the liquor store outside of the
19 wall.

20 Q And let's step back a minute. When you entered, you
21 entered the art studio first; is that correct?

22 A Yes.

23 Q What did you clear first in the art studio?

24 A If I remember right, the art studio goes straight
25 ahead. So Sully and Officer Harrison went forward and

1 cleared the entire upstairs of the art studio. And
2 then we found stairs leading into the basement, so we
3 then when to the basement where we found this
4 (indicating), the other wall into the cafe.

5 Q Now, we don't have a photo of that other wall. Can you
6 please explain the damage down here (indicating)?

7 A It was very similar. If I remember right, they just
8 broke away the wall and then went through in between
9 the two-by-fours.

10 Q Where did you go -- now, the basement of the art
11 studio, did that look to be a stor-- how would you
12 characterize it? Was it a storage area?

13 A It just looked like a personal storage area, a lot of
14 dust, a lot of artwork just laying around, tools.

15 Q Were there things boxed up there besides the items we
16 see here (indicating)?

17 A Boxed up?

18 Q Yes.

19 A I don't recall, but it was mostly just all art stuff
20 and that's it.

21 Q So from the basement of the art studio, where did you
22 go next in clearing the building?

23 A We went to the cafe to the west.

24 Q Okay. Now, this is -- this is another -- let me go
25 back to that.

1 (Whereupon, a photograph was displayed for
2 the members of the jury.)

3 Q (By Ms. Lamin, continuing) What are we looking at here
4 (indicating), Officer Gliske?

5 A It looks like behind the counter by the till in the
6 cafe.

7 Q So it looks like items here were thrown on the floor
8 somehow?

9 A Yes. Those most likely were in here and they just
10 rummaged through it to find cash or checks or anything
11 they could find to steal.

12 Q And what about the till? How does the till appear?

13 A It was open, and I believe the actual till was over
14 here someplace (indicating), the cash drawer.

15 Q So that's just a close-up of the till?

16 A Yes, ma'am.

17 Q And this is inside The Edge Coffee House?

18 A Yes, ma'am.

19 Q And what are we looking at here (indicating)?

20 A It looks like the same picture, a little different
21 angle. (Indicating throughout.) It looks like the
22 till's here, here's the counter, here's all the stuff
23 they threw on the ground to look for stuff.

24 (Whereupon, a photograph was displayed for
25 the members of the jury.)

1 Q (By Ms. Lamin, continuing) And what are we looking at
2 here, Officer Gliske (indicating)?

3 A That would be a flashlight I found on the counter of
4 the coffee shop by the till, I believe.

5 Q And you found that when you were clearing the coffee
6 shop?

7 A I found it when I went through to -- yes. When we went
8 through and turned all the lights on after we secured
9 the suspects in the liquor store, I went through again
10 and found everything.

11 Q So you said you turned the lights on. Initially, were
12 the lights on or off?

13 A Initially -- normally, if we can find light switches,
14 we try to turn them on, just for our safety and so we
15 can see more. However, if we can't find them,
16 especially like in a warehouse or like a small place
17 where we don't know where any power is, we just use our
18 flashlights and go through them.

19 Q Do you recall, were the lights on or off in The Edge
20 Coffee House?

21 A I believe they were off.

22 Q Now, after you cleared The Edge Coffee House, where did
23 you go next?

24 A We went back into the basement of the art studio, then
25 went through that opening into the basement of the

1 liquor store as Sully pulled him through there, air
2 scented through.

3 (Whereupon, the court reporter requested
4 clarification.)

5 THE WITNESS: Air scented, like sniffing up
6 in the air like he's smelling something above him.

7 Q (By Ms. Lamin, continuing) And now here's another
8 picture. What is this a picture of?

9 A That's the wood paneling that was pulled off the wall
10 in order to gain access into the liquor store.

11 Q In your professional opinion, were these tools used to
12 rip off that wood paneling?

13 A Yes, either the gooseneck crowbar or the wonder bar.

14 Q And are those tools consistent with the damage that you
15 saw within the three businesses?

16 A Yes, ma'am.

17 Q So, now, what happened when you entered the liquor
18 store?

19 A I remember we couldn't find the stairs right away and
20 Sully was trying to figure out how to get upstairs
21 because he smelled something. I know I heard my
22 sergeant say over the air that he had suspects inside
23 the building that were calling 9-1-1 and saying they
24 want to give up.

25 Q And so based on that call, what did you do next?

1 A We found the stairs, went upstairs, found the suspects
2 at the front of the business, and placed them in
3 custody.

4 Q Now, let's go through some of the items before we go
5 there. These items that we see, are these items inside
6 the liquor store or outside the liquor store?

7 A (Indicating throughout.) No, ma'am, inside of the
8 liquor store would be here. All of these items were
9 inside the basement of the art studio, and the door
10 would be right about here, to leave, and it looks like
11 they piled up a ton of boxes of liquor, ready to be
12 carried out.

13 Q That's just another photo of the liquor that was piled
14 up (indicating)?

15 A Yes, ma'am.

16 Q But those items had clearly been removed from the
17 liquor store?

18 A Yes.

19 Q Okay. And so, Officer Gliske, what are we looking at
20 here (indicating)?

21 A It looks like neoprene gloves on the floor by a door.

22 Q Okay. Do you recall, was that recovered inside the
23 liquor store?

24 A I believe it was inside the liquor store.

25 Q So these next photos we are looking at are all items

1 that were inside the liquor store?

2 A Yes, ma'am.

3 (Whereupon, a photograph was displayed for
4 the members of the jury.)

5 Q (By Ms. Lamin, continuing) Officer Gliske, what are we
6 looking at there?

7 A It looks like another glove and some toothpicks.

8 Q Again, this is from inside Sharrett's Liquor Store?

9 A Yes, ma'am.

10 Q And when did you go through and examine these items?

11 A After we brought the suspects out and secured them in
12 vehicles, we contacted dispatch to get a hold of the
13 store owners so I could talk to them, and then I went
14 back inside, tried to find lights and look around for
15 evidence or any other stuff that might have been
16 missing or anything I missed as we were searching the
17 building for just people.

18 Q And these photos are those items that you found inside
19 that liquor store?

20 A Yes, ma'am.

21 Q Officer Gliske, what is that (indicating)?

22 A It looks like a shelf with two gloves and some beer.

23 Q And this is what you -- this is what you found after
24 the suspects had been removed from the liquor store?

25 A Yes, ma'am.

1 (Whereupon, a photograph was displayed for
2 the members of the jury.)

3 Q (By Ms. Lamin, continuing) Can you identify that,
4 Officer Gliske (indicating)?

5 A It looks like a box handler glove found in the liquor
6 store by a shelf.

7 MS. CLARK: I couldn't understand that.

8 THE WITNESS: A box handler glove, like UPS
9 drivers would use it because it's rubber up here
10 (indicating) and it's got a good grip.

11 Q (By Ms. Lamin, continuing) Officer Gliske, what are we
12 looking at here (indicating)?

13 A It looks like the same glove, just the other side.

14 (Whereupon, a photograph was displayed for
15 the members of the jury.)

16 Q (By Ms. Lamin, continuing) What are we looking at
17 there, Officer Gliske?

18 A That would be a head-strap flashlight found in the
19 liquor store on the floor.

20 (Whereupon, a photograph was displayed for
21 the members of the jury.)

22 Q (By Ms. Lamin, continuing) This is a poor picture, but
23 what are we looking at there, Officer Gliske?

24 A I believe that's boxes of liquor with a coat stuffed in
25 between it.

1 Q Now, you walked through with the owner of the liquor
2 store when you were examining these items?

3 A Yes, ma'am.

4 Q Okay. And did you confirm that these items --

5 MS. CLARK: Objection to the extent it calls
6 for hearsay.

7 THE COURT: Rephrase your question.

8 Q (By Ms. Lamin, continuing) Based on your investigation,
9 did you believe -- where did these items come from?

10 A Not the owner. I mean, he told me --

11 MS. CLARK: Objection, move to strike,
12 hearsay.

13 MS. LAMIN: Your Honor, we can move on.

14 THE COURT: Yes, let's do that. I am going
15 to sustain that objection.

16 Q (By Ms. Lamin, continuing) Officer Gliske, what are we
17 looking at here?

18 A It looks like a close-up of a coat.

19 (Whereupon, a photograph was displayed for
20 the members of the jury.)

21 Q (By Ms. Lamin, continuing) Now, what are we looking at
22 in this photo?

23 A The same coat, just laid on the floor so you could see
24 it.

25 Q So these items were recovered on December 6, 2009?

1 A Yes, ma'am.

2 Q And it's your understanding that these items were
3 connected to the suspects?

4 MS. CLARK: Objection, foundation.

5 THE COURT: Sustained. Lay the foundation.

6 Q (By Ms. Lamin, continuing) Officer Gliske, you examined
7 the liquor store after the suspects were taken into
8 custody?

9 A Yes, ma'am.

10 Q You walked through the liquor store with the owner of
11 the liquor store?

12 A Yes, ma'am.

13 MS. CLARK: Objection to the extent it calls
14 for hearsay.

15 THE COURT: I'm overruling. He may answer.

16 Q (By Ms. Lamin, continuing) And based on your
17 investigation, what is your understanding of where
18 these items came from?

19 MS. CLARK: Same objection.

20 THE COURT: I'm going to sustain that
21 objection. I think you can ask the question
22 differently.

23 Q (By Ms. Lamin, continuing) Did these items come from
24 the suspects inside the liquor store?

25 MS. CLARK: Objection, foundation.

1 MS. LAMIN: Your Honor, I can rephrase.

2 THE COURT: Yes.

3 Q (By Ms. Lamin, continuing) Officer Gliske, did you --
4 actually, I'll move on. Officer Gliske, how many
5 reports did you write in relation to this incident?

6 A I believe three.

7 Q Why was that?

8 A Three different businesses were burglarized. So the
9 liquor store was one burglary, the coffee shop was
10 another one, and the art studio was another burglary.
11 So I had to write three different incidents.

12 MS. CLARK: Objection, move to strike based
13 on voir dire rulings -- I mean, excuse me, limine
14 rulings.

15 THE COURT: Overruled and denied.

16 Q (By Ms. Lamin, continuing) Officer Gliske, in your
17 assessment, was there any indication that anyone in
18 these businesses was moving?

19 A No.

20 Q What was your assessment of what had happened?

21 A It appeared that --

22 MS. CLARK: Objection to the extent it would
23 violate a limine ruling.

24 THE COURT: Counsel?

25 (Whereupon, a brief off-the-record discussion

1 was held.)

2 MS. CLARK: Thank you, Your Honor.

3 Q (By Ms. Lamin, continuing) Officer Gliske, based on
4 your experience, what was your understanding of what
5 had occurred here?

6 A What occurred is people broke into the business,
7 burglarized it, stacked a lot of property and a lot of
8 liquor ready to be taken out of the business;
9 Mr. English came out and saw me, got scared, ran back
10 inside; and then as we were searching for them, it
11 appeared that the suspects attempted to hide evidence
12 that might link them to a crime, such as a coat or
13 gloves that they were wearing or hats or flashlights
14 that they had before we caught them.

15 Q Officer Gliske, after -- after Mr. Drljic and
16 Mr. English and Ms. Suttles were apprehended, what
17 happened next?

18 A I talked to the owners briefly, got their statements
19 about what was stolen and what was not. He didn't
20 have the --

21 MS. CLARK: Objection to the extent it calls
22 for hearsay.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: I talked briefly with the

25 liquor store owner who identified stuff that was

1 in his business that was taken out. He didn't
2 have an exact, like, number or price or anything
3 like that, so I didn't want him to, you know,
4 write everything up. It would take forever to
5 write everything up that was not his or was his.
6 And then I went downtown to transport Ms. Suttles
7 to the LEC and book her for burglary, along with
8 all the property.

9 Q (By Ms. Lamin, continuing) From then on, do you
10 typically have any involvement in the case?

11 A Once I write the report and I send it, it is out of my
12 hands, it goes to an investigator.

13 Q Officer Gliske, you had mentioned that you spoke to
14 Ms. Suttles again after she was in your squad car?

15 A Yes, ma'am.

16 Q Okay. If you can briefly just refresh our recollection
17 about what she had said once she was clearly secured
18 within your squad car? Let me just step back. Is this
19 before or after the building had been cleared?

20 A After everything was done and after everything was
21 secured, I came back out to talk to Ms. Suttles again,
22 just to see if she would change her story or if she
23 stuck to her car breaking down as her reason for being
24 in the parking lot.

25 Q And what did she say when you came back to her after

1 the scene was secured?

2 A She changed the story to her vehicle was just fine, she
3 was there to pick up some people who were going to pay
4 her, and she had no idea what they were doing.

5 Q And did she tell you who these people were?

6 A No.

7 Q Did she ever point out who these people were?

8 A No.

9 Q Officer Gliske, did you have an opportunity to watch a
10 surveillance video in this case?

11 A No -- or not at the time.

12 Q Did you this morning watch a surveillance video in this
13 case?

14 A Yes.

15 Q And what is that a surveillance video of?

16 A The night of the burglary.

17 Q And from what location?

18 A Inside the liquor store. It looked like a couple
19 different camera angles of the liquor store.

20 MS. CLARK: Objection, foundation, move to
21 strike.

22 MS. LAMIN: Your Honor, if I may continue?

23 THE COURT: Are you going to lay the
24 foundation?

25 MS. LAMIN: I am.

1 THE COURT: Okay. Overruled.

2 MS. LAMIN: I'm sorry, Your Honor.

3 THE COURT: Go ahead.

4 Q (By Ms. Lamin, continuing) In that surveillance
5 video -- are you in that video?

6 A Yes, ma'am.

7 Q Okay. And what do you see yourself doing in that
8 video?

9 A Taking the suspects in custody at the front of the
10 liquor store.

11 Q And you saw -- was it a brief second or several minutes
12 of video?

13 A I saw a couple minutes -- maybe a minute or two of the
14 video.

15 Q And from what you saw of yourself in the video, did
16 that video fairly and accurately portray you within
17 that liquor store that night?

18 A Yes, ma'am.

19 MS. LAMIN: No further questions.

20 THE COURT: Okay. Well, why don't we start
21 on cross? You may have to stop at some point for
22 lunch, okay?

23 MS. CLARK: Sure.

24 CROSS-EXAMINATION

25 BY MS. CLARK:

1 Q Good morning, Officer.

2 A Good morning.

3 Q Did you meet with the prosecutor to prepare for your
4 testimony?

5 A Briefly.

6 Q How many times did you do that?

7 A I believe we met once.

8 Q When was that?

9 A Sorry, my days are all mixed up since I'm on a weird
10 schedule. Last week sometime. I really don't remember
11 which day.

12 Q And did you meet again this morning?

13 A Briefly, for a few minutes outside the courtroom as we
14 were waiting.

15 Q Before you testified in this case, did you review the
16 statements of other officers?

17 A Did I?

18 Q Yes.

19 A Yes.

20 Q Did you review those fairly recently?

21 A Yes.

22 Q Now, you talked a little bit about your training and
23 experience last week?

24 A Yes, ma'am.

25 Q You said you had some training in fingerprinting?

1 Q You did not even attempt to do that?

2 A No, ma'am.

3 Q When you were trained in fingerprinting, did you learn
4 about various surfaces and whether they are amenable to
5 lifting fingerprints or not?

6 A Briefly.

7 Q What kind of surfaces in your training are good sources
8 for fingerprints?

9 A Dense, like glass.

10 Q Glass. Steel?

11 A Yes, ma'am.

12 Q Other metals?

13 A As long as it's not rusty or porous or have dirt on it,
14 yes.

15 Q The question was simply, other metals?

16 A Clean metals.

17 Q Hard plastics?

18 A Plastics are pretty hard.

19 Q So yes?

20 A Possibly.

21 Q And what about coated paper boxes? Shiny, coated paper
22 boxes?

23 A Sometimes, if the circumstances are right.

24 Q And what about plastic bags?

25 A I have never lifted a fingerprint from a plastic bag.

1 Q Do you know one way or the other?

2 A No, ma'am.

3 Q Did you preserve any paper bags -- or, excuse me,
4 plastic bags that night?

5 A I do not recall.

6 Q Now, you said a moment ago something about something
7 being rusty. Are you thinking ahead to a possible
8 question about the crowbars?

9 A No, ma'am.

10 Q Well, isn't it true that sometimes something on the
11 surface can make it very easy to lift a fingerprint?

12 A Such as?

13 Q Such as blood?

14 A True.

15 Q Or other dark liquids?

16 A I've never lifted a fingerprint out of liquid, so I
17 would not know.

18 Q I mean, if someone stuck their hand in molasses, for
19 example, and then put it on a piece of metal or
20 plastic, that might leave a good fingerprint, correct?

21 A Not fingerprints that I'm trained to lift.

22 Q So if you're not trained to lift them, then you need to
23 secure the evidence so that the scientists can, right?

24 A I'm trained to lift latent fingerprints from human oil,
25 not from clear liquids or any other liquids.

1 Q Officer, if you are not trained to deal with a
2 fingerprint, then your job would be to preserve that
3 evidence so the scientists can attempt to lift it,
4 correct?

5 A Yes, ma'am.

6 Q Now, sometimes dust can be a very good place to trap a
7 fingerprint, correct?

8 A Yes, ma'am.

9 MS. CLARK: May I approach?

10 THE COURT: Yes.

11 Q (By Ms. Clark, continuing) Showing you what's in
12 evidence as Exhibit 12, described earlier as an Epson
13 printer, did you do a latent fingerprint lift on the
14 fingerprint in that picture, Officer?

15 A No, ma'am.

16 Q There's a good fingerprint right there of a thumb
17 (indicating), isn't there?

18 A I can't see it from here.

19 Q You can't see anything that could be a fingerprint?

20 A I see a disturbance in dust. I cannot see if there's a
21 fingerprint there.

22 Q Did you attempt to lift a fingerprint from this object?

23 A No.

24 Q Now, this Epson printer, is this one of the objects
25 that you decided to return to the business owner?

1 A I do not recall.

2 Q Do you have any record of what objects were returned
3 that evening rather than put into the Property &
4 Evidence Room?

5 A Yes. I believe I returned a T-square, a straight metal
6 edge, and a drill that were in the trunk of
7 Ms. Suttles' car.

8 Q Can you say that more slowly? A T-square?

9 A A straight aluminum ruler, and a drill, cordless.

10 Q What color was that?

11 A The drill or the aluminum --

12 Q I'm sorry, the drill.

13 A I believe it was teal or blue or green.

14 Q How many drills were encountered that evening?

15 A I believe one.

16 Q So do you know why the Property & Evidence records show
17 a drill in evidence?

18 A No, ma'am.

19 Q Well, did you package a drill to take to the evidence
20 room?

21 A No.

22 Q Can you explain to us what kind of documentation is
23 prepared in the property unit?

24 A What do you mean by documentation?

25 Q Well, when you are working late on -- and the 6th of

1 December was what day of the week?

2 A I don't recall.

3 Q Well, if the property room isn't open, where do
4 officers physically take the evidence?

5 A They take it to the property room, which is a room full
6 of lockers that we put property into and lock.

7 Q All right. Do you fill out a locker report for those
8 items?

9 A We fill out the property sheet for those items and then
10 we include those into our report.

11 Q So the officers will actually fill out a property
12 record sheet that has like the case number, the date,
13 the time, and then what's being inventoried?

14 A Yes, ma'am.

15 Q And you testified earlier that you and Thomas Menton
16 packaged all of the evidence up together, correct?

17 A I was present while he was packing it, yes.

18 Q So did you package up a drill?

19 A I did not.

20 Q Do you know whether the property record indicates that
21 a drill was inventoried?

22 A I don't recall. I would have to look at my report.

23 Q I have a document that might refresh your recollection.

24 A Okay.

25

(Whereupon, the witness perused a document.)

1 THE WITNESS: That says blue drill and --

2 Q (By Ms. Clark, continuing) There's no question before
3 you. Did it refresh your recollection. Just read it
4 to yourself. Did it refresh your recollection?

5 A No, because I didn't write this.

6 Q So is it fair to say, Officer, you're not sure if there
7 was a drill inventoried in the property room that
8 night?

9 A Did I inventory a drill? No. Did Tom? I'm not sure.

10 Q All right. Did you give a business owner or the
11 building owner some computer boxes?

12 A Computer boxes? I'm not sure.

13 Q Do you know what I'm talking about? Computer boxes?

14 A No, ma'am.

15 Q Did you locate any computer boxes?

16 A Define computer box.

17 Q Did you locate a box that would contain a computer?

18 A I don't recall. I recovered a lot of stuff.

19 Q Well, were you present when someone took a picture of
20 some computer boxes?

21 A Inside Ms. Suttles' trunk, yes.

22 Q So you're saying there were computer boxes inside her
23 trunk?

24 A No. I said that I was present -- or yes, there was
25 electronic boxes and other boxes inside Ms. Suttles'

1 trunk that I don't remember if they were computer, if
2 they were I-pods, printers, I don't remember what they
3 were, but I remember there were boxes inside Ms.
4 Suttles' trunk.

5 Q Well, do you have -- strike that. Did you take notes
6 that night when you were at the property at Raymond and
7 University?

