

1 STATE OF MINNESOTA DISTRICT COURT
 2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

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4	State of Minnesota)	
)	
5	Plaintiff,)	JURY TRIAL
)	D.C. File 27-CR-10-2076
6	v.)	App. Court No. A12-0173
)	
7	Mahdi Hassan Ali)	Volume X of XIV
)	
8	Defendant.)	

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10 The above-entitled matter came duly on for trial
 11 before the Honorable Peter A. Cahill, one of the judges
 12 of the above-named court, on September 19, 2011, in the
 13 Hennepin County Government Center, Minneapolis,
 14 Minnesota.

15 APPEARANCES:

16 Robert J. Streitz and Charles S. Weber, Assistant
 17 Hennepin County Attorneys, appeared on behalf of the
 18 State of Minnesota.

19 Frederick J. Goetz, Esq. and Gregory Young,
 20 Certified Student Attorney, appeared on behalf of the
 21 Defendant.

22 Mahdi H. Ali, defendant.

23 Abdi Elmi, Interpreter.

24 Erin Lutz, Law Clerk.

25 Dana Carmichael, Court Reporter.

1 (In open court:)

2 THE COURT: Members of the jury, hope
3 you had a good weekend.

4 Mr. Streitz or Mr. Weber.

5 MR. WEBER: The State calls Brian Hymes.

6 BRIAN HYMES,

7 called as a witness on behalf of the State, having been
8 first duly sworn, was examined and testified as follows:

9 THE COURT: Have a seat in the witness
10 chair. Before you begin, if you can give us your
11 full name, spelling each of your names.

12 THE WITNESS: Sure. First name is
13 Brian, B-r-i-a-n, middle name Paul, P-a-u-l, last
14 name Hymes, H-y-m, as in Mary, -e-s.

15 THE COURT: Mr. Weber.

16 MR. WEBER: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 BY MR. WEBER:

19 Q. Morning, Mr. Hymes.

20 A. Morning.

21 Q. For whom do you work?

22 A. For the City of Minneapolis.

23 Q. And where?

24 A. At the Minneapolis Police Impound Lot.

25 Q. And where is that located?

1 A. 51 Colfax Avenue North.

2 Q. And how long have you worked there?

3 A. Going on 15 years now.

4 Q. What's your current title?

5 A. I'm a customer service supervisor.

6 Q. And was that your title back in January of 2010?

7 A. Yes.

8 Q. And are you familiar with the impound lot
9 surveillance camera systems?

10 A. Yes.

11 Q. Are you somebody who has access and is able to
12 operate those systems?

13 A. I am.

14 Q. About how many people at the impound lot have
15 that access?

16 A. Two.

17 Q. Do you recall back in January of 2010 being
18 approached by Minneapolis police detectives in
19 requesting surveillance video for January 6,
20 2010?

21 A. I do.

22 Q. And did you get that video from them?

23 A. I did.

24 MR. WEBER: Your Honor, may I approach?

25 THE COURT: You may.

1 BY MR. WEBER:

2 Q. I'm showing you what has been received as
3 Exhibits 135, 136, 137 and 138. These are video
4 disks from the impound lot. Are you familiar
5 with these?

6 A. I am.

7 Q. Is this your signature on all four of the videos?

8 A. It is.

9 Q. Excuse me, your initials?

10 A. Yeah, they are.

11 Q. And you came in my office on August 31, 2011; is
12 that right?

13 A. That's correct.

14 Q. And you and I reviewed these videos?

15 A. Yep.

16 Q. And do these appear to be accurate videos from
17 the impound lot?

18 A. Yes.

19 Q. Did you notice anything about the timestamps on
20 the surveillance video?

21 A. I noticed it was one hour off.

22 Q. And the timestamp on the video is approximately 5
23 o'clock and does that mean the actual time was 4
24 o'clock?

25 A. Yes.

1 Q. Any explanation for why it was an hour off?

2 A. No. It's a separate program that's used on the
3 computer system and I don't think it got updated
4 for daylight savings time.