8 A Yes.

9 Q And where are those notes now?

10 A In my locker, I believe.

11 Q In your locker?

12 A Yes, ma'am.

13 Q At the police department?

14 A Yes, ma'am.

15 Q Now, you were shown a number of pictures of a trunk,
16 and I just want to talk a little bit about the time
17 line. You first got a call from the dispatcher,
18 correct?

19 A Yes.

20 Q Did you get that over the radio?

21 A Yes.

22 Q And do you recall what time that was?

23 A The call came in -- a TC took the call at around 4:16,
24 4:20, somewhere in that area. I was dispatched shortly
25 after that.

1 Q And you were dispatched at 4:18 that morning, correct?

2 A If that's what you show, yes.

3 Q And you were driving squad 111, right?

4 A That's my squad number, yes, ma'am.

5 Q And you arrived on scene. Do you recall when?

6 A No.

7 Q Would you like to look at a document that might refresh
8 your recollection?

9 A Yes.

10 (Whereupon, the witness perused a document.)

11 Q (By Ms. Clark, continuing) Does that refresh your
12 recollection?

13 A Yes, ma'am.

14 Q When did you arrive on scene?

15 A It appears I arrived on scene at about 4:19.

16 Q And prior to arriving on scene, there had only been one
17 alarm that sounded that notified Electro Watchman, who
18 called the dispatcher, correct?

19 A That notified -- so there was only one alarm that I was
20 aware of? Was that the question?

21 Q Well, before you arrived, there was only one alarm that
22 was triggered that caused you to be dispatched,
23 correct?

24 A It looks that way. It looks like west basement and
25 window.

1 Q All right. And that was at 4:18, correct?

2 A Yes, ma'am.

3 Q You don't have any personal knowledge of when a person
4 or persons first entered that building, do you?

5 A I have no idea. There's a long time delay between an
6 alarm company and our dispatch and us.

7 Q And the second alarm that sounded sounded after
8 officers were already present on the scene, correct?

9 A You're talking about at 4:23, ma'am?

10 Q Correct.

11 A That was the alarm that we got. I'm not sure what time
12 the actual alarm came in. Like I said before, the
13 alarm company gets an alarm, they record it, and then
14 they call us. And when they call my dispatch, then
15 they say we have an alarm, and that's when we get the
16 alarm.

17 Q Okay. You yourself were already on scene at 4:23,
18 correct?

19 A Yes, ma'am.

20 MS. LAMIN: Sir, I would ask that the defense
21 counsel identify for the jury, or at least for the
22 record, what it is she's having Officer Gliske
23 refer to to refresh his recollection.

24 MS. CLARK: Objection to speaking objections.

25 THE COURT: I think that's an appropriate

1 question. Perhaps you could tell us what he's
2 looking at.

3 Q (By Ms. Clark, continuing) What's an Incident Recall
4 Printout, Officer?

5 A It's a printout of all the time stamps during an
6 incident.

7 MS. CLARK: I can make it an exhibit.

8 (Whereupon, Exhibit 22 was marked for
9 identification.)

10 Q (By Ms. Clark, continuing) Let me trade with you,
11 Officer. This one's now marked. There you go. Why
12 don't you just explain now what is Exhibit 22?

13 A It's a printout of the time stamps of everything that
14 happened during a call that I aired or dispatch got.

15 Q In other words, it's a little summary of what dispatch
16 says to the officers, the officers that are dispatched,
17 what the officers say back to dispatch, right?

18 A Yes, ma'am -- not everything, but mostly.

19 Q All right. And it's not word-for-word verbatim, but
20 it's a lot of the chronology, at least, of what
21 occurred, correct?

22 A Yes, ma'am.

23 MS. CLARK: I offer Exhibit 22.

24 MS. LAMIN: Your Honor, may we approach?

25 THE COURT: Yes.

1 (Whereupon, a brief off-the-record discussion
2 was held.)

3 Q (By Ms. Clark, continuing) Officer, Exhibit 22 consists
4 of three pages --

5 MS. LAMIN: Can the State see that exhibit,
6 please?

7 THE COURT: Yes.

8 MS. CLARK: Sure.

9 (Whereupon, Ms. Lamin perused a document.)

10 MS. LAMIN: Your Honor, the State has no
11 objection.

12 THE COURT: All right. So Exhibit 22, the
13 first three pages, are admitted. And I think this
14 would be a good place to take a break, and we can
15 do that. I'm sorry, Officer, you will be back on
16 the stand after lunch.

17 Please come back at 1:30 -- we'll say 1:30.
18 It's lunchtime and we may be having some things
19 that -- lawyers will be back sooner than that,
20 sorry.

21 Okay. That's your lunch.

22 (Whereupon, the clerk escorted the jurors
23 from the courtroom.)

24 THE COURT: All right. Officer, you are
25 still a witness so I guess you'll be back, right?

1 MS. LAMIN: Your Honor, what time should we
2 be back here?

3 THE COURT: I want you guys back here at
4 1:00.

5 MS. CLARK: When did you tell them?

6 THE COURT: I told them 1:30, because I know
7 we have issues.

8 MS. CLARK: Yeah.

9 THE COURT: We're going to have to deal with
10 this, right?

11 MS. CLARK: Is Jermaine English on today?

12 THE CLERK: He's here.

13 THE COURT: He's here.

14 MS. CLARK: Well, I know, but he was here
15 Wednesday. See, I mean, this is -- my quandary
16 is, I'm being told I'm not doing Jermaine English
17 fast enough, but I will not be told when he's
18 going to testify.

19 THE COURT: Well, I think you should probably
20 be prepared to raise any -- you know, what you're
21 going to bring in in terms of his convictions and
22 then we'll be all set, so.

23 MS. CLARK: Do we need him in here first?

24 THE COURT: For that, no.

25 MS. CLARK: No, not for the 609, but does he

1 need to make a record?

2 THE COURT: Where is Mr. Handley?

3 MS. LAMIN: I'll get a hold of him, Your
4 Honor.

5 THE COURT: I think we need Mr. Handley.

6 MS. LAMIN: On what basis, Counsel, do we
7 need Mr. English here before he testifies?

8 MS. CLARK: Based on what Mr. Handley said
9 Wednesday, no one sees a potential issue?

10 THE COURT: Well, I think he'll say if he's
11 going to have an issue, but we'll figure that out
12 when the time comes. When we get a hold of
13 Mr. Handley, we'll see if he's going to do
14 something. You're talking about his Fifth
15 Amendment?

16 MS. CLARK: I am.

17 THE COURT: Yes.

18 THE CLERK: Court is in recess.

19 (Whereupon, court stood in recess until 1:30
20 p.m.)

21 THE COURT: All right. So there are a few
22 things that we need to put on the record, is that
23 correct, before we call the jurors in at 1:30.

24 MS. CLARK: Yeah.

25 THE COURT: Okay.

1 MS. CLARK: I mean, I'm sorry, yes.

2 THE COURT: That's all right.

3 MS. CLARK: Your Honor, Jill Clark. And I --
4 obviously, it's my duty to report to the Court I
5 learned from my client, Tamika Suttles, over lunch
6 that she had observed the blond woman who has been
7 running this machine (indicating) and Mr. Cook
8 talking in the hall. She said she saw both of
9 them talking to each other. She couldn't hear
10 what they were saying. It went on for about 30
11 seconds, which is clearly longer than it takes to
12 say, I can't talk to you. And then, apparently,
13 when the blond woman saw my client, pointed at
14 her, and then they parted ways. So I don't
15 know -- I don't know what was being said or
16 anything about it, except obviously it's my duty
17 to report that.

18 The second thing I wanted to state --

19 THE COURT: So it was Mr. Cook, at the end
20 here (indicating)?

21 MS. CLARK: Yes.

22 THE COURT: The guy who's in the back row?

23 MS. CLARK: Back, all the way on the right in
24 the jury box.

25 THE COURT: Okay.

1 MS. CLARK: And then I wanted to make an
2 objection to the prosecutor -- and I believe it's
3 been twice, but certainly once just before we
4 broke -- making statements in front of the jury
5 that are argumentative about whether or not
6 evidence should come in or evidence that shouldn't
7 come in.

8 At the time that this occurred, I was
9 cross-examining Officer Gliske and I was
10 refreshing his recollection with a document. My
11 understanding of the law is that you can refresh
12 recollection with any document, but that doesn't
13 mean that the jury gets to even know what document
14 it is or what it says. The whole point is just,
15 does it refresh your recollection?

16 So the prosecutor, in front of the jury,
17 said, Your Honor, I think we should tell the jury
18 what document he's looking at. That was improper
19 in two ways. First of all, the jury does not have
20 a right to know what he's looking at, and
21 secondly, the Court made it very clear there shall
22 be no speaking objections. So it is going to be
23 an unfair trial if the prosecution can say things
24 in front of the jury without approaching and the
25 defense can't. So I just want to make a record of

1 it. I'm sure it will not happen again.

2 THE COURT: Okay. Thanks for your comments.

3 MS. CLARK: I guess I've got one more thing;
4 that is, we did hear during Officer Gliske's --
5 he's in the courtroom. We heard him talk about
6 his notes that he took contemporaneous to the
7 incident that are in his locker. Those should
8 have been produced to us, and we're asking for
9 their production now.

10 THE COURT: All right.

11 MS. LAMIN: Your Honor, Officer Gliske --
12 defense counsel was having Officer Gliske read
13 from a document. That was more -- and my
14 understanding -- usually when I'm refreshing --
15 and I could be incorrect, and I apologize if I am.
16 I almost always say, I'm showing you your police
17 report. So I guess I was just going from my
18 common practice, and it was very confusing that
19 Ms. Clark was having Officer Gliske read lines
20 from it, that's all, because it seemed -- and,
21 furthermore, it was an Incident Recall Sheet that
22 defense counsel then sought to admit that
23 contained inadmissible hearsay evidence, similar
24 to a police report, and I was a little concerned
25 that defense counsel then sought to admit it. But

1 I just want to make a record that defense counsel
2 was adamant they wanted this admitted, even over
3 the State's concern about the improper hearsay in
4 it and I believe Your Honor's concern. I just
5 don't want that issue to come back.

6 I just wanted either -- I was just seeking
7 either that Officer Gliske not read from it or at
8 least explain to us what he's doing, because he's
9 sitting up there and Ms. Clark is having him go
10 line by line through this document.

11 I'm not aware, I guess -- I believe Ms. Truda
12 Hanson from my office should be back here any
13 minute and then we can talk to her.

14 THE COURT: Yeah, we need to talk to her.

15 MS. LAMIN: I believe she left -- I thought
16 she left before we left -- before we were done.

17 THE COURT: Well, let's get her here and
18 we'll ask her about that. And I guess I'll ask --
19 I'll have to also talk to Mr. Cook. I think I
20 need to do that.

21 MS. LAMIN: And in terms of Officer Gliske, I
22 guess I would like to hear what defense counsel
23 wants done. Officer Gliske had very little time
24 between the time we finished and now to run and
25 check. I asked Officer Gliske. He indicated that

1 he doesn't necessarily save everything, all notes.
2 He may have it; he may not have it; he doesn't
3 know for sure. So I guess it's -- you know,
4 Officer Gliske used those notes to write his
5 report, which is what officers do.

6 So I guess it's up to defense counsel if they
7 want to go, you know, on this fishing expedition
8 and delay further for Officer Gliske to run at
9 some point back to his locker and check. It's in
10 a different building, he'd have to leave. I'm not
11 sure how they want to handle it, but he said he
12 wasn't completely sure if he does in fact have
13 them. He keeps some, doesn't keep others.

14 THE COURT: And if he doesn't have them,
15 that's going to be an issue.

16 MS. CLARK: Yes.

17 THE COURT: Well, I'm just saying -- I'm not
18 saying that it will be in general, but it will be
19 for defense, right?

20 MS. CLARK: Correct. Just a couple things, I
21 was not having Officer Gliske read from the
22 document.

23 THE COURT: Well, let me just say -- because
24 I was also present and I could tell what was going
25 on. So, I think really, Ms. Clark, you are saying

1 that if there's an objection that you would like
2 Counsel to actually approach rather than say it
3 out loud. That's the real issue here?

4 MS. CLARK: Yeah. If it's more than one
5 word, exactly. Obviously leading or whatever,
6 that's appropriate.

7 THE COURT: I think that's fine.

8 MS. CLARK: Okay.

9 THE COURT: But remember, I'm the one running
10 this trial, and I am cognizant of issues that come
11 up that are going to be problems -- I just want to
12 make sure that you understand that -- and the fact
13 that the report has now been entered with some
14 concerns about whether or not there was
15 inadmissible hearsay. So that was the request.

16 And as I looked at it, I thought it was fine,
17 too. So we'll find out, right, once the appeals
18 start? But we will take appeals when they happen.
19 Right now, we're running a trial.

20 MS. CLARK: Thank you.

21 THE COURT: And then with regard to Officer
22 Gliske's notes, how do you propose that we get
23 this?

24 MS. CLARK: I don't want to stop the trial

25 now --

1 THE COURT: Okay.

2 MS. CLARK: -- because I think we should keep
3 going.

4 THE COURT: Okay.

5 MS. CLARK: But he did testify under oath
6 that he has them in his locker and so --

7 THE COURT: What he testified that I heard
8 is, if he had them, they would be in his locker.

9 MS. CLARK: I heard him testify that he -- I
10 said, where are they now? And he said, in my
11 locker. That's -- I am very clear on what I
12 heard. I don't want to create any leeway for
13 those to disappear now. I'm very concerned that
14 we get them.

15 THE COURT: Well --

16 MS. CLARK: I've litigated numerous trials,
17 and I --

18 THE COURT: So what is going to make you
19 believe when the officer goes back, if those notes
20 are not there, that he didn't destroy them? I
21 guess that's my concern. Would you like to go
22 with him to his locker to get the notes?

23 MS. CLARK: We could do that, yeah. Let's do
24 that.

25 THE COURT: Not right now --

1 MS. CLARK: No, not right now.

2 THE COURT: -- because that's going to be an
3 issue, I can guarantee it.

4 MS. CLARK: That's a good idea. Thank you,
5 Your Honor.

6 THE COURT: Well, it's not going to happen in
7 the middle of our taking testimony or anything.
8 It'll happen on everybody's own time.

9 MS. CLARK: Sure.

10 THE COURT: What was the third thing? Oh, we
11 have to get Mr. Cook in here.

12 MS. LAMIN: Your Honor, can we talk to
13 Ms. Hanson before we do that?

14 THE COURT: Before we get Mr. Cook?

15 MS. CLARK: Why? Why?

16 THE COURT: Is Ms. Hanson coming?

17 MS. LAMIN: My understanding is she's
18 supposed to be here.

19 MS. CLARK: Well, why don't we take who we
20 have here?

21 MS. LAMIN: Your Honor, it's just a little
22 odd. I've never heard of such an allegation. Ms.
23 Hanson works in my office. I find the whole thing
24 kind of odd, Your Honor, and so -- and very
25 unusual.

1 THE COURT: I think we could probably find
2 out from Mr. Cook if he talked to her.

3 MS. LAMIN: Okay. I'm sorry?

4 THE COURT: Wouldn't that be the easiest way
5 to take care of that right now? Just have a
6 conversation, did he talk to her, and then that
7 will be the end of that, as far as I'm concerned.

8 MS. CLARK: It could be perfectly innocent;
9 however, I just have to report it.

10 THE COURT: Right, and that's fine. And I
11 think we will cut this short if we just talk to
12 him.

13 (Whereupon, a brief off-the-record discussion
14 was held.)

15 MS. CLARK: We also have English. Is English
16 going to testify this afternoon? It sounds
17 like he's here.

18 THE COURT: I think we probably should just
19 be prepared.

20 (Whereupon, Ms. Hanson entered the
21 courtroom.)

22 THE COURT: Is there something else on this?
23 I don't have this (indicating), by the way, so I'm
24 not sure what the issue is.

25 MS. CLARK: All right. Here's what I got

1 this morning from the State (indicating).

2 THE COURT: Do we have an extra one of this
3 (indicating)? Is this an extra that I can keep
4 (indicating)?

5 MS. LAMIN: Yes, yes.

6 THE COURT: Okay. All right. And then Ms.
7 -- is it Hanson?

8 MS. HANSON: Yes.

9 MS. LAMIN: You need to stay here for a
10 second.

11 MS. HANSON: Oh, okay.

12 THE COURT: We just need to ask you a
13 question. I would like you to come up here
14 (indicating).

15 MS. HANSON: Oh, my.

16 THE COURT: We just had a question. The
17 question we had is, you were observed talking to
18 one of the jurors, and I just wanted to ask you
19 about that.

20 MS. HANSON: I haven't talked to any of the
21 jurors.

22 THE COURT: None of the jurors?

23 MS. HANSON: No.

24 THE COURT: None of the people sitting in
25 that box (indicating)?

1 MS. HANSON: No.

2 THE COURT: Not the gentleman sitting up
3 there in the back (indicating), Mr. Cook?

4 MS. HANSON: Oh, he asked where the jury room
5 was and I just pointed.

6 THE COURT: So that was what the question was
7 about?

8 MS. HANSON: Where he was supposed to wait.

9 THE COURT: Okay. And what time did this
10 happen?

11 MS. HANSON: That was this morning. It was
12 before court even started, so it was before 10:00.

13 THE COURT: Okay. And that comports with the
14 time frame that we're talking about?

15 MS. CLARK: It's approximate.

16 THE COURT: Okay. All right. Well, thank
17 you.

18 (Whereupon, a brief off-the-record discussion
19 was held.)

20 MS. CLARK: I have these. Did you get a copy
21 of this (indicating)?

22 THE COURT: I now have this, yes.

23 MS. CLARK: Oh, okay. So this is a
24 Sentencing Worksheet. I was trying to plow
25 through this NCIC report, which is extremely long.

1 The problem is, I do not see all of his
2 convictions from the NCIC in this Sentencing
3 Worksheet.

4 THE COURT: Right.

5 MS. CLARK: So I would like --

6 THE COURT: Some of them are too old or -- I
7 mean, sometimes that does happen. It's actually a
8 good thing for Mr. English if they're not all
9 here. He has high criminal history points.

10 MS. CLARK: I have, for example, domestic
11 assault-intent to cause fear of harm or of death.

12 THE COURT: Are these convictions that you're
13 looking at?

14 MS. CLARK: It says disposition, convicted,
15 pled guilty -- oh, but then it says misdemeanor.
16 So that must be it.

17 THE COURT: Okay.

18 MS. LAMIN: And it's listed as No. 2 under
19 misdemeanor.

20 MS. CLARK: Okay.

21 MS. LAMIN: Your Honor, I gave Counsel a copy
22 of this Sentencing Worksheet to expedite the
23 process so that she could just let us know
24 specifically what convictions, but defense counsel
25 does have to, to some degree, prove that these are

1 convictions. So we know for a fact that -- and I
2 would concede -- that everything in the Sentencing
3 Worksheet is a conviction.

4 THE COURT: Yes.

5 MS. LAMIN: Otherwise I would ask Counsel to
6 produce convictions.

7 THE COURT: So all of these are the felonies?

8 MS. CLARK: It's not accurate, Your Honor.
9 For example, there's a burglary not on here. And
10 I will remind the prosecutor that the goal is to
11 seek justice, not just convictions.

12 THE COURT: We don't need to go into that,
13 Ms. Clark. Let's just focus on what we need to do
14 here.

15 MS. CLARK: For example, I have in '04 a
16 burglary-in-the-third-degree conviction, level
17 felony.

18 THE COURT: And he was convicted?

19 MS. CLARK: Yes, and it's not on this sheet
20 (indicating). So I mean, I obviously need to be
21 able to tell the jury that he was convicted.

22 THE COURT: Okay. All right. So let's talk
23 about which ones you're going to use. These are
24 used to come up with criminal history points, and
25 it's actually something that Probation does. So

1 it's not done by the prosecutor or anybody within
2 her office, but they do do their own research and
3 make sure that they're counting up the history
4 points -- the criminal history scores correctly.

5 MS. LAMIN: And, Your Honor, again, my only
6 concern is, I want to make sure that he's actually
7 being impeached with real convictions.

8 THE COURT: Right.

9 MS. LAMIN: Again, that's the NCIC printout.
10 That's like a 30-page document that isn't -- we
11 know is incomplete and not always accurate.

12 THE COURT: All right. So you're looking for
13 actual felony convictions?

14 MS. LAMIN: Well, I would like defense
15 counsel to then produce something more to -- Your
16 Honor --

17 THE COURT: To substantiate, all right. So,
18 Ms. Clark, here's the thing, if you have the NCIC
19 printout, sometimes there are inaccuracies there.
20 So the point is that you want to be able to get --
21 first of all, I'm not going to allow you to
22 impeach without actual conviction records, you
23 know, whether you have that actual sheet that says
24 he was convicted. Do you have that?

25 MS. CLARK: Well, Your Honor, I feel --

1 THE COURT: No. The point is that if you
2 have the NCIC printout and there are actual things
3 on there that you want to bring in --

4 MS. CLARK: Right.

5 THE COURT: -- it's a matter of finding the
6 conviction record itself.

7 MS. CLARK: Well, then we'll have to hold him
8 here and put him in through the defense case as
9 well. I will assert our right to call him,
10 because I feel misled -- I feel a little bit
11 misled because at the beginning of the trial what
12 I heard from the prosecutor was, here's the NCIC,
13 tell me which ones you want to impeach him with.
14 Now, here, I'm hearing -- after lunch, after I
15 could have gone to the, you know, clerk and gotten
16 a certified copy of the conviction, now I'm
17 hearing this objection for the first time. I just
18 don't think it's fair.

19 When is Mr. English going to testify? I
20 think I deserve to hear that.

21 THE COURT: With any impeachment of anybody,
22 I wouldn't allow anything without an actual
23 conviction record.

24 MS. CLARK: It happens all the time, though.
25 The judges do allow it off the NCIC. We do it all

1 the time. Yeah, we do it all the time. I see
2 prosecutors do it all the time. Yes, they do.

3 THE COURT: No, I would never allow that in
4 my courtroom.

5 MS. CLARK: Well, they do in other
6 jurisdictions, and I agree that -- but I'm just
7 telling you.

8 THE COURT: I don't think the NCIC is the
9 official conviction record.

10 MS. CLARK: Well, we can ask him. We can
11 have him in here and ask him what his convictions
12 are. I mean, obviously, I'm going to be able to
13 say that he pled guilty to the allegation in this
14 case, right?

15 THE COURT: Right. I mean --

16 MS. CLARK: That's a matter of the
17 transcript, yeah.

18 THE COURT: Yeah, yeah, yeah.

19 MS. CLARK: Okay. So --

20 THE COURT: And it's a part of the -- you're
21 trying to bring in some of the other burglaries,
22 is what you're getting at; is that correct? Is
23 that what you want to bring in? We just want to
24 make sure that you, you know, have the convictions
25 and that they're truly convictions and that they

1 are --

2 MS. CLARK: Well, what I just heard the State
3 say is, they'll agree to everything in the
4 Sentencing Worksheet. And then, obviously, we can
5 talk to him about his guilty plea in this case.

6 THE COURT: All right.

7 MS. CLARK: So I'll go with that.

8 THE COURT: Okay. And then you would -- all
9 right. So the rest of the NCIC -- do you have
10 something, Ms. Lamin?

11 MS. LAMIN: Your Honor, if I can respond?

12 THE COURT: Yes.

13 MS. LAMIN: What I'm saying is, I agree that
14 those are convictions, but I still think we need
15 to do a Jones analysis on which ones of those come
16 in. From the beginning, the State has just sought
17 a list from Ms. Clark to exactly identify what it
18 is she's going to seek to impeach Mr. English
19 with.

20 Ms. Clark back on May 13, 2010, received
21 Mr. English's Sentencing Worksheet at the time --
22 the current one at the time, which was from
23 December 14, 2009, which never listed any
24 burglaries, and she also received his full NCIC.
25 For Ms. Clark to today say she doesn't know

1 Mr. English's record is hard for the State to
2 take, frankly. Ms. Clark is expected to
3 investigate and do her own investigation.

4 So what the State is -- you know, in the
5 fairness of justice, we would not dispute the fact
6 that the items listed, and that the Ramsey County
7 Probation Office confirmed, as convictions are
8 convictions. And I believe there are five, plus
9 the burglary -- six listed in this document
10 produced September 7, 2010.

11 In terms of this NCIC printout, Ms. Clark
12 asked at the beginning of trial for an updated
13 NCIC printout for Mr. English because she thought
14 he had new items, and so we complied with Ms.
15 Clark's request to give her as much information as
16 she felt she needed to adequately represent her
17 clients.

18 So these six items in the Sentencing
19 Worksheet, the State agrees that those are
20 convictions, and I don't feel like I need any
21 additional verification. I, as an officer of the
22 court, trust Ramsey County Probation that they
23 verified those. I still would like an analysis
24 and a discussion about which one of those six --
25 they don't all six automatically come in.

1 In terms of anything else Ms. Clark sees in
2 the NCIC printout, Your Honor, the State isn't
3 prepared to agree that those are convictions just
4 because Ms. Clark says they are. We would need
5 something more because they didn't make it in here
6 (indicating), which is fairly significant, and he
7 was just sentenced -- and this was prepared two
8 months ago and it was prepared to try to collect
9 all of his convictions. I don't believe that
10 Probation intentionally would keep something off
11 as part of a conspiracy to then affect Ms. Clark's
12 ability to impeach him at a later trial. So
13 that's why I'm concerned if Ms. Clark wants to do
14 an additional burglary, if it's not on here, I
15 would need some more proof. Simply because it's
16 mentioned in the NCIC printout, that's -- from the
17 State's perspective, I would challenge that.

18 MS. CLARK: That's all moot because I've
19 already agreed to go with the felonies on the
20 worksheet, plus the burglary from this case.

21 And I do have an objection to the rules of
22 decorum. I just heard my name about 16 times. I
23 am the defense attorney. I'm an officer of the
24 court. This trial is not about me.

25 THE COURT: You know, the record will speak

1 for itself, so it's okay.

2 MS. LAMIN: I apologize. I meant no offense
3 to defense attorney.

4 THE COURT: All right. Okay. So we're
5 clear, Ms. Clark, that that's how you're going to
6 proceed with the convictions that are here.

7 MS. LAMIN: Well, Your Honor, I guess, will
8 you make a ruling? I don't believe defense
9 counsel necessarily gets in all six convictions.
10 I believe defense counsel does need to make an
11 argument according to the Jones factors that all
12 six of these apply. One is from 1999. So we have
13 a 1999 fifth degree drugs, a 2001 accomplice after
14 the fact --

15 MS. CLARK: For what? Accomplice after the
16 fact for what? I guess we'll ask him.

17 MS. LAMIN: Your Honor, that's -- number
18 three, fifth degree drugs; number four, fifth
19 degree drugs; number five -- these are fairly
20 redundant, Your Honor, and then the most recent
21 burglary.

22 Your Honor, I believe it's appropriate -- and
23 frequently in my practice when there are four of
24 the same convictions, the State is frequently
25 permitted to impeach with maybe one, two at the

1 most. But to have four fifth degree drugs, one
2 accomplice after the fact, and a burglary, Your
3 Honor, seems -- seems a little excessive in this
4 case.

5 THE COURT: All right. I want us to start
6 moving to continue with testimony. I'm pretty
7 sure that we'll probably have some time to finish
8 up this line -- you know, what we've been talking
9 about.

10 I will say that with regard to the Jones
11 factors, Ms. Clark, we should consider which ones
12 you're going to bring in, because one is too far
13 already gone.

14 MS. CLARK: Outside the ten years?

15 THE COURT: Outside the ten years, yes, as
16 far as I can tell.

17 MS. CLARK: That's fine.

18 THE COURT: And then you'll also want to
19 limit all of the crimes that are essentially
20 similar.

21 (Whereupon, a brief off-the-record discussion
22 was held.)

23 THE COURT: What do you need?

24 MS. CLARK: I came in early to organize all
25 these exhibits. Apparently, they've now all been

1 moved.

2 MS. LAMIN: I thought they were just -- I'm
3 sorry, Your Honor, I thought they were scattered
4 from before, so I started to organize them to put
5 them over there.

6 THE COURT: Okay. I'm sure she didn't mean
7 any harm, Ms. Clark.

8 MS. CLARK: I'm just trying to be organized,
9 you know, so we can move forward.

10 THE COURT: All right. But we are going to
11 call the jury in, okay? And we will have this
12 discussion about Mr. English's prior convictions
13 for the purpose of impeachment when we take a
14 break and continue with doing the Jones factor
15 analysis, and then, Ms. Clark, you can limit which
16 particular convictions you want to bring in. Got
17 that?

18 MS. CLARK: Yes.

19 (Whereupon, the clerk left the courtroom
20 briefly and returned with the members of the
21 jury.)

22 THE COURT: We will continue with the trial.
23 I believe Ms. Clark was cross-examining Officer
24 Gliske. Please continue.

25 MS. CLARK: Thank you.

1 Q (By Ms. Clark, continuing) Good afternoon, Officer.

2 A Good morning -- it's morning for me.

3 Q You searched Ms. Suttles's car incident to the tow,
4 right?

5 A Yes, ma'am.

6 Q And when did the tow truck arrive?

7 A I wasn't there. I believe Sgt. Kane towed it.

8 Q Was it towed while you were in the building with the
9 canine?

10 A No.

11 Q Was it towed after that?

12 A Yes, ma'am.

13 Q Did you search the car before or after you went in the
14 building with the canine?

15 A Actually physically searched it?

16 Q Yes.

17 A After I went in the building with the canine.

18 Q Okay. I'm going to show you Exhibit 10, but I'm also
19 going to mark an enlargement of it as 10-A.

20 MS. CLARK: Would that make sense, Your
21 Honor, making it 10-A? It's the same.

22 THE COURT: Sure.

23 (Whereupon, Exhibit 10-A was marked for
24 identification.)

25 MS. CLARK: May I approach?

1 THE COURT: You may.

2 Q (By Ms. Clark, continuing) Showing you Exhibit 10 and
3 then I'm putting up here 10-A.

4 MS. CLARK: Can everyone see that?

5 (Whereupon, the members of the jury responded
6 affirmatively.)

7 Q (By Ms. Clark, continuing) And I'm handing you some
8 kind of a Sharpie, and I'm going to ask you, Officer,
9 to approach 10-A and circle with the purple Sharpie
10 every object that was removed from the building that's
11 in that trunk -- that was in that trunk, excuse me?

12 A That I knew was removed from the building?

13 Q You did an investigation?

14 A Yes. I can tell you what I knew was removed from that
15 building. I can't tell you what other people found
16 later that was removed from that building.

17 Q I'm not going to ask you about anyone else's knowledge.
18 I'm going to ask you, at that point that that picture
19 was taken, you were standing there, right?

20 A Yes, ma'am.

21 Q Okay. And items were taken to the Property & Evidence
22 Room by you and Officer Menton. What objects in that
23 trunk did you have information about to suggest they
24 had been removed from the building? You can go ahead
25 and circle -- you can write right on the exhibit.

1 A Okay. (Indicating.)

2 Q Anything else?

3 A Not to my knowledge. I don't remember if anything else
4 was removed from that building that I knew of at that
5 time.

6 Q So for the record, you drew one circle, it looks like,
7 around the big T-square. And is that a ruler there
8 (indicating)?

9 A Uh-huh.

10 Q You have to say yes or no for the record.

11 A Yes, ma'am.

12 Q Okay. So now the T-square with the blue perpendicular
13 to the steel rod, did you try to get fingerprints off
14 that?

15 A No, ma'am.

16 Q It's not rusty, is it, Officer?

17 A No, it isn't. It has a lot of dirt on it, but it's not
18 rusty.

19 Q It has dirt on it?

20 A That art studio can be insanely dusty.

21 Q And so tell me about this. You are saying that's
22 dirty?

23 A Uh-huh.

24 Q Too dirty to attempt to lift fingerprints off of it?

25 A Probably not. I did not attempt it, no.

1 Q Were you wearing gloves that night, Officer?

2 A Yes.

3 Q The entire time?

4 A No.

5 Q I'm showing you Exhibit 53 in evidence. Whose hands
6 are in that picture shining a spotlight in the purse?

7 A Mine.

8 Q And that's a purse that you found some money in?

9 A Yes, ma'am.

10 Q And what is it resting on? Is that the back of a squad
11 car?

12 A That was the hood of my squad.

13 Q The hood of your squad car is black?

14 A Yes.

15 Q And you took the purse out of Ms. Suttles's car, right?

16 A Yes, ma'am.

17 Q When did you do that? Before or after you went into
18 the building?

19 A After -- after I came back out.

20 Q Are you positive about that?

21 A Not 100 percent.

22 Q Okay. When you were doing that with Ms. Suttles's
23 purse, she was already locked in the back of a squad
24 car, right?

25 A She was detained in the back of my squad.

1 Q Well, she couldn't get out, right?

2 A I could let her out, but no, she couldn't physically
3 get out herself.

4 Q All right. And she was saying to you, that's my money,
5 right?

6 A Yes.

7 Q Now, did you take it out of the plastic bag, Officer?

8 A Did I?

9 Q Yes.

10 A Yes. Not on scene, but at the jail I did.

11 Q And what happened to the plastic bag?

12 A I'm not sure.

13 Q You didn't put it into the property room, did you?

14 A I have no idea.

15 Q How many other people touched that money?

16 A We had to have -- since it was so much, I had to have a
17 supervisor, myself, and one other officer.

18 Q And when did you call a supervisor to pay attention to
19 that money?

20 A As far as a time?

21 Q When in the sequence of events?

22 A After everything calmed down and after we found all of
23 the evidence and then I secured -- the second I found
24 all that and a picture was taken, I secured that in my
25 trunk and told my supervisor about it.

1 Q You transported that money over to what you call the
2 jail?

3 A Yes.

4 Q Now, is that where this room is with these lockers?

5 A No.

6 Q Okay. Is it across the street from the lockers?

7 A Across an alley. It's the same block, but yeah, across
8 an alley.

9 Q And who was with you when you were counting the money?

10 A Who was with me?

11 Q Yes.

12 A I believe officer Menton, and a sergeant was there
13 also.

14 Q Which sergeant?

15 A Kane.

16 Q Were you with that money at all times from the point
17 that you arrived in that parking lot to the point that
18 it was secured in a locker?

19 A No.

20 Q Do you know who was?

21 A There was a lot of people. I have no idea. It was
22 secured in the back of my trunk for a while while I
23 went back inside, we brought it down to the jail, and
24 then we counted it.

25 Q When you say we counted it, who counted it?

1 A I said Officer Kane, Menton, and myself.

2 Q Okay. And at that counting, how much money did you
3 come up with?

4 A I can't remember an exact amount, but I know Ms.
5 Suttles said that she had taken her kids shopping or
6 something like that so she had almost the exact amount
7 in her head of how much money was in there, but I don't
8 remember what it was.

9 MS. CLARK: Okay. Nonresponsive. Move to
10 strike.

11 THE COURT: Denied.

12 Q (By Ms. Clark, continuing) When you counted the money
13 over at the jail -- I'm not asking what someone else
14 said about it. When you counted the money over at the
15 jail, how much money was there?

16 A Uh-huh. I don't remember. A lot.

17 Q Would it refresh your recollection to see your police
18 report?

19 A Yes.

20 MS. CLARK: May I approach, Your Honor?

21 THE COURT: Yes.

22 Q (By Ms. Clark, continuing) This is the beginning of the
23 report and this is your narrative?

24 A Okay. It looks like \$1,625.

25 Q And did you record the exact denominations?

- 1 A On the money envelope, yes.
- 2 Q On the money envelope?
- 3 A Yes, ma'am.
- 4 Q Do you know what happened to the money envelope?
- 5 A That's at Property.
- 6 Q Were you asked today to bring over all evidence from
- 7 the Property & Evidence Room?
- 8 A All property that I could get my hands on, yes.
- 9 Q Well, you didn't bring all of the property?
- 10 A Well, I believe the money was returned to Ms. Suttles.
- 11 Q Do you know what happened to the property envelope?
- 12 A I have no idea. I wasn't there.
- 13 Q Now, you testified about a large duffel bag that's
- 14 Exhibit 56. Do you recall that?
- 15 A The one in the trunk?
- 16 Q Do you recall Exhibit 56, a large duffel bag?
- 17 A Yes.
- 18 Q And it looks like it's down here on the floor. Do you
- 19 have gloves on now, Officer?
- 20 A No.
- 21 Q Do you have some gloves with you?
- 22 A Yes.
- 23 Q Do you mind picking up the bag?
- 24 A Sure.
-
- 25 Q Thank you. And you can take it up to the witness stand

1 with you. There's a tag on that bag?

2 A Which one? The property sheet or the item number?

3 Q I'm talking about the tag on the actual duffel bag
4 handle. It's kind of Manila colored.

5 (Whereupon, the witness displayed an item for
6 Ms. Clark.)

7 Q (By Ms. Clark, continuing) There you go. There you go.
8 No. You're seeing it, no.

9 A Okay. So the property sheet, then?

10 Q Okay. The property sheet.

11 A Okay. I thought you were talking about the item
12 number.

13 Q Oh, okay.

14 A Go ahead.

15 Q So there's a date and time on there, correct?

16 A Yes, ma'am.

17 Q And then there's a person that that duffel bag was
18 associated with by police, correct?

19 A It's the person that turned it in to property, yes,
20 ma'am.

21 Q And what person's name is on that tag?

22 A That would be Thomas Menton.

23 Q No. What civilian person's name is on that bag?

24 A ~~Jermaine English.~~

25 Q Thank you. So this property record we were talking

1 about before lunch, when you fill it out, I assume it's
2 the date and time of the incident, right?

3 A Yes, ma'am.

4 Q Squad number of the person who's inventorying the
5 evidence, right?

6 A Yes.

7 Q And that night Officer Menton was 113, right?

8 A Yes.

9 Q And then the address where it was seized?

10 A Yes.

11 Q And the civilian person who's associated with that
12 property, correct?

13 A Yes.

14 Q All right. Now, the duffel bag that you're holding,
15 according to the property record in this case, was
16 attached to Jermaine English, correct?

17 A That's what Tom wrote, yes.

18 Q And it was seized at 2614 Longfellow Avenue, correct?

19 A Is that what the sheet says?

20 MS. CLARK: I have a document that might
21 refresh his recollection. May I approach?

22 THE COURT: Yes.

23 (Whereupon, the witness perused a document.)

24 THE WITNESS: No, you're misreading that. It
25 says Jermaine English, and then it's his address

1 of his home with his telephone number.

2 Q (By Ms. Clark, continuing) Is that Jermaine English's
3 home address?

4 A That's what he gave us.

5 Q Okay. And you're saying that the item was seized
6 where? First seized.

7 A First seized?

8 Q Yes.

9 A It was seized in the rear of the liquor store in
10 Ms. Suttles's trunk.

11 Q Were you present when each of these pictures was taken
12 that's in evidence?

13 A Standing over Officer Alvarez or present with her?

14 Q Well, why don't you put it in your own words?

15 A I was there. I told her -- well, when someone comes
16 and takes pictures for me, I walk around and I tell
17 them what to take pictures of, and then I'll go talk to
18 somebody or go do something else within the same room
19 as she's taking pictures. For some of them, I was next
20 to her, saying take a picture of this, take a picture
21 of this. For some of them, I was not.

22 Q And how long after the people were arrested inside the
23 building were the pictures taken?

24 A I have no idea.

25 Q I'm showing you Exhibits 43 and 44. Were you standing

1 there when these pictures were taken?

2 A Don't know.

3 Q You don't recall?

4 A No, I don't make a note of every single picture myself.

5 Q Well, is this the first location that the duffel bag
6 was seen by a police officer?

7 A Is that a duffel bag?

8 Q Well, in addition to a coat, isn't there the black
9 duffel bag, in between these beer cans (indicating)?

10 A No.

11 Q Are you sure?

12 A Let me see them again.

13 (Whereupon, the witness perused a document.)

14 THE WITNESS: It looks like it's the outside
15 of the coat, which is black, on the right side.

16 The tag is on the left, which is green. The
17 outside of the coat is black, and that's what you
18 are seeing. I do not see a duffel bag.

19 Q (By Ms. Clark, continuing) Well, do you know for sure?

20 A Are you saying the duffel bag is on the left or right?

21 Q I'm not saying anything. I'm asking you, are you sure
22 that isn't the black duffel bag right there
23 (indicating)?

24 A Yes, it looks like --

25 Q How do you know?

1 A -- it's the coat.

2 Q Isn't it both a coat and a duffel bag?

3 A Excuse me?

4 Q Isn't it both a coat and a duffel bag?

5 A It doesn't appear to be. It looks like it's a coat.

6 Q Okay. You're not 100 percent sure, are you?

7 A Not 100 percent. I can't say for certain because I
8 wasn't the one that took the picture, but it looks like
9 it's a coat and it's the outside of the coat.

10 Q Okay. Do you know whether or not there was one or two
11 black duffel bags?

12 A In Ms. Suttles's trunk, one.

13 Q No, at the scene. In the building, in the parking lot,
14 in a car, do you know how many black duffel bags there
15 were, Officer?

16 A No.

17 Q Now, I'm showing you Exhibits 49 and 50. Would you
18 look at both of those and tell me if you see the same
19 number of tools in both pictures?

20 A It looks like the blue cat's paw is missing out of the
21 second photo, 50.

22 Q How do you explain that?

23 A Whoever took the photo, to get a better look at it,
24 took out certain tools and must have missed one inside
25 the bag.

1 Q You don't know?

2 A I can't recall.

3 Q Well, was the crowbar found somewhere else and brought
4 to that bag?

5 A No.

6 Q Those two small objects that you testified earlier you
7 didn't know really what they were --

8 A Yes, ma'am.

9 Q -- that were inside the black bag --

10 A The silver ones?

11 Q Yes.

12 A Yes, ma'am.

13 Q -- where were those first located?

14 A Inside the duffel bag.

15 Q How do you know?

16 A Well, I'm asking you, inside the duffel bag?

17 Q They're inside the duffel bag now?

18 A Yes.

19 Q Where were they first located at the scene that night?

20 A In the duffel bag.

21 Q How do you know?

22 A Because that's where I found them.

23 Q You found them?

24 A Yes, ma'am, I searched the vehicle.

25 Q Well, did you find those particular small, weird-shaped

1 objects?