5 MR. WEBER: Thank you, Mr. Hymes. No
6 more questions.

7 THE COURT: Mr. Goetz.

8 MR. GOETZ: I have one question.

9 **CROSS-EXAMINATION**

10 BY MR. GOETZ:

11 Q. Morning, Mr. Hymes.

12 A. Morning.

13 Q. Do you know anything about your system's ability
14 to capture colors accurately or not?

15 A. No.

16 MR. GOETZ: No further questions.

17 MR. WEBER: Nothing, Your Honor.

18 THE COURT: All right, sir. You may
19 step down.

20 (Witness leaves the stand.)

21 MR. STREITZ: Your Honor. The State
22 will call William Craigie to the stand.

23 WILLIAM CRAIGIE,

24 called as a witness on behalf of the State, having been
25 first duly sworn, was examined and testified as follows:

1 THE COURT: Have a seat. And before you
2 begin, give us your full name and spell each your
3 of your names.

4 THE WITNESS: William Craigie;
5 W-i-l-l-i-a-m, C-r-a-i-g-i-e.

6 THE COURT: Mr. Streitzi.

7 MR. STREITZ: Thank you, Your Honor.

8 **DIRECT EXAMINATION**

9 BY MR. STREITZ:

10 Q. Morning, sir.

11 A. Morning.

12 Q. Who are you employed by?

13 A. I'm employed by Minneapolis Fire Department.

14 Q. What do you do for the fire department?

15 A. I'm a firefighter.

16 Q. How long have you been employed there?

17 A. I've been employed since May of 2001.

18 Q. I'd like to take you back to January 6th of 2010,
19 evening hours, were you working that evening?

20 A. Yes, I was.

21 Q. What particular fire station were you working
22 that evening?

23 A. I was working at Fire Station 7, which is on 2000
24 Franklin.

25 Q. And is that nearby the Seward Market on Franklin?

1 A. Yes, it is. It's just a few blocks to the west.

2 Q. That evening was the fire department called to
3 that Seward Market?

4 A. Yes.

5 Q. And did you and other firefighters arrive a short
6 time after being called there?

7 A. Yes.

8 Q. When you arrived, were there police officers
9 already at that scene?

10 A. Yes, there were. They secured the scene.

11 Q. And what did you and your fellow firefighters do
12 once you arrived there?

13 A. We went to the --

14 Q. At that time?

15 A. We went to the front of the building, there is
16 big picture windows at the building so we were
17 able to see inside the building and we went to
18 the front door. At that time my captain told us
19 to hold off for just a second because we arrived
20 at the same time that the paramedics arrived.
21 And the paramedics went inside the building,
22 assessed the patients, called the patients, and
23 they told us we could leave the scene.

24 Q. When you say called the patients, what does that
25 mean?

1 A. They pronounced them dead at the scene.

2 Q. And what did you and your colleagues from the
3 fire department do at that point?

4 A. At that time we picked up our medical gear and
5 went back to the rig and went back to the fire
6 station.

7 Q. So just estimate, about how long do you think you
8 were there?

9 A. I'd say one to two minutes.

10 Q. Okay. And do you have any idea how long the
11 police officers had been there prior to you
12 arriving?

13 A. Probably about that same timeframe, one to two
14 minutes.

15 Q. Hard to say?

16 A. Yeah.

17 Q. Were you asked to go back to the Seward Market
18 January 7th about 2, 2:30 in the morning?

19 A. Yes, we were.

20 Q. Why?

21 A. We were called back to the scene to do a wash
22 down of blood that was on the sidewalk.

23 Q. And tell the jury what a wash down is.

24 A. Okay. On a blood wash down we go and we take the
25 fire house, same one we use to put out the fire,

1 and we wash all that blood away from the scene.
2 We use like big heavy brushes to make sure we get
3 rid of every bit of blood that we can because,
4 you know, as you know, blood is just a bad thing
5 and, you know, for the public to be out there and
6 to see or have to deal with any of that blood is
7 a bad deal, so we get rid of it so nobody has to
8 deal with it or contaminate themselves.

9 Q. Now, I want to show you a couple of exhibits that
10 have been introduced in this trial, okay?

11 A. Okay.

12 Q. You've got a monitor there in front of you.

13 A. Uh-huh.

14 Q. And over your left shoulder the jury will be
15 seeing the same thing on a screen.

16 A. Okay.

17 Q. At least that's the plan. Slowly coming on.
18 There is also a little white laser pointer there.
19 Do you see that in front of you?