2 A I can't say for 100 percent. However, if it says in my
3 report that they were in the duffel bag, I assume they
4 were in the duffel bag.

5 Q Officer, some things got moved around that night,
6 didn't they?

7 A Yes.

8 Q Now, for example, we've already talked a moment ago
9 about Exhibit 53, which is Ms. Suttles's purse on your
10 squad car, right?

11 A Yes, ma'am.

12 (Whereupon, a photograph was displayed for
13 the members of the jury.)

14 Q (By Ms. Clark, continuing) Do you see some other things
15 on your squad car there?

16 A It looks like keys, a purse, and then something brown
17 and a bag.

18 Q Is there a T-square in that picture on your squad hood?

19 A Yes.

20 Q So that got moved around, didn't it?

21 A Yes, we moved stuff.

22 Q We moved stuff?

23 A Yes, ma'am.

24 Q Okay. Do you have a complete record of each item,
25 where it was first found and where it had the picture

1 taken?

2 A I did not take the pictures, ma'am. I cannot tell you
3 where she took the pictures.

4 Q You were the primary responding officer, correct?

5 A Yes, ma'am.

6 Q The question is, do you have a complete record of where
7 each item of evidence was first found and where it
8 ended up before the picture was taken?

9 A Not 100 percent complete.

10 Q I'm showing you Exhibit 21.

11 (Whereupon, Ms. Clark displayed a photograph
12 for the members of the jury.)

13 Ms. Clark: Am I going too fast?

14 (Whereupon, none of the members of the jury
15 responded affirmatively.)

16 Q (By Ms. Clark, continuing) This is in evidence, and
17 that's some items -- you already told us earlier you
18 had moved some items to that location for the picture,
19 right?

20 A Yes, ma'am. Me and my field officer, Officer Alvarez,
21 might have.

22 Q Okay.

23 A I can't say for sure which one, but it's obviously
24 moved.

25 Q All right. And so --

1 MS. CLARK: May I approach, Your Honor?

2 THE COURT: Yes.

3 Q (By Ms. Clark, continuing) For each of those, let's go
4 through where you first located the item. There is a
5 pair of tan, it looks like, wool gloves on the lower
6 left-hand part of the picture. Where was that first
7 located?

8 A In the car.

9 Q Where? Where in the car?

10 A Exactly where in the car?

11 Q Yes.

12 A No idea. Inside the vehicle. I know most of the
13 gloves I found on the seat or stuffed in the back
14 pockets. I do not recall exactly where that glove was
15 inside the vehicle, but it was inside the vehicle.

16 Q Well, I don't know what you mean by stuffed in the back
17 pockets.

18 A Behind the driver and passenger side seats, there's a
19 pocket for magazines and maps. That's where most of
20 the gloves were found and some of the tools.

21 Q Now, in this picture, how many gloves do you see? If
22 you need to see it closer, that's fine.

23 A Yeah, I do need to see it closer.

24 MS. CLARK: May I approach?

25 THE COURT: Yes.

1 (Whereupon, the witness perused the
2 document.)

3 THE WITNESS: It looks like it's a pair of
4 brown gloves, one black glove, one neoprene glove,
5 and another black glove.

6 Q (By Ms. Clark, continuing) Okay. And now I'd like to
7 put into evidence the bag of things from the car.

8 THE COURT: I'm sorry?

9 Q (By Ms. Clark, continuing) Officer, did you bring with
10 you a bag of some items that were in the Property &
11 Evidence Room?

12 A Yes, ma'am.

13 Q Can you retrieve those?

14 A Sure. Which bag would you like?

15 Q The one that has these objects in it (indicating).

16 A (Handing.) There you go.

17 Q Okay. You can bring them up to the witness stand with
18 you.

19 (Whereupon, the witness resumed the witness
20 stand.)

21 Q (By Ms. Clark, continuing) Now, you testified earlier,
22 Officer, that you and Officer Menton together packaged
23 up the evidence for the property room, right?

24 A I was present as we were both packaging them, yes.

25 Q Okay. And so there's one -- there was one property

1 record created for items found in suspect's car,
2 correct?

3 A Yes.

4 Q All right. If you would take the items out of there
5 one by one?

6 A Okay.

7 (Whereupon, the witness handed Ms. Clark an
8 item.)

9 Q (By Ms. Clark, continuing) All right. So I'd like to
10 mark this as Exhibit 73. Is that an item you packaged
11 up for the Property & Evidence Room, Officer?

12 A Yes.

13 Q And do you recognize it today?

14 A It's duct tape.

15 Q Is it the duct tape that you listed on the property
16 record?

17 A I did not write the property record, Officer Menton
18 did.

19 Q But you were present when it was being created,
20 correct?

21 A I was with him, yeah.

22 Q Okay. Do you need to refresh your recollection?

23 A Yes.

24 (Whereupon, the witness perused a document.)

25 THE WITNESS: Okay.

1 Q (By Ms. Clark, continuing) Is that the duct tape that
2 was packaged up for the evidence room that night?

3 A Yes.

4 MS. CLARK: Offer Exhibit 73.

5 MS. LAMIN: No objection, Your Honor.

6 THE COURT: Exhibit 73 is accepted.

7 Q (By Ms. Clark, continuing) Next item?

8 (Whereupon, the witness handed Ms. Clark an
9 item.)

10 Q (By Ms. Clark, continuing) Very good. Okay. The next
11 item is a single black glove?

12 A Yes.

13 Q I'm placing Exhibit 74 on that. And is that the single
14 black glove that you can see in Exhibit 21, Officer?

15 A It appears to be.

16 Q And did you also work with Officer Menton to package
17 that for the Property & Evidence Room that night?

18 A At the jail, yes.

19 MS. CLARK: Offer Exhibit 74.

20 MS. LAMIN: No objection, Your Honor.

21 THE COURT: Exhibit 74 is accepted.

22 MS. CLARK: Would you like us to put a
23 sticker on them both, Your Honor, or just on one
24 of them?

25 THE COURT: I think one will do.

1 MS. CLARK: All right.

2 Q (By Ms. Clark, continuing) I'm placing Exhibit 75 on
3 these gloves. Now, these are not in Exhibit 21, are
4 they, Officer?

5 A They are not shown.

6 Q What seat is this in the vehicle that's in Exhibit 21?

7 A I believe it's the rear seat.

8 Q Do you know?

9 A I can't recall for sure, but I believe it's the rear
10 seat.

11 Q Are those gloves that you seized that night?

12 A Yes, ma'am.

13 Q Where did you first locate those gloves?

14 A I can't name the exact location, but it was inside
15 Ms. Suttles's car.

16 Q All right. Can you tell us whether it was the trunk or
17 the internal part of the car?

18 A The internal passenger seat.

19 Q Are you sure about that?

20 A I believe so, but I'm not positive. I can't remember.

21 Q Okay. And are those the -- are those on this same
22 property sheet/property record that you've been looking
23 at?

24 A May I see it?

25 Q Sure.

1 (Whereupon, the witness perused a document.)

2 THE WITNESS: It just says gloves, plural.

3 Q (By Ms. Clark, continuing) Okay. Why don't you take a
4 look at the next page? Also some gloves on there?

5 A Yes, ma'am.

6 Q All right. Continuing with 21, now those gloves aren't
7 in Exhibit 21, correct? Those pink gloves aren't in
8 Exhibit 21, correct?

9 A No.

10 Q All right. Can you take the next item out of the bag?

11 (Whereupon, the witness handed Ms. Clark an
12 item.)

13 Q (By Ms. Clark, continuing) I'm marking this as
14 Exhibit 76. Is that an item that you seized that
15 night, Officer?

16 A Yes, ma'am.

17 Q And where did you first see it?

18 A In the car.

19 Q Where?

20 A Inside the cabin, no idea where.

21 Q Okay. And did you do any investigation that night as
22 to who it belonged to?

23 A No, ma'am.

24 Q Why did you seize it?

25 A Because it didn't belong to her vehicle.

1 Q How did you know? I'm sorry, how did you know it
2 didn't belong to her?

3 A Vehicle?

4 Q How did you know it didn't belong to her?

5 A Normally when somebody has a faceplate in the cabin of
6 their vehicle, they normally have the corresponding
7 deck in their car and it wasn't there.

8 Q Any other reason?

9 A No, ma'am.

10 Q Why did you seize the gloves?

11 A Why did I seize the gloves?

12 Q Yes.

13 A Because I took gloves, I don't know.

14 Q And is that the faceplate that you and Officer Menton
15 packaged for the property room that night?

16 A Yes, ma'am.

17 MS. CLARK: Offer Exhibit 76.

18 MS. LAMIN: No objection, Your Honor.

19 THE COURT: 76 is accepted.

20 Q (By Ms. Clark, continuing) Next item?

21 (Whereupon, the witness handed Ms. Clark an
22 item.)

23 Q (By Ms. Clark, continuing) Marking this 77. Is that
24 something you seized that night, Officer?

25 A Yes, ma'am.

1 Q Not sure exactly where you seized it from?

2 A You are correct.

3 Q And is it one of the items you and Officer Menton
4 packaged up for the property room that night?

5 A Yes, ma'am.

6 MS. CLARK: Offer 77.

7 MS. LAMIN: I'm sorry, can I see it? It's
8 the remote. Your Honor, may I inquire?

9 THE COURT: Yes.

10 VOIR DIRE

11 BY MS. LAMIN:

12 Q Officer Gliske, when you said you're not sure where you
13 seized it, this was from Ms. Suttles's vehicle?

14 A Yes, ma'am.

15 Q Is that consistent with tow policy?

16 A Yes, ma'am.

17 Q Is that consistent with an inventory policy?

18 MS. CLARK: Objection, leading, not voir
19 dire.

20 THE COURT: Overruled, you may answer.

21 THE WITNESS: We have to itemize everything
22 that's valuable inside a vehicle. And if we
23 can't, then we have to make sure it's either in
24 property to make sure that it gets back to the
25 correct owner or stays inside the vehicle, one of

1 the two.

2 Q (By Ms. Clark, continuing) Are there some items that
3 stayed inside the vehicle that night?

4 A Yes, ma'am, in the trunk.

5 Q All of the items in 10-A stayed in the trunk that night
6 when the car was towed, correct?

7 A Yes, ma'am, minus the stuff I took out.

8 Q Minus the stuff you took out?

9 A The rulers, T-square, and the straight-edge.

10 Q Okay.

11 A I took those out and gave them back to the owner.

12 Q Okay. Anything else you took out before the car was
13 towed?

14 A I do not recall.

15 Q And is there a correlation between the remote and the
16 faceplate?

17 A Same brand, different model number.

18 Q All right.

19 A So a different stereo.

20 Q Well, you can use a -- program a remote to work with
21 different stereos, right?

22 MS. LAMIN: Objection, Counsel's testifying.

23 THE COURT: Sustained. Don't answer.

24 Q (By Ms. Clark, continuing) Do you have any experience
25 with stereos, Officer?

1 A A little.

2 Q All right. Well, is there only one stereo that the
3 remote can be used with?

4 A They make universal remotes.

5 Q Next item, please?

6 THE COURT: We haven't finished with
7 Exhibit 77.

8 MS. LAMIN: I'm sorry --

9 MS. CLARK: Oh, did I not offer it?

10 MS. LAMIN: -- the State has no objection, if
11 Counsel offered.

12 THE COURT: Exhibit 77 is admitted.

13 MS. CLARK: Thank you.

14 (Whereupon, the witness handed an item to
15 Ms. Clark.)

16 Q (By Ms. Clark, continuing) Marking this Exhibit 78, are
17 those some gloves that you seized that night, Officer?

18 A Yes, ma'am.

19 Q Do you know where they originally came from?

20 A Inside the car.

21 Q Then did you package them for the Property & Evidence
22 Room?

23 A Myself and Menton did, yes.

24 MS. CLARK: Offer 78.

25 MS. LAMIN: No objection, Your Honor.

1 THE COURT: Exhibit 78 is accepted.

2 Q (By Ms. Clark, continuing) Next item?

3 (Whereupon, the witness handed an item to
4 Ms. Clark.)

5 Q (By Ms. Clark, continuing) Marking that 79, is that an
6 item you seized that night, Officer?

7 A Yes, ma'am.

8 Q Where from?

9 A The vehicle.

10 Q Why isn't it in any of the pictures of the vehicle?

11 A No idea. I didn't take the pictures.

12 Q Positive you seized that from the vehicle?

13 A Not with 100 percent certainty because I didn't make a
14 list, but yes.

15 MS. CLARK: Okay. Offer 79.

16 THE COURT: Any objection?

17 MS. LAMIN: No, Your Honor.

18 THE COURT: Okay. Exhibit 79 is accepted.

19 (Whereupon, the witness handed an item to
20 Ms. Clark.)

21 Q (By Ms. Clark, continuing) Marking this Exhibit 80, is
22 that an item you seized that night, Officer?

23 A Yes, ma'am.

24 Q Where did you seize it from?

25 A In the vehicle.

1 Q Why isn't it in any of the pictures of the inside of
2 the vehicle?

3 A No idea.

4 MS. CLARK: Offer Exhibit 80.

5 MS. LAMIN: No objection.

6 THE COURT: Exhibit 80 is accepted.

7 Q (By Ms. Clark, continuing) Marking this 81, is that an
8 item you seized that night, Officer?

9 A Yes, ma'am.

10 Q Where was it first located?

11 A I can't tell you for sure.

12 Q Do you know why it's not in any of the pictures of the
13 inside of the vehicle?

14 A No, ma'am.

15 MS. CLARK: Offer Exhibit -- what is it?

16 THE WITNESS: 81.

17 MS. CLARK: Offer Exhibit 81.

18 MS. LAMIN: Your Honor, may I inquire?

19 THE COURT: Yes.

20 VOIR DIRE

21 BY MS. LAMIN:

22 Q Was that inside the vehicle?

23 A Yes.

24 Q And this is Ms. Suttles's vehicle?

25 A Yes, ma'am.

1 MS. LAMIN: No objection.

2 THE COURT: Exhibit 81 is accepted.

3 Q (By Ms. Clark, continuing) Next item?

4 (Whereupon, the witness handed an item to

5 Ms. Clark.)

6 Q (By Ms. Clark, continuing) Marking this as Exhibit 82,

7 did you seize that item that night, Officer?

8 A Yes.

9 Q Where was it first located?

10 A In the vehicle.

11 Q Where?

12 A No idea.

13 Q And did you seize it as evidence or did you seize it

14 pursuant to the towing policy?

15 A As evidence.

16 Q Why?

17 A It's a tool that could be used in burglaries.

18 Q You're not suggesting that that tool pried open the

19 door at Raymond and University that night, are you?

20 A I'm not suggesting it did, but I've seen it happen.

21 Q I'm asking you about this case, Officer. You're not

22 suggesting that Exhibits 5 or 6 were caused by that

23 screwdriver, are you?

24 A I can't speculate what tool they used to gain access to

25 the building.

1 Q Didn't you opine on exactly that when you were
2 testifying on direct? Didn't you talk about a pry bar
3 and a crowbar and a wonder bar and how --

4 A Yes, ma'am.

5 Q -- in your belief those were used?

6 A That's what I would have used, yes.

7 Q Okay. You wouldn't use something like that screwdriver
8 that's Exhibit 82, would you?

9 A Not to break in a door, no.

10 Q Take any fingerprints from that?

11 A No, ma'am.

12 Q Next item?

13 THE COURT: Are you offering Exhibit 82?

14 MS. CLARK: Oh, offer 82.

15 MS. LAMIN: No objection.

16 THE COURT: Okay. Exhibit 82 is accepted.

17 MS. CLARK: Thank you, Your Honor.

18 (Whereupon, the witness handed an item to

19 Ms. Clark.)

20 Q (By Ms. Clark, continuing) I'm marking that as
21 Exhibit 83. Did you seize that that night, Officer?

22 A Yes, ma'am.

23 Q And where was it first located?

24 A In the vehicle.

25 Q Where?

1 A No idea.

2 Q And why did you seize that?

3 A It's a glove.

4 Q Did you seize it as evidence or did you seize it
5 pursuant to the towing policy?

6 A Evidence.

7 Q Evidence of what?

8 A Burglars use gloves to not leave prints.

9 MS. CLARK: Offer 83.

10 MS. LAMIN: Can I see it?

11 THE WITNESS: (Indicating.)

12 MS. LAMIN: No objection.

13 THE COURT: 83 is accepted.

14 Q (By Ms. Clark, continuing) Don't throw it on the pile
15 yet, take that one out. Has that glove been worn,
16 Officer?

17 A I have no idea.

18 Q Have you ever worn a latex or neoprene glove?

19 A Yes.

20 Q And what do they look like after they're worn?

21 A The same.

22 Q They fit pretty tight to your hand, don't they?

23 A Normally.

24 Q And when you take them off, what happens?

25 A They come inside out.

1 Q Okay. Thank you.

2 Are there any more items in the bag?

3 A Yes, ma'am.

4 Q Okay. Next item?

5 (Whereupon, the witness handed an item to
6 Ms. Clark.)

7 Q (By Ms. Clark, continuing) All right. I'm marking this
8 as 84. Did you seize that that night?

9 A Yes, I did.

10 Q Do you know where it was first located?

11 A In the vehicle.

12 Q Do you know where?

13 A No, ma'am.

14 MS. CLARK: Offer 84.

15 MS. LAMIN: I'm sorry, I can't see it. May I
16 inquire?

17 THE COURT: Yes.

18 VOIR DIRE

19 BY MS. LAMIN:

20 Q Officer Gliske, when you say you don't know, are you
21 talking about you don't know in the front area or in
22 the trunk area?

23 A I don't know where it was inside the passenger cabin of
24 the vehicle.

25 Q But your testimony is that was located inside the

1 passenger area along with those other items?

2 A Yes, ma'am.

3 MS. LAMIN: No objection.

4 Q (By Ms. Clark, continuing) Do you know what Ms. Suttles
5 did for a living?

6 A She said she owned a tattoo parlor or something like
7 that, or a salon of some type.

8 Q Okay.

9 MS. CLARK: And I'll offer 84. Apparently,
10 there's no objection.

11 THE COURT: And I'll accept 84.

12 Q (By Ms. Clark, continuing) Next item?

13 (Whereupon, the witness handed an item to
14 Ms. Clark.)

15 Q (By Ms. Clark, continuing) Marking this 85, did you
16 seize that that night, Officer?

17 A Yes, ma'am.

18 Q Did you seize it as evidence or did you seize it
19 pursuant to the towing policy?

20 A Evidence.

21 Q Of what?

22 A Punches are commonly used by burglars to break into
23 windows, break locks, break padlocks -- you name it.

24 Q Well, was there evidence that a window had been broken
25 into with a punch in this case?

1 A No, ma'am, it's a tool consistent with burglary.

2 Q Well, do you know what it's used for?

3 A It's supposed to be used as a metal punch.

4 Q Well, do you know what it was being used for -- strike
5 that.

6 MS. CLARK: Offer 85.

7 VOIR DIRE

8 BY MS. LAMIN:

9 Q Officer Gliske --

10 MS. LAMIN: If I can voir dire, Your Honor?

11 THE COURT: Yes.

12 Q (By Ms. Lamin, continuing) Officer Gliske, did you find
13 that in the trunk or front passenger area of Ms.
14 Suttles's vehicle?

15 A Front passenger area.

16 MS. LAMIN: Okay. No objection.

17 THE COURT: Exhibit 85 is accepted.

18 Q (By Ms. Clark, continuing) Officer, I take it that
19 there's all kinds of people who have tools?

20 A Yes.

21 Q And you're not saying that everyone who has a
22 screwdriver is a burglar, are you?

23 A No.

24 Q Next item?

25 (Whereupon, the witness handed an item to

1 Ms. Clark.)

2 Q (By Ms. Clark, continuing) Can you turn it over?

3 A Sure.

4 Q I'm marking that 86. Did you seize that item?

5 A Yes, ma'am.

6 Q Do you know why it's not in any of the pictures of the
7 inside of Ms. Suttles's car?

8 A I do not.

9 Q Do you recall exactly where in the car you located it?

10 A I do not.

11 Q Is it evidence you and Officer Menton prepared for the
12 property room that night?

13 A Yes, it is.

14 MS. CLARK: Offer 86.

15 VOIR DIRE

16 BY MS. LAMIN:

17 Q Officer Gliske, was that found in the trunk or in the
18 passenger side of Ms. Suttles's car?

19 A Main cabin.

20 MS. LAMIN: No objection, Your Honor.

21 THE COURT: And Exhibit 86 is accepted.

22 (Whereupon, the witness handed an item to

23 Ms. Clark.)

24 Q (By Ms. Clark, continuing) Marking that 87, did you
25 seize that that night?

1 A Yes, I did.

2 Q How do you know that wasn't in the duffel bag when it
3 was first located by police?

4 A Excuse me?

5 Q How do you know that wasn't in the duffel bag when it
6 was first located by police?

7 A I did not see it in there.

8 Q Anything else?

9 A No, ma'am.

10 Q And is that an item you and Officer Menton prepared for
11 the property room?

12 A Yes, it is.

13 MS. CLARK: Offer Exhibit 87.

14 MS. LAMIN: Your Honor, may I voir dire?

15 THE COURT: Yes.

16 VOIR DIRE

17 BY MS. LAMIN:

18 Q Officer Gliske, was that found in the trunk or front
19 compartment of Ms. Suttles's vehicle?

20 A Main cabin.

21 MS. LAMIN: No objection.

22 THE COURT: And Exhibit 87 is accepted.

23 (Whereupon, the witness handed an item to

24 Ms. Clark.)

25 Q (By Ms. Clark, continuing) Is that the last item?

1 A No.

2 Q Oh, okay. 88, a single black glove, do you recall
3 precisely where you first located it?

4 A Inside the passenger compartment of Ms. Suttles's
5 vehicle.

6 MS. CLARK: Offer 88.

7 MS. LAMIN: No objection.

8 THE COURT: And 88 is accepted.

9 Q (By Ms. Clark, continuing) How many more objects do you
10 have in there, Officer?

11 A One.

12 Q Okay.

13 (Whereupon, the witness handed an item to
14 Ms. Clark.)

15 Q (By Ms. Clark, continuing) I'm marking this 89. And
16 where did you locate that?

17 A In the glove box.

18 Q Did you have a search warrant to open the glove box?

19 A No, ma'am.

20 Q So you took that item out of the glove box and
21 inventoried it pursuant to the towing policy?

22 A Evidence.

23 Q Evidence?

24 A Yes, ma'am.

25 Q Evidence of what?

1 A It's rounds -- pistol rounds.

2 Q It's not illegal for people to own rounds, is it,
3 Officer?

4 A No, ma'am.

5 MS. CLARK: Offer 89.

6 THE COURT: Ms. Lamin?

7 MS. LAMIN: Your Honor, can I inquire for a
8 second?

9 THE COURT: Yes.

10 VOIR DIRE

11 BY MS. LAMIN:

12 Q Officer Gliske, what is 89?

13 A It's a small, felt Baggie containing six pistol rounds.

14 Q That's live ammunition?

15 A Yes, ma'am, very large caliber live ammunition.

16 Q I'm sorry?

17 A Very large caliber live ammunition.

18 Q What kind of caliber?

19 A I believe it was a .44 magnum.

20 MS. LAMIN: No objection, Your Honor.

21 THE COURT: All I'm seeing is a bag. Do we
22 need to open this if we're talking about a round?

23 MS. LAMIN: Sure.

24 Q (By Ms. Lamin, continuing) Officer Gliske, could you
25 open that?

1 A (Indicating.)

2 THE COURT: All right.

3 Q (By Ms. Clark, continuing) You're showing one round
4 now, just for the record?

5 A Yes, ma'am. Would you like me to show them all?

6 Q No, that's okay. I just have to put your actions into
7 words because the transcript can't see what we're
8 doing.

9 THE COURT: All right. And the Court wanted
10 to see those.

11 MS. CLARK: Sure.

12 THE COURT: So with no objection, then --

13 MS. LAMIN: No objection.

14 THE COURT: -- Exhibit 89 is accepted with
15 the contents.

16 Q (By Ms. Clark, continuing) Now, Officer, police
17 officers sometimes carry a .44 magnum, correct?

18 A Excuse me?

19 Q Police officers sometimes carry a .44 magnum?

20 A In the 1970s, possibly.

21 Q Don't police officers often have a second gun?

22 A Yes, ma'am.

23 Q And that's sometimes a .44 magnum, isn't it?

24 A I don't carry a .44 magnum as my second gun. I don't
25 know any officer that does.

1 Q Now, Officer, you're saying all of those gloves were
2 found in Ms. Suttles's car?

3 A Yes, ma'am.

4 Q Are you sure none of those were found in squad cars?

5 A I believe they were all found in Ms. Suttles's car.

6 Q Were some of them found in squad cars?

7 A I have no idea.

8 MS. CLARK: Would you like him to put them
9 back in the bag, just for ease of carrying them?

10 THE WITNESS: It's a lot of trips.

11 THE COURT: It's a lot of trips, okay. We
12 will put it all back in the bag.

13 MS. LAMIN: Your Honor, can I ask that the
14 bag as well be marked because that's --

15 THE COURT: Yes.

16 MS. CLARK: Sure, we can mark the bag as 90.

17 (Whereupon, a brief off-the-record discussion
18 was held.)

19 MS. CLARK: I have now marked the bag as 90.

20 Q (By Ms. Clark, continuing) Officer, I'm showing you now
21 Exhibit 40. You testified that pictures were taken of
22 some objects on the floor in the liquor store, right?

23 A Yes, ma'am.

24 Q Well, where was this first located?

25 A In the liquor store.

1 Q Yeah, but it wasn't right here on the floor, was it?

2 A I'm not sure.

3 Q One glove? Are you suggesting a person ran into the
4 liquor store and dropped one glove on the floor?

5 A It's possible.

6 Q Well, did you find the mate in the pockets of
7 Mr. Drljic?

8 A I'm not positive.

9 Q Did you find the mate in the pocket of Mr. English?

10 A Not positive.

11 Q This is the kind of glove you use to unload boxes at a
12 liquor store, isn't it, Officer?

13 A It's a box handler glove, yes.

14 Q Did police locate gloves and then place them on the
15 floor to take a picture?

16 A Are you suggesting that I took a glove that was on
17 scene and placed it on the floor and took a picture to
18 say it's the suspect's?

19 Q I am asking whether police located these gloves
20 elsewhere and put them on the floor and then took
21 pictures?

22 A I have no idea where Amber found that glove.

23 Q Where who found it?

24 A Ms. Amber Alvarez, the one who took the photos.

25 Q So you didn't see it when you came into the liquor

1 store, correct?

2 A I know I saw a lot of gloves.

3 Q Well, just how many gloves were in that liquor store?

4 A I do not remember.

5 Q How many gloves can two people wear?

6 A A couple pairs.

7 Q All right. Now, Exhibit 41 is also a glove. It says
8 Cat on it. It's one single glove, right?

9 A Yes, ma'am.

10 Q Ever find a mate for this?

11 A I do not recall.

12 Q Now, you testified on direct that Mr. Drljic had gloves
13 on when his picture was taken at the LEC. Do you
14 remember that?

15 A I don't recall that, but if you say so.

16 Q Well, what happened to those gloves?

17 A They might have went with Mr. Drljic -- in his property
18 or I might have collected them. I don't remember.

19 Q Now, Exhibit 52, you testified that, as far as you
20 know, Ms. Alvarez put these in this position and then
21 took the picture, right?

22 A Yes, ma'am. I believe there was another photo that
23 showed them where they were.

24 Q Well, if you look at Exhibit 39, do you know that this
25 is the first location these gloves were viewed by

1 police that night?

2 A Do I know for a fact?

3 Q Yes.

4 A No, ma'am, somebody could have moved them.

5 Q Now, Exhibits 38 and 37 are more of these purple latex
6 gloves, correct?

7 A Yes, ma'am, latex gloves.

8 Q Also unworn, correct?

9 A I'm not sure.

10 Q Well, they're not turned inside out?

11 A That doesn't mean they're not worn.

12 Q And there's three of them?

13 A Yes, ma'am.

14 Q Are you suggesting one person was wearing three gloves?

15 A No, ma'am.

16 Q Are you suggesting two people were wearing three
17 gloves?

18 A No, ma'am. When I carry gloves, I just grab a bunch
19 and put them in my pocket.

20 Q Isn't it true that these gloves were first located in
21 the trunk of Ms. Suttles's car in a box for latex
22 gloves?

23 A I have no idea.

24 Q Could be?

25 A I wouldn't have taken something from Ms. Suttles's

1 trunk and put them inside of a business, no.

2 Q Well, do you know whether any of the officers did that
3 that night?

4 A I can't speak for other officers, but as far as I'm
5 concerned, I didn't move anything.

6 Q Well, it certainly would appear to be damaging evidence
7 if gloves from Ms. Suttles's car were found in the
8 liquor store, right?

9 A Yes, ma'am.

10 Q You don't have any knowledge Ms. Suttles was in the
11 liquor store, do you?

12 A No, ma'am.

13 Q Why were all of those gloves we just looked at,
14 screwdrivers and things, inventoried under Mr. Drljic's
15 name?

16 A I'm not sure why Officer Menton put it under Drljic's
17 name. We have to put it under somebody's name.

18 Q You've testified on direct that when you first came
19 into the parking lot that the car was over -- out in
20 the main parking area. Do you remember that?

21 A Towards the west.

22 Q But then you also said something else. You said, we
23 had to move it because it was in too tight of a spot to
24 tow. Do you remember that?

25 A Yes, ma'am.

1 Q Well, hadn't it first been located in that little
2 alcove between the portions of the building?

3 A I don't know where you're talking about, ma'am.

4 Q Well, the building's odd shaped, right?

5 A Yes, ma'am.

6 Q And in Exhibit 1 -- I'm sorry. Do you recall the
7 picture of the overhead of the building?

8 A Yes, ma'am.

9 Q And there was kind of a dark area and you had pointed
10 out with a laser that this witness had an apartment
11 kind of looking over that area?

12 A He had an apartment looking over the entire parking
13 lot.

14 Q Do you remember the picture that I was talking about?

15 A Yes, ma'am.

16 Q Do you remember that little alcove area on Exhibit 1?
17 It's the kind of darkened-in section.

18 A Yes, ma'am, that's the alley.

19 Q Okay. You call that an alley?

20 A It's an alley between the buildings, yes.

21 Q But it doesn't pass through, right?

22 A No.

23 Q That's where you first saw Ms. Suttles's car, right?

24 A No.

25 Q Well, what tight spot did it have to be moved out of to

1 be able to be towed?

2 A The wrecker or the tow truck is so large that, as he
3 came through the alley, I had to move the vehicle out
4 of the parking spot because there was other cars
5 around, so that the truck could get at it.

6 Q Because the car was up in this area (indicating),
7 correct?

8 A No. I said before that it was facing westbound in the
9 parking lot in a legal parking spot.

10 Q Now, you said that when you first came upon
11 Ms. Suttles, she was outside the car, right?

12 A Yes, ma'am.

13 Q And she was squatting down to pee, right?

14 A I never said that, I don't believe. She told me she
15 had to pee.

16 Q Officer, isn't it true that when you first saw her, she
17 was squatting down?

18 A I have no idea, I can't remember.

19 Q Okay.

20 A Is that in my report?

21 Q You said you shone a spotlight on her?

22 A Yes, ma'am.

23 Q And that she looked nervous?

24 A Yes, ma'am, she started walking away.

25 Q Oh, she started walking away?

1 A She turned.

2 Q I'm sorry, she turned?

3 A She turned and moved.

4 Q And moved, how?

5 A She turned and moved away from me, like she didn't want
6 to talk to me, she just wanted to leave.

7 Q Now, I'm going to ask you to only tell me what you saw.
8 You don't know what was in her mind, do you?

9 A No, ma'am.

10 Q Okay. So just tell me what you saw.

11 A What I saw?

12 Q When you say she turned.

13 A She turned and started walking away.

14 Q Well, you didn't say that on direct, did you, Officer?

15 A No, ma'am, I guess I didn't.

16 Q And you said on direct, 'didn't you, that if someone
17 changes their story, it means they're lying, right?

18 A Changes their story?

19 Q Yes.

20 A Normally, yes, ma'am.

21 Q Sometimes the spotlight makes someone nervous?

22 A It does.

23 Q And you're not suggesting that anyone found in that
24 location has to be committing a crime, are you,

25 Officer?

1 A No, ma'am.

2 Q People live in that area, right?

3 A Yes, they do.

4 Q Now, did you take any contemporaneous notes while you
5 were at the scene of what you claim Ms. Suttles said?

6 A I don't recall.

7 Q If you have them, are they in your notes that are in
8 your locker?

9 A Possibly.

10 Q Now, don't tell me what he said, but you indicated that
11 someone looked down from an upstairs window, right?

12 A Yes, ma'am.

13 Q Now, was there one person or more than one person in
14 that window?

15 A I saw one.

16 Q Did you hear more than one -- don't tell me what anyone
17 said, but did you hear more than one person?

18 A Upstairs?

19 Q Yes.

20 A I don't recall. I don't believe so.

21 Q Now, you put Ms. Suttles originally in your car, right?

22 A Yes, ma'am.

23 Q And then you moved her into Officer Alvarez's car,
24 right?

25 A I can't remember, but possibly.

1 Q You didn't actually transport Ms. Suttles to the LEC,
2 did you?

3 A I believe I did, but I'm not positive. I know I
4 transported somebody.

5 (Whereupon, Ms. Clark handed the witness a
6 document.)

7 MS. CLARK: A document that might refresh his
8 recollection.

9 THE COURT: Okay.

10 (Whereupon, the witness perused a document.)

11 THE WITNESS: It looks like I wrote that I
12 informed Ms. Suttles that she was under arrest and
13 then I had Alvarez and Christensen transport her
14 for me to the LEC.

15 Q (By Ms. Clark, continuing) Okay. All right. So at
16 some point you moved Ms. Suttles from the back of your
17 squad over to the back of Alvarez's squad, correct?

18 A Yes, ma'am.

19 Q Now, did you take her purse before or after that?

20 A Did I take her purse?

21 Q Yes.

22 A Out of her vehicle?

23 Q Yes.

24 A Before.

25 Q Before you moved her into Alvarez's car?

1 A Yes, ma'am, I put it in my trunk.

2 Q And at that time, the car was not being towed, correct?

3 A It was going to get towed.

4 Q At that time, was the car being towed?

5 A Physically getting put on the tow truck, no.

6 Q You testified on direct that you searched Ms. Suttles
7 as soon as you came in contact with her or very shortly
8 thereafter, right?

9 A I did not search her. I pat-frisked her.

10 Q Okay. You took something out of her pocket, though?

11 A Yes, ma'am.

12 Q Well, isn't that a search?

13 A Well, if I could --

14 MS. LAMIN: Your Honor, objection. May we
15 approach?

16 THE COURT: Yes.

17 (Whereupon, a brief off-the-record discussion
18 was held.)

19 Q (By Ms. Clark, continuing) Okay. So you took something
20 out of her pocket?

21 A Yes, ma'am.

22 Q A roll of duct tape?

23 A And some gloves, I believe.

24 Q Which gloves?

25 A I believe it was the neoprene gloves.

1 Q Neoprene gloves?

2 A Yes.

3 Q Purple gloves?

4 A I can't remember what color they were.

5 Q And then did you put them in the car? See Exhibit 21.

6 Did you put the purple gloves and duct tape that you

7 say you found in her pocket in the car before the

8 picture was taken?

9 A I don't recall. I know I put them in property.

10 Q If you took gloves out of Ms. Suttles's pocket, did she

11 have gloves on her hands?

12 A I don't recall.

13 Q Did you yourself investigate -- strike that. Was your

14 job at the scene to gather evidence so an investigator

15 could perform an investigation?

16 A As much as I could, yes.

17 Q And you don't know at the time you're gathering

18 evidence what the investigator will need it for, right?

19 A Yes, ma'am.

20 Q So can you say definitively that everyone who was at

21 that scene wore gloves at all times?

22 A No.

23 Q Now, you mentioned this person who called down from an

24 apartment, and I'm not asking you what he said.

25 A Yes, ma'am.

1 Q But you told us yesterday that you interviewed him on
2 the ground floor behind a door?

3 A I interviewed him in the hallway.

4 Q The hallway of the ground floor of what?

5 A His apartment.

6 Q And how did you get in there?

7 A He let me in.

8 Q But what was your access? If we look at Exhibit 1, how
9 did you get into the building?

10 A There was a door on the south side of his apartment
11 building. It's kind of in the dark area, I believe.

12 Q In the dark area here (indicating) or in this dark area
13 here (indicating)?

14 A No, inside the alley.

15 Q (Indicating) Here?

16 A Yeah. Somewhere in there, I believe there was a door
17 to his apartment.

18 Q Okay. And he let you in that door?

19 A Yes, ma'am.

20 Q And can you just describe him for us?

21 A White male, tall, thin.

22 Q Age?

23 A Young. I can't remember exactly how old he was. It
24 says in my report his date of birth.

25 Q Build?

1 A Thin.

2 Q Weight?

3 A I don't remember exactly. Maybe 150, 180.

4 Q What was he wearing?

5 A I don't recall.

6 Q Did he see you with the money?

7 A Did he see me with the money?

8 Q Yes.

9 A I have no idea. He could have. He was watching us.

10 Q You took the money out of the purse in the open, right?

11 A Yes, ma'am, with other officers there.

12 Q Did that white gentleman see some of the police
13 officers take some of that money?

14 MS. LAMIN: Objection, Your Honor.

15 THE COURT: I'm going to sustain that
16 objection.

17 Q (By Ms. Clark, continuing) Officer, did you take some
18 of that money?

19 A No, ma'am.

20 Q Did you see any other officers take some of that money?

21 A I did not see anyone take any money.

22 Q Would you agree that if police had taken some cash at
23 the scene --

24 MS. LAMIN: Your Honor, objection to this
25 entire line of questioning.

1 MS. CLARK: May I finish the question?

2 MS. LAMIN: I'm sorry, Counsel, it's
3 completely inappropriate.

4 THE COURT: Counsel, please approach.

5 (Whereupon, a brief off-the-record discussion
6 was held.)

7 Q (By Ms. Clark, continuing) So how many times did this
8 white gentleman come down to the ground floor?

9 A To talk to me, once.

10 Q No. Just how many times did you see him on the ground
11 floor?

12 A No idea.

13 Q How many officers were there after they all arrived?

14 A How many officers were there?

15 Q Yes.

16 A During the entire incident?

17 Q Well, how many were in this area of Exhibit 1 here
18 (indicating) during the main part of the incident?

19 A (Witness did not respond.)

20 Q The incident was about half an hour, right, from the
21 time you arrived to the time Mr. Drljic and Mr. English
22 were taken to the LEC, right?

23 A I'm not positive, but I would have to guess almost
24 every officer that was scene walked through that area
25 at one point or another.

1 Q Okay. Approximately how many officers?

2 A I can't remember exactly. Maybe six to ten.

3 Q And a number of the officers were white, I take it?

4 A Yes, ma'am.

5 Q And are you sure that you know every single time that
6 the white gentleman who had the upstairs apartment was
7 down on the ground?

8 A No, ma'am. I know I locked the money in my trunk and
9 nobody else had a key.

10 Q I was asking you about the white gentleman, just how
11 many times you saw him down there.

12 A Which white gentleman?

13 Q The one that had the apartment upstairs --

14 A The witness, yes.

15 Q -- that called down at one point?

16 A Yes, ma'am.

17 Q Okay. You're not sure precisely how many times he came
18 down to the ground, I take it?

19 A No, ma'am. I went inside the building. He could have
20 come out.

21 Q Did you interview him?

22 A Briefly.

23 Q And without telling me what he said, did you take
24 notes?

25 A Briefly, I believe, either mental notes or physical

1 notes. I can't remember.

2 Q And if you took notes, they're in the notes that are in
3 your locker?

4 A They would be in my notebook.

5 Q Well, what's a notebook?

6 A (Indicating.)

7 Q Do you have the notebook from that night with you?

8 A No, ma'am.

9 Q Okay. Is that what you meant earlier when you talked
10 about notes?

11 A Which notes?

12 Q Well, you said you had some notes in your locker. Were
13 you describing a notebook like that?

14 A If I had notes from that night, it would be in my
15 locker.

16 Q Did you move Ms. Suttles's vehicle?

17 A Yes.

18 Q Did you drive it to move it?

19 A I can't recall for sure. One of us did.

20 Q How did you get the keys?

21 A I believe they -- I believe they were either in the
22 ignition or they were on Ms. Suttles, I can't remember
23 which one, but I know the car -- I can't remember which
24 one it was.

25 Q Where was Ms. Suttles when Officer Menton arrived?

1 A In my squad.

2 Q And how long did you take -- excuse me. How long did
3 it take for the canine, approximately, to arrive?

4 A Fairly quick.

5 Q Did Ms. Suttles tell you that someone was calling her
6 cell phone?

7 A I don't remember.

8 Q Do you recall her trying to communicate to you from
9 inside the squad that someone from inside the building
10 was calling her cell phone?

11 A No.

12 MS. LAMIN: Objection, Your Honor, there's no
13 basis for these questions.

14 THE COURT: Sustained.

15 MS. CLARK: Object to speaking objections.

16 Q (By Ms. Clark, continuing) Now, at some point, someone
17 did call from a cell phone from inside the building,
18 though, right?

19 A Yes, ma'am.

20 Q And did call Ms. Suttles's cell phone, right?

21 A Yes, ma'am.

22 Q And indicated -- you testified on direct something like
23 they indicated that they wanted to give themselves up?

24 A Yes, ma'am.

25 Q All right. And so you didn't actually contact -- or

1 strike that. They called to say they wanted to give
2 themselves up before you and the other officer and the
3 canine located them in the building, right?

4 A Yes, ma'am.

5 Q And you told us that there was a second wall that was
6 ripped open?

7 A Yes, ma'am.

8 Q And you're saying no pictures were taken of another
9 wall ripped open?

10 A You would have to ask Ms. Alvarez.

11 Q Now, Officer Menton wrote a supplement in this case,
12 correct?

13 A My report says he did.

14 Q Okay. And have you reviewed it?

15 A No, ma'am.

16 Q Well, did you review it when preparing for trial?

17 A No, ma'am.

18 Q Do you try to keep your police report accurate?

19 A I try to.

20 Q As well the Incident Recall Document that's Exhibit 22
21 tells us which police officers filed police reports,
22 doesn't it?