20 A. Okay.

21 Q. If you press the red button it will shoot a
22 laser, okay? So I'm going to have you turn to
23 the screen there on 47. First of all, because
24 your back will be to the court reporter, we
25 really want you to keep your voice up.

1 A. Okay.

2 Q. Do you recognize Exhibit 47?

3 A. Yes, I do. That's the Seward Market.

4 Q. What is it?

5 A. That is the Seward Market.

6 Q. Does that fairly and accurately look as it did
7 there that evening?

8 A. Yes.

9 Q. You mentioned that the second time you went back
10 to the market, which would have been the early
11 morning hours of January 7th, that you did
12 conduct a wash down of the front area of that
13 store?

14 A. Yes, that is correct.

15 Q. Where were you washing any blood from that area?
16 Where was it going?

17 A. It went down the sidewalk path here into the
18 drain (pointing).

19 Q. You're pointing to an area by the fire hydrant
20 there that would have been the drain?

21 A. Yeah.

22 Q. Now, we're going to go to Exhibit 47 -- 48, I'm
23 sorry. Do you recognize this, Mr. Craigie?

24 A. Yes.

25 Q. And what is this?

1 A. This is a picture from when we would have
2 initially arrived on scene.

3 Q. In this picture there is a victim laying in the
4 doorway. And can you show us on that Exhibit 48
5 what area you and your colleague would have
6 washed for the wash down when you returned on
7 January 8th?

8 A. This is the blood we would have washed down
9 (pointing).

10 Q. Any wash down of any blood, that was inside the
11 market?

12 A. No, the door was closed.

13 Q. And can you tell us how you did that wash down on
14 that morning, what you used?

15 A. We took the hose line off the fire truck and
16 brought it to the area. We hosed downed the area
17 and we used our heavy brushes to scrub the area
18 and then continue to wash down the blood until it
19 was gone.

20 Q. Do you recall if you had to use warm water at
21 all?

22 A. At that time of year the tank water is warm
23 because the fire trucks are in the fire station.
24 Obviously, a tank water can't freeze in the fire
25 truck or, you know, we couldn't put fires out or

1 do this type of thing with it, so it's basically
2 room temperature.

3 Q. You talked about using a hose to wash this down,
4 a hose from the fire truck, do you know how many
5 gallons per minute that type of hose or tank
6 produces?

7 A. It puts out hundred gallons per minute.

8 Q. And can you describe the care that you and your
9 colleagues use to make sure you got as much as
10 possible of the blood from that area?

11 A. Yeah, we use utmost care. That's, you know, part
12 of our duty is to protect the citizens of the
13 city and to get rid of any biohazards such as
14 blood out of the community, it's what we do.

15 Q. Okay. I want to go back to Exhibit 47.

16 A. Okay.

17 Q. And would you have taken the same degree of care
18 in terms of making sure that the blood that you
19 were washing down was gone all the way to the
20 sewer?

21 A. Yeah, yes, we would.

22 MR. STREITZ: Thank you, sir. I don't
23 have any further questions at this time.

24 THE COURT: Mr. Goetz.

25 MR. GOETZ: No questions, Your Honor.

1 THE COURT: All right. You may step
2 down. Thank you, sir.

3 MR. STREITZ: Thank you, Mr. Craigie.

4 (Witness steps down from the stand.)

5 MR. STREITZ: Your Honor, the State
6 would call Kari Jorgenson Schmitz to the stand.

7 KARI SCHMITZ,
8 called as a witness on behalf of the State, having been
9 first duly sworn, was examined and testified as follows:

10 THE COURT: Before you begin, give us
11 your full name, spelling each of your names.

12 THE WITNESS: Kari, K-a-r-i, Teresa,
13 T-e-r-e-s-a, Schmitz, S-c-h-m-i-t-z.

14 THE COURT: Mr. Streit.

15 **DIRECT EXAMINATION**

16 BY MR. STREITZ:

17 Q. Good morning.

18 A. Morning.

19 Q. How are you?

20 A. Good, yourself?

21 Q. Good. I didn't get a chance, if you want some
22 water, you can just pour yourself some.

23 A. I'm good. Thank you.

24 Q. I'm just switching notebooks here so if you can
25 give me a second. You're employed by whom?

1 A. The City of Minneapolis Police Department.

2 Q. And in what capacity?

3 A. I'm a licensed police officer.

4 Q. And in addition to being a licensed police
5 officer, what is your current assignment?

6 A. I work in the Crime Lab Unit.

7 Q. And what do you do for the crime lab?

8 A. My job is basically scene documentation. I go
9 out to crime scenes and document the scenes. And
10 that's through different ways, photos, video,
11 sketching. And then also examining evidence
12 either at the scene or within the office for
13 various difficult analysis such as fingerprint
14 analysis or bloodstain analysis. And then also
15 within the office we do fingerprint comparisons,
16 process evidence for fingerprints.

17 Q. And you mentioned you were a licensed peace
18 officer. How long have you been a police
19 officer?

20 A. For 25 years.

21 Q. Of that 25 years, how long have you been with the
22 crime lab?

23 A. 19 years.

24 Q. Okay. And do you have any particular training or
25 experience as it relates to your functions at the

1 crime lab?

2 A. Yes. Over the past 19 years within the crime lab
3 I have had training on the job when I first
4 started and also over the last 19 years have gone
5 to various schools put on by the Federal Bureau
6 of Identification, or the Bureau of Criminal
7 Apprehension, the BCA, or through organizations
8 such as the International Association for
9 Identification, in the areas of crime scene
10 analysis, bloodstain analysis, fingerprint
11 analysis, fingerprint processing. I'd say over
12 800 hours of training in those areas.

13 Q. I want to take you back to March 27, 2010. Were
14 you asked by homicide investigators, Sgts. Ann
15 Kjos and Luis Porras, to examine some items of
16 clothing?

17 A. Yes, I was.

18 Q. And did you learn that those items of clothing
19 had been seized during the execution of a search
20 warrant by Minneapolis police officers from an
21 apartment said to have been the apartment of the
22 defendant in this case, Mahdi Ali?

23 A. Yes.

24 Q. And how did you go about getting those items of
25 evidence that you were going to examine

1 A. The first process I do is go down to our property
2 room, it's the police property and evidence unit,
3 and ask for those items. Depending on where
4 they're at, they may have to be sent to City
5 Hall, and then I will sign those items out from
6 the property room, they'll hand them to me, I
7 will sign them out, and then bring them up to my
8 office. And either depending on what's going on
9 I can either do that examination right away, or I
10 believe in this particular case, I had to secure
11 them in our evidence room in the crime lab until
12 I had time to do the examination.

13 Q. Okay. And what were you asked to do in terms of
14 an examination?

15 A. Typically when I'm looking at clothing for
16 bloodstain evidence, what I want to do prior to
17 it going to the BCA for additional testing is
18 just document the condition of the clothing
19 prior to it going there. If there is any
20 significant bloodstain evidence on there that I
21 need to have documented, this would be the time
22 that it would be done because when the BCA does
23 take an item of evidence and they do cut out any
24 stains that they think may be bloodstains, they
25 cut it out, so then I don't have a photograph of

1 those items to do that bloodstain analysis.

2 Q. And was that what you did with some items of
3 evidence in this case?

4 A. That is what I did, yes.

5 Q. And what items of evidence were you looking at
6 for those homicide detectives?

7 A. I was asked to look at three pairs of jeans and a
8 sweatshirt.

9 Q. When you examined them, did you take any
10 precautions about how those items were handled?

11 A. Yes. Each item I take out separately, they're
12 packaged individually, each item of clothing, and
13 those are sealed. So then when I go to open up
14 each item, I will take one at a time, I lay out
15 some clean butcher paper and cut the seal in a
16 different location, not the original seal, and
17 then I will lay that out and then do an
18 examination. If I see anything of significance,
19 I will photograph that. And then place that all
20 back into the packaging, reseal it, discard the
21 paper that's there, and then start all over with
22 the next item of evidence, open up, you know, lay
23 out more butcher paper, cut the seal of the next
24 item, or not the seal, but the different area,
25 and then pull that item out. Then I will just do

1 the same thing throughout. I'm wearing gloves
2 during the entire time and there is no other
3 evidence in the area while I'm doing that.

4 Q. And do you change your gloves then, too, after
5 each items that you're examining?

6 A. Yes.

7 Q. Was that done in this case?

8 A. Yes.

9 MR. STREITZ: May I approach, Your
10 Honor?

11 THE COURT: You may.

12 BY MR. STREITZ:

13 Q. On a date, prior to your testifying today, did I
14 have you look at two numbered items of evidence
15 in my office?