23 A Yes, ma'am.

24 Q Would you look on there and see whether Officer Menton
25 filed a police report in this case?

1 (Whereupon, the witness perused a document.)

2 THE WITNESS: It says he wrote a report.

3 Q (By Ms. Clark, continuing) Thank you. Who popped open
4 Ms. Suttles's trunk?

5 A I did.

6 Q Using her keys?

7 A Yes, ma'am, or her trunk --

8 Q I'm sorry?

9 A -- or her trunk button. I don't remember which one.

10 Q Oh, you mean there may have been a button inside the
11 car?

12 A Normally in Cadillacs, yes.

13 Q Okay. And you testified at the end of your testimony
14 on direct that these were, quote, three separate
15 burglaries. Do you recall that?

16 A Yes, ma'am.

17 Q I take it you are not sure as you sit there what the
18 Jury Instruction Guide says with regard to whether or
19 not something's a burglary?

20 THE COURT: I'm going to sustain this.

21 Q (By Ms. Clark, continuing) Well, Officer, you were
22 using that term loosely, I take it, right?

23 A Rephrase.

24 Q Well, you said these three separate burglaries.

25 Wouldn't it be more accurate to say you gathered

1 certain evidence for an investigator and ultimately the
2 jury will decide if they were burglaries?

3 A All three businesses were burglarized.

4 Q Do you know the definition of burglary?

5 MS. LAMIN: Your Honor, objection,
6 argumentative.

7 THE COURT: I am going to sustain that.

8 Q (By Ms. Clark, continuing) You indicated that a number
9 of items of liquor were stacked by a doorway, correct?

10 A Yes, ma'am.

11 Q And that it looked like someone was going to be taking
12 those out?

13 A Yes, ma'am.

14 Q And I take it that you do not have any personal
15 knowledge or your investigation didn't uncover why any
16 of these individuals went to that building that night?

17 A Why they picked that building?

18 Q Why they went there in the first place?

19 A Ms. Suttles said she came there to pick somebody up.
20 That's the only thing I know, that's all they said.

21 Q All right. Thank you.

22 MS. CLARK: Nothing further.

23 THE COURT: All right. And redirect?

24 REDIRECT EXAMINATION

25 BY MS. LAMIN:

1 Q Officer Gliske, that duffel bag, did you find that in
2 the trunk of her car?

3 A Yes.

4 Q Did you find a duffel bag anywhere else in the liquor
5 store?

6 A No.

7 Q Did you find a duffel bag anywhere else in the art
8 studio?

9 A Did -- was there one there? I can't remember, but I
10 did not recover one.

11 Q Okay. The only duffel bag that you recovered is that
12 duffel bag (indicating)?

13 A Yes, ma'am.

14 Q Okay. And that is what we saw in the photographs of
15 the trunk of Ms. Suttles's car?

16 A Yes, ma'am.

17 Q Officer Gliske, I'm showing you Exhibit 70. Can you
18 identify what that is?

19 MS. CLARK: 70? You were past 80. It can't
20 be 70 because we already have a 70.

21 THE COURT: What number are we at?

22 MS. LAMIN: Your Honor, we took some exhibits
23 out of order.

24 THE COURT: Oh, okay. So you do have 70.

25 Very well.

1 Q (By Ms. Lamin, continuing) Can you please identify,
2 Officer Gliske, what that is?

3 A It feels like gloves.

4 Q What is that? Where did you get those gloves?

5 A It says I got them off of Ms. Suttles.

6 Q And were those items in Exhibit 70 turned in to the
7 property -- do you have a tag with that?

8 A Yes, ma'am.

9 Q Okay. And what does the -- who's the name on the tag?
10 Both the suspect and the officer, first.

11 A Ms. Suttles is the suspect and myself and Menton are
12 reporting officers on the tag.

13 Q So Exhibit 70 is the physical gloves recovered from Ms.
14 Suttles?

15 A Yes.

16 Q Were you with Officer Menton when those were packaged
17 and prepared for evidence?

18 A Yes, ma'am.

19 Q Officer Gliske, can I ask you to please open
20 Exhibit 70?

21 A (Complying.) Okay.

22 Q So those were the gloves that you found on Ms. Suttles
23 that evening?

24 A Yes, ma'am.

25 Q And those were the same gloves mentioned in your police

1 report?

2 A Yes, ma'am.

3 Q Okay.

4 MS. LAMIN: I move to admit Exhibit 70.

5 MS. CLARK: No objection.

6 THE COURT: Exhibit 70 is admitted.

7 Q (By Ms. Lamin, continuing) Officer Gliske, I'm showing
8 you what has been previously marked, it looks like, as
9 Exhibit 62. Can you identify what this is and explain
10 this to the jury? The bag itself.

11 A It's evidence that we recovered from the scene.

12 Q Okay. Specifically, what scene?

13 A It says 2389 University, or the liquor store, I
14 believe.

15 Q So that's evidence you actually found in the liquor
16 store?

17 A Yes, ma'am.

18 Q Okay. Did you collect that evidence?

19 A Yes, ma'am.

20 Q Okay. Were you with Officer Menton when that evidence
21 was packaged up?

22 A Yes, ma'am.

23 Q Is that the way you package evidence up?

24 A Yes, ma'am.

25 Q You put it in a brown paper bag and then you have a

1 little tag on it?

2 A Yes, ma'am.

3 Q Officer Gliske, can I ask you to remove the first item
4 in Exhibit 67?

5 A (Complying.)

6 Q Does that have an exhibit number, Officer Gliske?

7 A 55.

8 Q Okay. Can you identify what that is, Officer Gliske?

9 A That's the coat that we recovered in between the liquor
10 boxes inside the liquor store.

11 Q And you helped collect that evidence?

12 A Yes, ma'am.

13 Q And you were with Officer Menton when that was packaged
14 up?

15 A Yes, ma'am.

16 MS. LAMIN: Your Honor, I move to admit
17 Exhibit 55.

18 MS. CLARK: Could I just see the tag?

19 THE WITNESS: Which tag?

20 (Whereupon, Ms. Clark reviewed the tag.)

21 MS. CLARK: No objection.

22 THE COURT: Exhibit 55 is admitted.

23 Q (By Ms. Lamin, continuing) And, Officer Gliske,

24 Exhibit 55, is that the item that we see in

25 Exhibits 44, 43, and 45?

1 A Yes, ma'am, you can see the label.

2 Q Officer Gliske, was there another -- anything else with
3 that coat when you found that coat in the liquor store?

4 A No, ma'am.

5 Q Okay. Officer Gliske, what else do you have in that
6 bag?

7 A A flashlight.

8 Q We'll mark that Exhibit 63. Can you identify what that
9 is?

10 A It's a flashlight I found on the countertop of the
11 coffee shop.

12 Q And you recovered that flashlight?

13 A Yes, ma'am.

14 Q And you were with Officer Menton when that flashlight
15 was placed in that paper bag for evidence?

16 A Yes, ma'am.

17 Q Okay.

18 MS. LAMIN: Your Honor, I move to admit

19 Exhibit 63.

20 MS. CLARK: No objection.

21 THE COURT: Exhibit 63 is admitted.

22 Q (By Ms. Lamin, continuing) Officer Gliske, can you
23 identify what that is?

24 A A pair of mechanics gloves found inside the liquor
25 store.

1 Q We will label them Exhibit 23. And are those the
2 gloves that defense counsel showed in the pictures?
3 Are these the gloves in Exhibit 52?

4 A They appear to be.

5 Q And here's Exhibit, it looks like, 59, another photo of
6 them?

7 A Yes, ma'am.

8 Q Okay. So these are the gloves you recovered from
9 Sharrett's Liquor Store on December 6, 2009?

10 A Yes, ma'am.

11 MS. LAMIN: Your Honor, I move to admit
12 Exhibit 23.

13 MS. CLARK: No objection.

14 Q (By Ms. Lamin, continuing) Officer Gliske, what else is
15 in that bag?

16 THE COURT: Exhibit 23 is admitted.

17 Q (By Ms. Lamin, continuing) Can you identify what those
18 are?

19 A Three neoprene purple gloves.

20 Q Now, were those gloves recovered from the liquor --
21 where were those gloves recovered?

22 A In the liquor store.

23 Q Do those gloves correlate to the photos in Exhibits 37
24 and 38?

25 A Yes, ma'am.

1 Q Okay. Is there some sort of color difference between
2 those?

3 A Yes, ma'am.

4 Q When photos are taken of evidence, do you initially
5 attempt to take photos when you find it at the scene in
6 the condition you find it in?

7 MS. CLARK: Objection, leading.

8 THE COURT: Overruled. You can answer.

9 THE WITNESS: When I take photos myself, I
10 take them overall and I work my way in to where
11 that item is located and then I move that item so
12 I can get a better photo of that. If it's better
13 light, I put it up on a counter or put it on my
14 squad.

15 MS. LAMIN: We'll move these as Exhibit 51.

16 Q (By Ms. Lamin, continuing) Were you with Officer Menton
17 when these were placed into evidence?

18 A Yes, ma'am.

19 MS. LAMIN: I move to admit Exhibit 51.

20 MS. CLARK: No objection.

21 THE COURT: Exhibit 51 is admitted.

22 Q (By Ms. Lamin, continuing) Officer Gliske, this is
23 Exhibit 70. What do you identify that to be?

24 A A box handler glove that we found inside the liquor
25 store.

1 Q Is this the same glove identified -- shown in Exhibits
2 40 and 41?

3 A It appears to be.

4 Q Okay. And are Exhibits 40 and 41 consistent with the
5 way you would photograph that item?

6 MS. CLARK: Objection, irrelevant.

7 THE COURT: Overruled, you may answer.

8 THE WITNESS: No, no.

9 Q (By Ms. Lamin, continuing) Okay. Can you explain --
10 were you with Officer Menton when that item was
11 retrieved and ultimately put into evidence?

12 A Yes, ma'am.

13 MS. LAMIN: I move to admit Exhibit 71.

14 MS. CLARK: No objection.

15 THE COURT: I think it's 70.

16 THE WITNESS: It's 71.

17 THE COURT: Is it 71?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Okay.

20 Q (By Ms. Lamin, continuing) Officer Gliske, is there
21 another item in there?

22 A One.

23 Q Exhibit 72, can you identify what that is?

24 A It's a Coleman head flashlight.

25 Q And where did you recover that item?

1 A Inside the liquor store.

2 Q And were you with Officer Menton when that item was
3 ultimately gathered up and put into evidence?

4 A Yes, ma'am.

5 MS. LAMIN: I move to admit Exhibit 71.

6 MS. CLARK: No objection.

7 THE COURT: I think we're at Exhibit 72.

8 MS. LAMIN: Oh, I apologize.

9 THE COURT: Exhibit 72 is admitted.

10 Q (By Ms. Lamin, continuing) Officer Gliske, why did you
11 not take any prints at the scene?

12 A All of the stuff that they touched I didn't see any
13 latent prints or anything that was disturbed and I
14 assumed they were wearing gloves so I wouldn't get any
15 prints anyway.

16 Q Why did you assume they were wearing gloves?

17 A Because they had gloves on them. When we took them
18 into custody, they had gloves in their pockets. I'm
19 sure they were wearing gloves inside the business.

20 Q Do you take fingerprints at every scene?

21 A No.

22 Q Officer Gliske, can you typically -- explain when you
23 see evidence how it is typically processed in terms of
24 photographed and moved. How does that process happen?

25 A It depends on the situation.

1 Q What happened in this case?

2 A We collected the evidence and then moved it together so
3 we could take one large photo of it.

4 Q And are you talking about the evidence in the context
5 of items inside Ms. Suttles's vehicle?

6 A Yes, ma'am.

7 Q Okay.

8 A And then I had Ms. Alvarez take photos of the evidence
9 inside the liquor store as it sat. She might have
10 moved it, I'm not positive if she did or not.

11 Q Is that unusual, to move items inside a vehicle in
12 order to take a photograph of them?

13 A No.

14 MS. CLARK: Objection.

15 THE COURT: Overruled.

16 THE WITNESS: No.

17 Q (By Ms. Lamin, continuing) Can you explain why?

18 A Just because we -- if we're searching a vehicle and
19 there's a lot of evidence, I can't leave it there and I
20 can't search below it. So I have to move stuff in
21 order to continue my search. If I find a gun, I'm just
22 not going to leave it there. I have to either move it
23 or photograph it or secure it before someone gets hurt.

24 Q Is it unusual in your professional experience to have
25 every single item photographed -- exactly the same item

1 that's in evidence?

2 MS. CLARK: Objection, vague.

3 MS. LAMIN: I'll rephrase.

4 THE COURT: Okay. Please rephrase.

5 Q (By Ms. Lamin, continuing) Defense counsel has spoken
6 at length about items in a photograph from -- actually,
7 Officer Gliske, the items previously admitted into
8 evidence found in Ms. Suttles's vehicle, particularly
9 the pink gloves and black glove, is that in item 46?

10 A Yes, ma'am.

11 Q Okay. So when defense counsel indicated the items in
12 evidence weren't photographed; is that accurate?

13 A Not in that one photo she showed.

14 Q And, Officer Gliske, you're the one who searched
15 Ms. Suttles's car?

16 A I had helped, with Officer Menton.

17 Q You're the one that popped the trunk?

18 MS. CLARK: I couldn't hear what he said.

19 THE WITNESS: Officer Menton was there
20 assisting me.

21 Q (By Ms. Lamin, continuing) And so the items, in
22 particular the duffel bag and the other items found in
23 Ms. Suttles's car, those are the items that you
24 located?

25 A Yes, ma'am.

1 Q Okay. And you directed Officer Alvarez to take the
2 photos, but you yourself didn't take them?

3 A Yes, ma'am.

4 Q Did you plant items inside Ms. Suttles's car?

5 A No, ma'am.

6 Q Did you remove -- the items currently in the duffel bag
7 today, are those the items that you found in the duffel
8 bag on December 6, 2009, in Ms. Suttles's -- the trunk
9 of her car?

10 A Yes, ma'am.

11 MS. LAMIN: No further questions.

12 MS. CLARK: I just have a couple.

13 THE COURT: Okay.

14 RECROSS-EXAMINATION

15 BY MS. CLARK:

16 Q Some of the gloves that we laboriously marked and put
17 into evidence just now are not shown in any pictures of
18 Ms. Suttles's car, correct?

19 A Which gloves are you speaking of, ma'am?

20 Q Well, there were some gray leather gloves. Do you
21 remember those? Working gloves? I mean, one single
22 glove?

23 A The single glove, yeah, I don't recall a photo of it.

24 Q Okay.

25 A I'd have to look at all of the photos, though.

1 Q Sure, sure. Now, you testified a moment ago that you
2 told Ms. Alvarez what to take pictures of?

3 A Yes, ma'am.

4 Q Did you tell her generally or did you tell her
5 specifically?

6 A Some general, some -- I mean, she's a cop, too, so she
7 knows what to take pictures of. I just told her what I
8 needed pictures of.

9 Q So you told her generally?

10 A Some of them I said generally, some of them I pointed
11 to and said you need to take pictures of this, this,
12 this, this.

13 Q You were not with her while she took all of the
14 pictures, it sounds like?

15 A The only photos I don't believe I was present for were
16 the ones upstairs in the witness's apartment.

17 Q I'm looking for that one.

18 A I was talking to the witness at the time she took those
19 photos.

20 Q So I'll have to -- does it look like this (indicating),
21 Officer?

22 A It's hard to see from here.

23 MS. CLARK: What number are we on? We're all
24 mixed up with numbers, I hate to say.

25 MS. LAMIN: Exhibit 47.

1 MS. CLARK: Okay. Your Honor, I'm marking
2 this 47. Apparently, that was one number hanging
3 out there that we hadn't used.

4 (Whereupon, a brief off-the-record discussion
5 was held.)

6 MS. CLARK: Okay. I'm sorry, I retract that
7 now because apparently premarked are 68 and 69.
8 May I approach?

9 THE COURT: Yes.

10 Q (By Ms. Clark, continuing) Take a moment to look at
11 those, please.

12 (Whereupon, the witness perused some
13 photographs.)

14 Q (By Ms. Clark, continuing) Are those the pictures you
15 were referring to that Officer Alvarez took from
16 upstairs?

17 A Yes, ma'am.

18 Q And you were with her or not with her?

19 A I was downstairs in the hallway talking to the witness
20 while she went upstairs and took photos.

21 MS. CLARK: Offer 68 and 69.

22 MS. LAMIN: No objection.

23 THE COURT: Exhibits 68 and 69 are accepted.

24 Q (By Ms. Clark, continuing) So when Alvarez was upstairs
25 taking pictures, you were downstairs talking to the

1 white gentleman who had an upstairs apartment?

2 A The witness who flagged me down, yes.

3 MS. CLARK: Nothing further.

4 MS. LAMIN: One question.

5 THE COURT: Okay.

6 REDIRECT EXAMINATION

7 BY MS. LAMIN:

8 Q Officer Gliske, this witness that we've been speaking
9 about, what's his name?

10 A I believe it's Joseph Nolan or Mr. Nolan. I can't
11 remember exactly. I'd have to look at my notes -- or
12 my report, sorry.

13 Q Would it help to refresh your recollection?

14 A Yes, it would.

15 (Whereupon, Ms. Lamin handed the witness a
16 document.)

17 Q (By Ms. Lamin, continuing) I'm showing you one of the
18 pages from the narrative of your reports.

19 (Whereupon, the witness perused a document.)

20 THE WITNESS: It was Thomas Joseph Nolan.

21 Q (By Ms. Lamin, continuing) And, Officer Gliske, since
22 you mentioned notes, you use any notes you take as a
23 basis for your report?

24 A Yes, ma'am, that and memory.

25 Q So your report is more complete than any notes?

1 A Yes, ma'am.

2 MS. LAMIN: No further questions, Your Honor.

3 THE COURT: All right.

4 MS. CLARK: I just have one.

5 RECROSS-EXAMINATION

6 BY MS. CLARK:

7 Q If you had taken notes of precisely what people said
8 that night or precisely what type of evidence was
9 located, your notes would be more complete for that,
10 correct?

11 A Rephrase.

12 Q Sure. Well, you didn't file your police report until
13 10:00 on December 6, right?

14 A Yes, ma'am.

15 Q So some five and a half hours had passed since you
16 talked to Ms. Suttles, right?

17 A It took me a long time to process everything, yes.

18 Q Well, did you take anything more -- did you write down
19 anything more contemporaneously about what she had said
20 to you?

21 A Anything in my notes would have been in my report. If
22 I wrote it down, that means I wanted it in my report.

23 Q What you wrote down closer in time to the conversation
24 would more likely be more accurate, correct?

25 A No, because I go right off my notes to my report as I'm

1 writing my report.

2 Q Do you have any problem providing your notes?

3 A If I find them, I have no problem.

4 MS. CLARK: Nothing further.

5 MS. LAMIN: Nothing from the State, Your
6 Honor.

7 THE COURT: All right. All right, Officer --
8 yes, please put those in the bag.

9 And then I think at this time I will give the
10 jury a break, so we will take a ten-minute break.

11 (Whereupon, after the jury was excused, the
12 following proceedings took place.)

13 THE COURT: Let's have you state your name
14 for the record.

15 THE WITNESS: Jermaine Guy English.

16 THE COURT: And perhaps we should have him
17 sworn in for this part.

18 JERMAINE GUY ENGLISH,
19 after first having been duly sworn under oath,
20 testified as follows:

21 THE COURT: And, Mr. English, one of the
22 reasons -- the reason that you're here is that
23 you've been called to testify regarding the case
24 in which you pled guilty; is that correct?

25 MR. ENGLISH: Yeah.

1 THE COURT: All right. And I believe
2 Mr. Handley is your attorney. You know who that
3 person is?

4 MR. ENGLISH: Yes, I do.

5 THE COURT: Okay. Mr. Handley, as your
6 attorney, has had a discussion with you about the
7 fact that -- well, first of all, with regard to
8 your case and with regard to your sentence on that
9 case, the time has not run by which you can
10 appeal. Do you understand that?

11 MR. ENGLISH: Yes.

12 THE COURT: Okay. And so what I want to make
13 sure is that you understand you have a Fifth
14 Amendment right not to testify.

15 MR. ENGLISH: Right.

16 THE COURT: If you decided you didn't want to
17 testify, you would have a right not to. Do you
18 understand that?

19 MR. ENGLISH: Yes, I do.

20 THE COURT: Okay. And I haven't even asked
21 you, but you understand what that right has to do
22 with is about incriminating yourself. Do you
23 understand that?

24 MR. ENGLISH: Yes.

25 THE COURT: Okay. And that with regard to

1 your own case that could be on appeal, if you
2 decide to appeal, that these statements could come
3 in?

4 MR. ENGLISH: Yes.

5 THE COURT: Okay. All right. Is there
6 anything else I've left off, Mr. Handley?

7 MR. HANDLEY: Your Honor, as I indicated last
8 week when we were before the Court -- this is Tom
9 Handley appearing on behalf of Mr. English, who's
10 present in court; that's H-A-N-D-L-E-Y -- I did
11 represent Mr. English throughout these
12 proceedings. As I indicated, he pled guilty on
13 June 30 of this year and he was sentenced on
14 November 4 of this year.

15 I've talked to Mr. English now on two
16 different occasions in the past week. I have
17 advised him of all of his rights regarding the
18 Fifth Amendment. He knows he could assert his
19 right to remain silent. If he did that, the State
20 then may grant him immunity or the Court could
21 grant him immunity and he'd be ordered to testify.
22 If he didn't testify after being granted immunity,
23 he could be held in contempt. However, I did make
24 sure Mr. English understood that he still has a
25 Fifth Amendment privilege. His right to appeal

1 has not expired. Also, the issue of restitution
2 has been reserved for a period of 60 days.

3 So I left it up to Mr. English, and I think
4 he has made a decision here today to not assert
5 the Fifth Amendment.

6 THE COURT: All right. Well, let me ask you,
7 Mr. English, what do you wish to do today?

8 MR. ENGLISH: I would like to plead the
9 Fifth.

10 THE COURT: You are going to plead the Fifth?

11 MR. ENGLISH: Yes, I am.

12 THE COURT: Okay. All right.

13 MS. LAMIN: Your Honor, the State would offer
14 Mr. English use immunity.

15 THE COURT: Okay. And you probably should
16 explain that.

17 MS. LAMIN: Anything you say -- based on this
18 immunity, anything you say today in court,
19 Mr. English, would not be used against you ever
20 again. So you --

21 MS. CLARK: That's not quite accurate.

22 MS. LAMIN: Well, I believe Mr. -- it will
23 not be used against you -- if something happened
24 in your current case and you appealed it and
25 something happened, we couldn't use these

1 statements that you make today in court against
2 you in the future in prosecuting this case, the
3 burglary.

4 Is that a fair recitation, Mr. Handley?

5 MR. HANDLEY: Could you repeat that?

6 MS. LAMIN: The State is offering immunity,
7 Mr. English, that you -- the State will not use
8 any statements you make today in court against you
9 to prosecute this burglary conviction from
10 December 6, 2009, that anything -- you've already
11 pled guilty, you've been sentenced, but your case
12 is on appeal. But by the State offering use
13 immunity, it means that it will not use your
14 testimony today against you to prosecute you in
15 this burglary case.

16 MR. HANDLEY: Well, there's use immunity and
17 transactional immunity. I think there's two
18 different kinds of immunity. Mr. English would
19 like the benefit of the best one he can have.

20 THE COURT: Well, maybe we should have a more
21 elaborate description of transactional immunity,
22 so let's get both of them out there. And I don't
23 think -- I guess I should ask the State.

24 MS. LAMIN: I guess I don't know what --
25 Mr. Handley, what do you mean?

1 MR. HANDLEY: I think immunity for all
2 purposes, no matter what Mr. English says, that he
3 can't be prosecuted for anything he says.

4 MS. CLARK: (Nodding) Anything.

5 MR. HANDLEY: That's the kind of immunity
6 we're looking for.

7 MS. CLARK: As opposed to use immunity, which
8 -- you're talking about this case, and you're
9 asking for the broadest form of immunity so that
10 he can't -- nothing he says today can be used to
11 prosecute him for anything.

12 MS. LAMIN: No, Your Honor, we only grant use
13 immunity. And by granting use immunity, that
14 takes away any Fifth Amendment privilege.

15 THE COURT: Right.

16 MS. LAMIN: There's no absolute immunity.

17 THE COURT: I'd be concerned about that,
18 actually.

19 MS. CLARK: It's not an issue of absolute
20 immunity. I mean, let's put the cards on the
21 table. The question is --

22 MS. LAMIN: Actually, Your Honor, I would ask
23 that we not -- we have Mr. English here.

24 MS. CLARK: I'm going to rely on Mr. Handley
25 to talk about what he thinks is appropriate.

1 MR. HANDLEY: Well, on behalf of Mr. English,
2 I would be looking for transactional immunity,
3 immunity for all purposes for any testimony he
4 gives her. One thing I'm concerned about is the
5 possibility of perjury prosecution. And so on
6 behalf of Mr. English, I would be requesting
7 transactional immunity, as opposed to use
8 immunity.

9 And I'd have to caution Mr. English that he
10 will be testifying under oath here in these
11 proceedings. And should any of his statements be
12 different than other sworn statements, there's
13 always the possibility of a perjury prosecution.
14 I've talked to Mr. English about this before, but
15 I want the record to be clear.

16 MS. LAMIN: Your Honor, the State is granting
17 Mr. English use immunity, which removes the Fifth
18 Amendment right.

19 Mr. English, anything you say cannot -- today
20 in court cannot be used to prosecute you in this
21 burglary conviction, and that is the extent of the
22 immunity. But it's true, if you commit perjury,
23 that's not excluded. So if you testify in a
24 completely contrary manner to your prior sworn
25 testimony that you gave on June 30, 2010, this

1 doesn't -- this doesn't affect that.

2 MS. CLARK: I'd like to -- at some point,
3 Your Honor, whenever it's right, I'd like to make
4 a statement on behalf of my clients, just a brief
5 record.

6 THE COURT: Well, I'm not going to do it
7 right now. We have Mr. English here and I just
8 want to make sure Mr. English understands what
9 we've been talking about.

10 Mr. English, you would get use immunity
11 whereby anything you say here will not be used in
12 any further prosecution of this case against you,
13 and that's -- that's the offer from the State.

14 I would be concerned about transactional
15 immunity if there's a possibility of perjury.
16 This Court could not fathom that or allow that.
17 So I'm not going to allow anybody to be on the
18 stand who might perjure themselves. I just don't
19 think that's a good way to accomplish things.

20 MS. CLARK: I would like to make just a brief
21 record, Your Honor.

22 THE COURT: You certainly may, but that's --

23 MS. CLARK: Okay. I just want to -- I just
24 want to express concern because in this case we
25 have two completely opposite statements made by

1 this gentleman, one to Officer Strickland and
2 another --

3 MS. LAMIN: Your Honor, may we approach?

4 THE COURT: Let me just say this -- because I
5 know what was said to Officer Strickland and we
6 already had a Rasmussen and omnibus hearing on
7 that score.

8 MS. CLARK: But can I just make my record?

9 MS. LAMIN: Can we do it after we hear the
10 testimony of Mr. English?

11 MS. CLARK: Well, I'm terribly concerned that
12 what's already been stated by the State is an
13 implicit threat to prosecute him if he tells what
14 we view as the truth, and I think that's a due
15 process violation for my clients.

16 THE COURT: Here's the issue that I have: at
17 the time of the plea, you did that under oath.
18 That's the concern.

19 MS. CLARK: I understand that. It wouldn't
20 be -- with all due respect to everyone in the
21 system, I believe many people lie to get guilty
22 pleas, and so what I want for my clients is for
23 this person to feel he can tell the truth without
24 an implicit underlying threat from the State that
25 he'll be prosecuted if he does. That's all, just

1 due process. Thank you.

2 THE COURT: And due process also states that
3 no one has a right to perjure themselves. So I
4 want to be sure that Mr. English is, you know,
5 clear about that, as well.

6 There's been a lot of back and forth here. I
7 don't know if you paid attention to this, but how
8 do you wish to proceed, Mr. English?

9 MR. ENGLISH: I mean, there's only one way I
10 can proceed with it, from what I understand,
11 right?

12 THE COURT: No. Tell me, what do you think
13 is the only way?

14 MR. ENGLISH: I mean, I don't remember the
15 case none, period.

16 THE COURT: Okay.

17 MR. ENGLISH: So I mean, I might perjure
18 myself if I sit here and give testimony because I
19 don't remember anything. I smoked a lot of
20 marijuana, so.

21 THE COURT: Well, we can only do what we can
22 do, and you can only do what you can do, just to
23 the best of your ability. However, you would be
24 under oath when your testimony is taken here. And
25 if there's an issue about marijuana, I'm sure that

1 will be somehow dealt with.

2 MR. ENGLISH: Okay.

3 THE COURT: So I'm going to ask you,
4 Mr. English, do you understand about -- well,
5 let me just ask you, how are you going to proceed?

6 MR. ENGLISH: So did I get granted that, I
7 mean, even if I can't go with the Fifth Amendment,
8 or what?

9 THE COURT: The use immunity is what you
10 would be getting. You can always do your Fifth
11 Amendment. The thing is, if you waive it, then
12 it's waived.

13 MR. ENGLISH: I don't want to -- wish to
14 waive it.

15 THE COURT: You don't wish to waive it?

16 MR. ENGLISH: No.

17 MS. LAMIN: Wait, Your Honor. Use immunity
18 precludes --

19 THE COURT: Using the Fifth?

20 MS. LAMIN: Yes.

21 MS. CLARK: Yes.

22 THE COURT: Okay. So if you're granted use
23 immunity, you can't use the Fifth Amendment.

24 MS. CLARK: It overrides it. I think he can
25 still claim privilege.

1 THE COURT: So if you decide to testify with
2 use immunity, nothing you say will be used in any
3 further prosecution of this case. Once you decide
4 to proceed, then the Fifth Amendment is gone.

5 MR. ENGLISH: Can I have a moment with my
6 lawyer real quick?

7 THE COURT: Yes, please talk with your
8 lawyer.

9 (Whereupon, a brief off-the-record discussion
10 was held.)

11 MR. HANDLEY: Your Honor, if I may?

12 THE COURT: Yes.

13 MR. HANDLEY: For the record, Tom Handley on
14 behalf of Mr. English. I did have a chance to
15 meet with Mr. English for a few minutes. I
16 attempted to explain to him this dilemma he finds
17 himself in with asserting the Fifth Amendment,
18 being granted immunity, and I anticipate the
19 Court's going to order that he testify. Should
20 Mr. English be granted this immunity, it is use
21 immunity. I explained to him what use immunity
22 means, which is, for the burglary offense, he can
23 no longer be prosecuted. But for any false
24 statement he makes, he could be prosecuted for
25 perjury. There's always the possibility of some

1 kind of federal prosecution, too, which concerns
2 me.

3 But I have a concern now that has to do with
4 now we know Mr. English will assert the Fifth
5 Amendment here, and I think that changes things a
6 little bit. I didn't know until right now that he
7 was going to assert the Fifth Amendment. That's
8 why I said what I did last week, which is I didn't
9 know at that time that he would. In fact, I
10 thought he would not. So now he is, and I don't
11 know if it's appropriate to call a witness if you
12 know they're going to assert the Fifth Amendment.
13 If your purpose in doing that is to just simply
14 get into their other statements they may have
15 made, there's a recent case about that. So I'm
16 just concerned about that.

17 Also, I continue to ask the Court to consider
18 granting Mr. English transactional immunity, which
19 is immunity for all purposes. I think it makes
20 sense in this case. I don't think use immunity is
21 going to work. I do think transactional immunity
22 would remedy a lot of things, and Mr. English
23 would be much more comfortable with that. He's
24 really concerned right now that he's in a dilemma.

25 MS. CLARK: Your Honor, I don't think this a

1 situation where we'd be calling the witness just
2 to have him take the Fifth. I mean, this is all
3 being done outside the jury's hearing. So if the
4 Court orders him to testify, then they'd come in
5 and he'd testify. He wouldn't take the Fifth on
6 the stand at that time, he'd just take it now.
7 That's my understanding.

8 But I do think that there is a benefit to the
9 transactional (sic) immunity he's having some
10 difficulty understanding. Also, I mean, I think
11 the Court can, you know, just order him to testify
12 truthfully today. What could be wrong with that?

13 THE COURT: Do you have something to say,
14 Ms. Lamin?

15 MS. LAMIN: Your Honor, the State would offer
16 from the State's perspective use immunity, which
17 overrides the Fifth Amendment, and if you could
18 please order Mr. English to testify truthfully
19 today in the context of the use immunity. It's
20 used frequently in criminal cases.
21 Transactional/absolute immunity is not. It is not
22 appropriate. There is nothing appropriate in this
23 case to grant that. Mr. English has already pled
24 guilty. He has been sentenced. The State is not
25 seeking any additional prosecution of Mr. English.

1 We just ask that you order Mr. English to testify
2 today truthfully to what he knows to the best of
3 his ability and then we move to an issue if he
4 refuses to testify that he be held in contempt.

5 THE COURT: All right. I'm going to take a
6 short break here -- so you have to stay -- and
7 then I will be back.

8 (Whereupon, after a short recess, the clerk
9 stepped out of the courtroom briefly and returned
10 with the members of the jury.)

11 THE COURT: We will proceed. Ms. Lamin.

12 MS. LAMIN: Your Honor, the State calls
13 Thomas Nolan to the stand.

14 (Whereupon, Ms. Lamin stepped out of the
15 courtroom briefly and returned with the State's
16 next witness.)

17 THE CLERK: Please raise your right hand.

18 THE COURT: Please stay standing.

19 THE WITNESS: Oh, sorry.

20 THE CLERK: You do swear the testimony you
21 give here will be the truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: You can lower your hand. Please
24 state and spell your full name for the record.

25 THE WITNESS: Thomas Joseph Milten Berger

1 Nolan; T-H-O-M-A-S, J-O-S-E-P-H, M-I-L-T-E-N,
2 B-E-R-G-E-R, N-O-L-A-N.

3 THE CLERK: Okay. You can have a seat.

4 THE COURT: Thank you. And Mr. Nolan, thank
5 you for coming in. Have you ever testified
6 before?

7 THE WITNESS: I have not.

8 THE COURT: Okay. And just use the mic,
9 okay? We have to make sure everybody in the jury
10 box can hear you.

11 So there are certain rules. And I just want
12 to make sure you understand that if there's an
13 objection by the attorneys, that you not -- you
14 wait for me to rule on it, and I'll tell you
15 whether or not to answer the question.

16 THE WITNESS: Okay.

17 THE COURT: All right. And, of course, keep
18 your voice up, and you must use words --

19 THE WITNESS: All right.

20 THE COURT: -- not just nodding, all right?

21 THE WITNESS: All right.

22 THE COURT: All right. Ms. Lamin.

23 MS. LAMIN: Great.

24 DIRECT EXAMINATION

25 BY MS. LAMIN:

1 Q Good afternoon, Mr. Nolan.

2 A Good afternoon.

3 Q How old are you?

4 A I am 20 years old.

5 Q Where did you grow up?

6 A Mainly St. Paul, and I grew up in Winona, Minnesota
7 also. I lived there from ages one to nine.

8 Q Are you presently employed?

9 A I am.

10 Q Without telling us where you work, what do you do?

11 A I am a cook at a pizza restaurant in St. Paul.

12 Q Have you been there a long time?

13 A I've been there for about a year and a half.

14 Q Do you have any tattoos, sir?

15 A I do not.

16 Q Mr. Nolan, turning your attention to December 6, 2009,
17 where were you living at that time?

18 A It was 735 Raymond Avenue, I believe was the address.

19 (Whereupon, a document was displayed for the
20 members of the jury.)

21 Q (By Ms. Lamin, continuing) And is that a map of the
22 overall building that you resided in?

23 A Yes, that's correct.

24 MS. LAMIN: Your Honor, may I approach?

25 THE COURT: Yes.

1 Q (By Ms. Lamin, continuing) Mr. Nolan, I'm showing
2 you -- or I'm not showing you, but I'm giving you a
3 pointer. And if you press that red button, you can
4 point.

5 A All right.

6 Q Can you point for us, where did you live?

7 A (Indicating throughout.) It would have been in this
8 back area. It was on the third floor of the apartment
9 building, and we had three windows that looked out
10 right about here.

11 Q And what were you doing at approximately 4:18 a.m.?

12 A That night I was up, I couldn't sleep. And we have a
13 table and a chair by the back window that I pointed
14 out, and my computer sits there. So occasionally when
15 I can't sleep, I will get up and sit there, go on the
16 computer or read a book, and that's what I was doing
17 that night.

18 Q And by the window -- can you point out again where that
19 window is?

20 A That would have been about right here (indicating).

21 Q Okay. And from that window, what do you have a view
22 of?

23 A (Indicating throughout.) The way the building is set
24 up, I can't see like this back corner here, but just
25 about this entire parking lot, this parking lot, all

1 the way to the side of the street and down. I also
2 have a view of Franklin Avenue and University before it
3 crosses 280.

4 (Whereupon, Ms. Lamin displayed a photograph
5 for the members of the jury and the witness.)

6 Q (By Ms. Lamin, continuing) I'm showing you what's been
7 previously admitted as an exhibit, and what do you --
8 do you understand that was a photo taken from your
9 apartment on December 6?

10 A Yes.

11 Q Okay. How would you characterize what we're looking at
12 here?

13 A Well, for one, I'd say that the photograph -- the flash
14 seems to have caught those wires. In reality, you can
15 see a lot clearer, even at night. There's a light
16 directly below my window.

17 Q Can you point it out on Exhibit 1?

18 A Well, it's basically underneath my window, but at the
19 very bottom where Keys Restaurant -- the back door is.
20 So basically, if you look right out my window and down,
21 there's a light, and that shines on the -- that parking
22 lot right here (indicating).

23 Q So do you want to show me where it shines on?

24 A (Indicating throughout.) I mean, it's not incredibly
25 bright, but, you know, this area is dimly lit. There's

1 also light coming from University. There's a few shops
2 that stay open later, too, across University in this
3 area. So when you're looking out into that parking lot
4 at night, it's pretty visible.

5 Q So how would you characterize this photo? This is a
6 photo taken from your apartment; is that correct?

7 A Yeah, I mean --

8 Q It's just not as --

9 A It's not as accurate as if you'd actually looked out
10 the back window. It's a lot darker.

11 (Whereupon, Ms. Lamin displayed a photograph
12 for the members of the jury and the witness.)

13 Q (By Ms. Lamin, continuing) And what do you recognize
14 that to be?

15 A Well, I mean, with the lighting here, I can't quite
16 see, but it looks like there's two squad cars and a
17 parked car.

18 Q So on December 6, 2009, when you were sitting by the
19 window at your apartment, did anything come to your
20 attention?

21 A Yeah. I was sitting there, I was on my computer, and a
22 car pulled into the parking lot. Now, this doesn't
23 usually happen that late at night, so I was a little
24 suspicious at first. I watched the car park, it stayed
25 there for a few minutes, and then two people got out.

1 At that point --

2 Q After the two people got out, what happened?

3 A After the two people got out, they kind of looked
4 around the parking lot, and one walked towards -- from
5 the car to the area that I pointed out.

6 Q Now, if you want to -- do you want to point out on the
7 map --

8 A Right. (Indicating throughout.) So this is the
9 entrance from Raymond. The car pulled in here and it
10 was in one of these parking spots.

11 Q So it was pointed with the front of the car pointed
12 that way (indicating)?

13 A Correct.

14 Q Okay. Pointed up?

15 A Up, parallel to University (indicating).

16 Q Okay.

17 A (Indicating throughout.) Now, one of the people from
18 the car walked back into this area. So the building
19 ends -- or where my window is, I cannot see back here.
20 And all I know is back there there's a back door for my
21 apartment building, there's a back door for some of the
22 shops that are on Raymond, and then there's also back
23 doors for shops that are on University back there, too.
24 So I wasn't certain where they were headed or what was
25 going on, exactly.

1 Q Could you tell at that time -- do you know -- the
2 people that got out of the car, were they male, female?
3 Any description at all?

4 A Yeah. From what I heard and saw, I concluded that one
5 was male and one was female.

6 Q And these are the two people who exited a vehicle at
7 about around 4:18 or maybe before then -- do you recall
8 what time it was?

9 A No, I do not.

10 Q But it was the middle of the night?

11 A Yeah. I mean, if I had to guess, I would have said it
12 would be somewhere between like midnight and four.

13 Q And you saw two people exit the vehicle?

14 A Yes.

15 Q And then you said one was a male and one was a female?

16 A Yes.

17 Q Do you recall who was it that went to this back area
18 (indicating)?

19 A I believe it was the male.

20 Q Okay. And do you recall what happened with the female?

21 A She stayed at the car and the male came back. It
22 wasn't very long, I'd say a few minutes, when the male
23 came back to the car, at which point a separate car
24 pulled into the parking lot that's adjacent to the one
25 behind my building, so.

1 Q Can you point that out?

2 A It would be this parking lot over here (indicating).

3 Q Okay.

4 A (Indicating throughout.) And they pulled in from
5 University. And you can't actually see where they
6 parked, but it would have been -- right about here
7 there's a spot, and it was facing University Avenue.
8 And that car parked there and it had its lights on, at
9 which point the people -- the two people standing near
10 this car, they kind of acted surprised and shocked,
11 which is what kind of caught my attention and what kind
12 of aroused suspicion in me. Because when the car
13 pulled into the parking lot over here, the two people
14 next to this car kind of crouched behind the car, tried
15 not to be seen, is what it seemed like they were doing
16 to me.

17 Q Okay. What happened -- after you saw the two people
18 that had pulled up in a vehicle and were crouching and
19 hiding from this other vehicle, what happened after
20 that?

21 A (Indicating throughout.) I'd say about five minutes
22 later the car in the other parking lot, the one over
23 here, it pulled away.

24 Q I'm sorry, where is that?

25 A So the car that was parked over here (indicating).

1 Q Did you ever see any contact between these two
2 vehicles?

3 A No, I didn't. I mean, it seemed to me as though they
4 were completely trying to avoid being seen.

5 Q By they, you mean the male and female?

6 A Right, the people that were in the parking lot right by
7 my building.

8 Q Okay. So after the second vehicle pulled out of the --
9 this parking lot (indicating), what -- and the male and
10 female had been crouching, what did they do next?

11 A (Indicating throughout.) After that, a few minutes
12 later, they both walked back to this corner, back here
13 where I cannot see them. So the two of them came back
14 here, and they were in there for, I would say, five to
15 ten minutes, probably, and they came back carrying
16 things to their car. They had the trunk open and it
17 looked like they put things in the trunk, and it also
18 looked like they had put things in the back seat.

19 Q Could you tell at all what the things they were
20 carrying were?

21 A They looked -- I mean, no, I can't say conclusively,
22 but I'd say it was something a little heavier. They
23 were carrying it with two hands. That's about all I
24 can say.

25 Q And you said -- so both the people went back to this

1 area that you couldn't see and then came out carrying
2 something?

3 A Right.

4 Q So both people were carrying something?

5 A Yes.

6 Q After disappearing from your view in this area for five
7 to ten minutes?

8 A Yes.

9 Q Could you tell at all -- when the two people walked
10 here (indicating), were you able to view them from your
11 window?

12 A I could see them, but I couldn't, you know, make out a
13 face.

14 Q Could you at all describe at all what they were
15 wearing? Could you tell at all?

16 A It's not something I could remember, so no.

17 Q Okay. Could you tell at all anything about their
18 ethnicity?

19 A I believe they were a different ethnicity. I believe
20 they were both African American.

21 Q So what happened after the two people -- the two
22 African American male and female returned from the
23 building carrying items and put them in the trunk of
24 that parked car?

25 A After that, the one -- the male, I believe, headed back

1 towards that corner again, out of sight from me.

2 Q Can you show me again?

3 A (Indicating throughout.) So from the car parked here,
4 it was back into this corner area.

5 Q So the African American male left that parked car and
6 went back into the corner?

7 A Yes.

8 Q What happened to the African American female?

9 A She stayed at the car. I can't recall if she was --
10 what she was doing, but she stayed near the car.

11 Q What do you recall happened after you saw one of the --
12 the African American male walk back into behind the
13 building area and the African American female stay at
14 the car? What happened next?

15 A (Indicating throughout.) At that point, there was a
16 police car that pulled in through the alley off of
17 Raymond here, okay, with its lights on and parked
18 behind the parked car and got out and was talking to
19 the woman that was still standing there.

20 Q And as you saw -- what happened after you watched the
21 officer talk to the African American female standing
22 there?

23 A At this point, I was convinced something was going on,
24 so I yelled down to the officer that there was still
25 another person in the building, at which point he

1 yelled to me to call the police and let them know what
2 was going on, too. So I did that, I made a call on my
3 girlfriend's cell phone, and within a matter of minutes
4 there was a few other police cars there, too.

5 Q And what happened after you yelled down to the officer
6 that there was someone else in the building?

7 A He, I believe, had the woman get into the back of the
8 squad car. He got on his radio and started talking to
9 some people. I don't believe he did anything until
10 other -- at least until some other police officers
11 arrived.

12 Q Did you know or recognize the African American female
13 that you saw?

14 A I did not.

15 Q What -- what happened -- do you recall what happened
16 next after the officer -- after you told the officer
17 that there's another individual in the building?

18 A I mean, I don't think a whole lot happened in the next
19 few minutes.

20 Q What happened after other squad cars arrived?

21 A After that, I stayed up in my room for a little while.
22 There was probably six to eight squad cars that had
23 pulled into the parking lot in the back. I was just
24 kind of watching things, seeing what was going on, and
25 at some point I walked out the front door.

1 Q Can you show us where that is?

2 A (Indicating throughout.) So the front door is about
3 here. Because there was officers in the back kind of
4 standing there ready, kind of with guns out pointing in
5 this general vicinity where my back door was, I didn't
6 want to go out there. I just wanted to talk to someone
7 to see -- to try to figure out what had happened. So I
8 walked out the front door here, and there was a few
9 squad cars at the end of the block on Raymond and
10 University here. There was a few squad cars parked up
11 and down the street. So I walked around the back, so I
12 was right about here, and there was still, you know, a
13 lot of officers. I spoke briefly to one of them. I
14 believe he just told me that they couldn't say what was
15 going on, that I should probably go back inside. I'm
16 not sure who I spoke to, though.

17 Q So what happened after you were told that? What did
18 you do next?

19 A I think I was smoking a cigarette that I finished and
20 then I walked back around front and went back inside.

21 Q And what happened after you went back inside? What did
22 you see?

23 A For a while it didn't seem like a whole lot had
24 changed. There were still officers down in the parking
25 lot . There were still -- it seemed like someone more

1 in charge had showed up and he was kind of giving
2 orders. At that point, I wasn't, you know, completely
3 paying attention anymore. I wasn't just sitting
4 directly at the window anymore, I was doing other
5 things. I was pretty awake at that point. But later
6 on, it seemed -- when things had started to cool down a
7 little bit, I did go down the back door and out the
8 back and talk to the officer who I had originally
9 talked to, the first one to arrive.

10 Q Okay. So that's Officer Gliske; does that name sound
11 familiar to you?

12 A I think that's right, yeah.

13 Q So where did you talk to Officer Gliske? Do you
14 recall?

15 A (Indicating throughout.) So I came out the back where
16 we have a back door for the apartment building, which
17 is right here. I talked to him, and we went inside the
18 stairwell, just right down here. And I -- he got out a
19 pad and he just took my statement briefly. At that
20 same time, there was a woman officer with a camera that
21 had gone upstairs to the actual apartment and was
22 taking the photographs.

23 (Whereupon, a photograph was displayed for
24 the members of the jury and the witness.)

25 Q (By Ms. Lamin, continuing) Now, even though this is

1 quite dark, does that vehicle appear to be the vehicle
2 that you saw pull into the parking lot?

3 A Yes.

4 Q And so is this the first squad car? Officer Gliske's
5 squad car?

6 A The one that's -- yeah, that's it, the one that parked
7 right behind the car.

8 Q Now, in addition to Officer Gliske, did you at a later
9 date speak to a Sgt. Strickland?

10 A I believe I had a phone conversation with him.

11 Q Okay. Did you also then, I believe at a later date,
12 about May 19 meet with an investigator for the defense,
13 a Rob McDowell?

14 A Yes.

15 Q Okay. And did he -- did he come to your apartment?

16 A Yeah. We have an office that's down on the ground
17 level, and I got a call from the receptionist there
18 that said there was someone who wanted to meet with me
19 and talk about the case.

20 Q And you met with him and spoke to him?

21 A Yes.

22 Q And then at some point, you also spoke again to, I
23 think, Sgt. Strickland and Rick Dusterhoft?

24 A Yes.

25 Q Okay. And then we also met briefly last week?

1 A Yes.

2 Q Do you know Jermaine English?

3 A I do not.

4 Q Do you know Ms. Tamika Suttles?

5 A No.

6 Q Do you know Daniel Drljic?

7 A No, I do not.

8 Q Did you ultimately learn a bit more in terms of what
9 happened inside the building?

10 MS. CLARK: Objection, relevance.

11 THE COURT: Overruled, you may answer.

12 THE WITNESS: Can you repeat the question
13 again?

14 Q (By Ms. Lamin, continuing) Mr. Nolan, did you learn
15 what happened inside the building?

16 A Oh, no, I did not.

17 Q Do you recall -- were you present when officers
18 searched this vehicle? Do you recall watching that?

19 A No, I don't think so.

20 Q Did you ever see how many people were removed from the
21 inside of the building?

22 A No.

23 Q Can you describe this vehicle, as best you can?

24 A All I could probably say about it is that it was a
25 darker color and older. I would say '80s or '90s make.

1 Q Thank you.

2 MS. LAMIN: No further questions.

3 THE COURT: Okay. Ms. Clark.

4 MS. CLARK: May we approach, Your Honor?

5 THE COURT: Yes.

6 (Whereupon, a brief off-the-record discussion
7 was held.)

8 THE COURT: Members of the jury, we are
9 thinking we will continue with this witness. So I
10 want to -- you know, I said we would finish at
11 4:30, so I just want to give you that heads-up
12 that we'll probably finish around 5:00.

13 A JUROR: I can't. I have to pick up my
14 daughter.

15 THE COURT: Well, we may have to have him
16 come back.

17 MS. CLARK: Okay.

18 THE COURT: Okay. All right. Mr. Nolan, you
19 can step down. We're not finished with you so you
20 have to come back tomorrow.

21 THE WITNESS: Okay.

22 THE COURT: And I wanted to also give you
23 this heads-up. As you can tell, these things take
24 longer than we all think they're going to. This
25 trial will probably continue through to Wednesday

1 and may go until Thursday -- hopefully, it won't
2 be the case, but we will work very hard to get
3 things wrapped up for you, but I did want to let
4 you know that, okay?

5 So, again, do not discuss this case with
6 anyone, don't do any research, and I'll see you
7 back here tomorrow. We're going to have to be
8 able to start right at 9:00, right?

9 A JUROR: Tomorrow -- what time are we
10 finishing tomorrow?

11 THE COURT: Good question. I have a
12 sentencing calendar tomorrow, so we'll finish at
13 around noon tomorrow.

14 A JUROR: And what do we do if we can't
15 continue on Thursday?

16 THE COURT: I'm sorry?

17 A JUROR: What do we do if we can't continue
18 on Thursday?

19 THE COURT: We're going to have to push
20 through here. That's too speculative. I'm not
21 going to entertain that question right now, all
22 right? We do our best with trying to get the time
23 right, and so hopefully we'll get through this --
24 we will get through it. I can't tell you when
25 anymore.

1 So, with that, have a good night.

2 (Whereupon, after the jurors were excused
3 from the courtroom, the following proceedings took
4 place.)

5 THE COURT: Okay. Ms. Lamin, I do want to
6 address the issue of Mr. English and his
7 testimony. First of all, it is my understanding
8 that his plea was a straight plea so there was no
9 promise about -- I mean, he wasn't giving
10 something in order to have a promise to testify.

11 MS. LAMIN: That's correct, Your Honor.

12 THE COURT: All right. Okay. So I think
13 he's, you know, invoking his Fifth Amendment
14 right, and he can certainly do that. I'm
15 concerned about -- I cannot order him to testify,
16 unless you tell me, first of all, is he a
17 material, important witness? And I need some case
18 law and I need some legal support if we're going
19 to do anything about his testimony, but the way I
20 see it, it's not as though he made a promise
21 beyond saying that he would -- I mean, it's not as
22 though he got something in exchange for his
23 testimony. So I'm having some difficulty with
24 that part of it.

25 MS. LAMIN: Can I bring some case law

1 tomorrow morning?

2 THE COURT: You can certainly do that. I
3 definitely want some succinct arguments on this.

4 MS. LAMIN: Okay.

5 THE COURT: I want to know what the case law
6 is about is he a material and important witness?
7 I think -- I don't know, but I'm not doing
8 transactional immunity. So that's out the door.
9 So it has to be use immunity. And if he invokes
10 the Fifth, he gets to do that.

11 And I want us to have -- I mean, I told him
12 to come back at 9:00. I want to have something by
13 8:30. So we're going to get you guys in here
14 early and we're going to argue this thing before
15 we do anything with Mr. English's testimony, all
16 right. He's still here. So if something happens,
17 then, yeah, he can still testify. However, at
18 this point, I want something more -- you know,
19 some legal support --

20 MS. LAMIN: Okay.

21 THE COURT: -- for what you're asking.

22 MS. LAMIN: And Mr. -- I'm sorry, I lost my
23 train of thought.

24 MS. CLARK: Are we going to take English at
25 9:00, then, or are we going to finish Nolan?

1 THE COURT: No, we're not taking anybody
2 until I see what I get.

3 MS. CLARK: I understand that, and I should
4 have asked it better. If English is going to
5 testify -- and I'm not saying he is or isn't, but
6 if he's going to testify, is he going to go at
7 9:00?

8 THE COURT: I have no idea if that would be
9 the case. Mr. Nolan is coming back. I think you
10 should be prepared for cross-examining him.

11 MS. CLARK: Oh, sure, I am.

12 THE COURT: And my decision about how we
13 proceed, I will know that later.

14 MS. LAMIN: So, Your Honor, we should be here
15 at 8:30?

16 THE COURT: Yes, 8:30. Hopefully -- I don't
17 know, but we have some restless jurors. So it
18 would be good if we could help them out here,
19 okay?

20 MS. CLARK: How many more witnesses will the
21 State have after we do Nolan and English?

22 MS. LAMIN: I guess, Your Honor, it depends
23 on the defense.

24 MS. CLARK: How many more? How many, not how
25 long.

1 THE COURT: Probably finish -- well, I guess
2 the question would be more what the State thinks.
3 It's sort of a broad timing issue.

4 MS. LAMIN: I mean, it depends in terms of
5 we'd also need some rulings like on the stills and
6 stuff. We should talk about that.

7 THE COURT: Okay. So with all of that, let's
8 be prepared at 8:30.

9 MS. LAMIN: I mean, it depends on how many
10 objections the defense raises to evidence the
11 State seeks to introduce and whether or not the
12 State needs to bring in additional witnesses. So
13 I'm sorry, I can't give an exact number.

14 MS. CLARK: Here's my problem --

15 THE COURT: So in terms of the evidence,
16 we're talking about the exhibits?

17 MS. LAMIN: Yeah. I mean, initially, the
18 defense objected to every single piece of
19 evidence.

20 THE COURT: Okay.

21 MS. CLARK: That's not accurate.

22 THE COURT: Wait. Is there many more?

23 MS. LAMIN: There's the surveillance video
24 and the stills.

25 THE COURT: Okay.

1 MS. LAMIN: And I believe Mr. --

2 THE COURT: And do you need me to do a ruling
3 on those?

4 MS. LAMIN: Well, I guess I'd like to -- I
5 mean, it affects witnesses and order in terms of
6 where, like, the stills come in.

7 THE COURT: The stills that are taken from
8 the video?

9 MS. LAMIN: From the surveillance video.

10 THE COURT: Right.

11 MS. LAMIN: It depends, you know, if there is
12 a special chain of custody that would require, you
13 know, an additional witness -- Ms. Hanson.

14 MS. CLARK: And Your Honor?

15 THE COURT: Yes.

16 MS. CLARK: I was literally given these
17 stills this morning and so --

18 THE COURT: These are the stills from the
19 video.

20 MS. CLARK: Correct, but I have not --

21 THE COURT: But you have seen the video?

22 MS. CLARK: Well, I have, but I have not --

23 THE COURT: I'm asking you this question, Ms.

24 Clark: You have seen the video?

25 MS. CLARK: I have seen the video.

1 THE COURT: Okay.

2 MS. CLARK: I have not had any opportunity to
3 compare the stills to the video. I mean, I was
4 literally given these this morning.

5 THE COURT: I understand, but the question
6 really remains, if we know that the stills came
7 from the video?

8 MS. CLARK: I don't know if I'll have an
9 objection.

10 THE COURT: What would your objection be? I
11 guess that's the question.

12 MS. CLARK: Well, I need to do my due
13 diligence, is my thought, and I haven't really
14 even had a chance to think about it. I may not
15 object.

16 THE COURT: Okay.

17 MS. CLARK: I just got them this morning.

18 THE COURT: Just so we know.

19 MS. CLARK: Yes.

20 THE COURT: So are you going to show the
21 video, Ms. Lamin?

22 MS. LAMIN: Yes, yes, Your Honor, I would
23 like to show the video.

24 THE COURT: Okay. Is there going to be an
25 issue around it that I need to know before we get

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to that point?

MS. CLARK: I don't know who they're going to put it in through.

THE COURT: The video?

MS. CLARK: Yeah, and they won't tell me.

MS. LAMIN: Mr. Rose, the liquor store owner.

MS. CLARK: Is that Dana?

MS. LAMIN: Dana Rose.

THE COURT: Dana Rose, okay. Permitting Dana Rose to lay a proper foundation.

MS. LAMIN: That's for the stills, but as well I'll put the video in through him.

THE COURT: He'll have to do the surveillance video.

MS. LAMIN: Yes.

THE COURT: Which was No. 3 of the State's third set of motions in limine. I recall that we had that conversation this morning and I deferred a ruling on it.

MS. CLARK: On which one?

THE COURT: The third motion in limine that the State had this morning.

MS. CLARK: What was that one about?

THE COURT: Permitting Dana Rose, the owner of Sharrett's Liquor Store, to lay proper

1 foundation for the still photographs obtained from
2 Sharrett's Liquor Store's surveillance video. And
3 I think we talked about it this morning, and I am
4 going to grant the State's motion in limine with
5 regard to having Dana Rose lay the proper
6 foundation for the video of it and for the stills.

7 MS. CLARK: And I just want to state this:
8 day after day I've been given new evidence, no
9 time to even read the State's motions, I had no
10 opportunity to argue, and I just want to make that
11 record.

12 I was also given a new -- a paragraph or so
13 from the prosecutor about having met with one of
14 the witnesses on the 24th, I just got it this
15 morning. So I'm just making an objection that
16 this has been trial by surprise on a daily basis,
17 and that's all I'll say about that.

18 THE COURT: You can certainly say what you
19 want. That doesn't require me to make a ruling.
20 So, that's all. Anything else?

21 MS. LAMIN: (Shaking head.)

22 THE COURT: All right. At 8:30, we're going
23 to talk about English, and I want any other
24 arguments about videotapes that need to be argued
25 tomorrow morning so --

1 MS. CLARK: So that we can move --

2 THE COURT: -- so we can get moving on this.
3 I really think it's important.

4 MS. CLARK: I think we should, too.

5 THE COURT: I think so, too, because nobody
6 wants to have a restless jury.

7 MS. CLARK: No.

8 THE COURT: Right?

9 MS. CLARK: Correct.

10 THE COURT: Okay.

11 THE CLERK: Just for the record, are you
12 going to need Jermaine English at 8:30 tomorrow
13 morning?

14 THE COURT: No -- well, I don't think I will,
15 but do you want him here at 8:30? I think we have
16 to let the deputies know. I think we need to
17 argue what we need to argue without Jermaine
18 English.

19 MS. LAMIN: Yeah, that's true, Your Honor, to
20 some degree, but I also think Mr. English -- like
21 we didn't finish our conversation with
22 Mr. English.

23 THE COURT: Well, we may have to finish it
24 later, but I don't want him hanging around at 8:30
25 because it really is disruptive.

1 MS. CLARK: And who's going to contact
2 Mr. Handley?

3 MS. LAMIN: And tell him what? I'm sorry,
4 Ms. Clark.

5 MS. CLARK: When to be here, because I don't
6 think we want the jury waiting for Mr. Handley to
7 come here.

8 MS. LAMIN: Mr. Handley to be here to
9 represent Mr. English tomorrow morning?

10 MS. CLARK: Yes, my understanding is he wants
11 to be here when he testifies.

12 THE COURT: Okay. Well, we'll let
13 Mr. Handley know what's going on. Let's leave it
14 at that.

15 THE CLERK: So do you want me to contact him
16 or do you want one of them to take care of that?

17 MS. LAMIN: Would you mind?

18 MS. CLARK: I don't want the jury to have to
19 wait.

20 THE COURT: I don't want to be keeping the
21 jury waiting. I want to keep this trial moving.

22 MS. LAMIN: Thank you.

23 MS. CLARK: Thank you.

24 (Whereupon, court stood in recess until 8:30
25 a.m. on November 30, 2010.)

1 STATE OF MINNESOTA)
2) SS.
3 COUNTY OF RAMSEY)

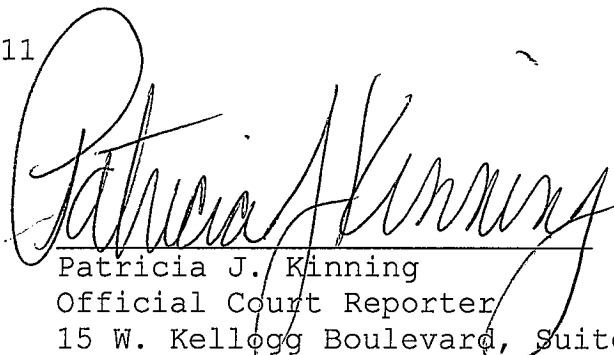
4 Be it known that I took the trial in the case of STATE
5 OF MINNESOTA V. TAMIKA SUTTLES AND DANIEL DRLJIC on the 29th
6 day of November, 2010, at Ramsey County, St. Paul,
7 Minnesota;

8 that the witnesses, before testifying, were first duly
9 sworn to testify to the whole truth and nothing but the
10 truth relative to said cause;

11 that the testimony of said witnesses was recorded in
12 stenotype by myself and reduced to print by means of
13 Computer-Assisted Transcription under my direction, and that
14 the transcript is a true record of the testimony given by
15 the witnesses to the best of my ability;

16 that I am not related to any parties hereto nor
17 interested in the outcome of the action.

18 Dated: May 6, 2011

19 

20 Patricia J. Kinning
21 Official Court Reporter
22 15 W. Kellogg Boulevard, Suite 1370
23 St. Paul, Minnesota 55102
24 (651) 266-8216
25

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