16 A. Yes, you did.

17 Q. Showing you what has been received into evidence
18 as -- there we go, 109b, do you recognize this?

19 A. Yes, I do.

20 Q. And what is that?

21 A. Those were a pair of jeans that I examined on
22 that day, on 3/27.

23 Q. And with respect to Item 109b, what did your
24 examination reveal, if anything?

25 A. My examination states that I saw no blood readily

1 visible on the items.

2 Q. The fact that -- are you using any equipment
3 other than the naked eye to look for blood?

4 A. No, I'm not.

5 Q. So could there be blood that you just don't see
6 it to the naked eye?

7 A. That is correct.

8 Q. Is the condition of these jeans the same as when
9 you removed them from the property room in terms
10 of them being cuffed and so forth?

11 A. Yes.

12 Q. And did you perform any tests using any chemicals
13 on these jeans?

14 A. No, I did not.

15 Q. On the right, I guess I'll call it the knee or
16 thigh area, there appears to be maybe some
17 writing in ink or anything. Did you do any of
18 that?

19 A. No, I did not. That was actually on the jeans
20 when I received them and then you can see them in
21 the photographs.

22 Q. Okay. So you examined Exhibit 109b and then what
23 did you do with it?

24 A. I took some photographs of it and then they were
25 placed back into the packaging and brought back

1 to the property room.

2 Q. Okay. Showing you what's been marked as Exhibit
3 109a, do you recognize that exhibit?

4 A. Yes, I do.

5 Q. And what is that?

6 A. These are a pair of jeans that I examined, a
7 second pair of jeans I examined from this case.

8 Q. And what did your examination reveal to you?

9 A. I found what appeared to be a blood-like
10 substance on the inside pocket. If you put your
11 hand in the pocket and you flip it, it's actually
12 on the outside of the inside of the pocket. So
13 if you turn the pants inside out, it's actually
14 on the outside of the pocket and you had to flip
15 the pocket and it was on the backside of the
16 pocket, closest to your leg side of the pocket.

17 Q. I'm having a hard time visualizing it.

18 A. I don't know how to explain that.

19 Q. All right.

20 A. If I put my hand in my pocket, it would have been
21 on the side closest to my leg, but it appeared to
22 me to be more like on the outside of that, not on
23 the inside of the pocket.

24 Q. I'm still having a hard time with that, following
25 you there.

1 A. All right. I think the photographs show that
2 pretty good, what I'm trying to say.

3 Q. Okay. Did you apply any chemicals to this
4 exhibit?

5 A. No, I did not.

6 Q. And there was a third pair of jeans you had
7 mentioned?

8 A. That is correct.

9 Q. Did you examine those?

10 A. Yes, I did.

11 Q. Did your examination reveal any blood that you
12 saw, at least to the naked eye?

13 A. No. There were some stains on the jeans, but it
14 did not appear to be a blood-like substance.

15 Q. And I think, so you indicated that there was a
16 sweatshirt?

17 A. That is correct.

18 Q. And did you examine that?

19 A. Yes, I did.

20 Q. Was that a dark grey hooded sweatshirt?

21 A. Yes, it was.

22 Q. And any visible signs of blood-like substance
23 that you noted in looking at that?

24 A. No, there was not.

25 Q. And for each of those items after you examined

1 them separately using the precautions you
2 testified to, they were put back in their
3 respective bags and property inventoried?

4 A. That is correct.

5 Q. And I want to show you some pictures that have
6 been received into evidence. Exhibit 112. And
7 you see it in your monitor and the jury sees it
8 over your left shoulder there. This is the -- a
9 photograph of the jeans, and I think you had
10 testified that they were put on a butcher block,
11 butcher paper?

12 A. Butcher paper, yes.

13 Q. And photographed. Again, the reason for
14 photographing these is what?

15 A. Just to show the condition they were in, if there
16 was significant bloodstain evidence, I would take
17 additional photographs using scales and stuff.

18 Q. And Exhibit 113?

19 A. It's showing the backside left leg of the pair of
20 jeans.

21 Q. And just so we're clear --

22 MR. STREITZ: May I approach again, Your
23 Honor?

24 THE COURT: You may.

25

1 BY MR. STREITZ:

2 Q. The photographs we're seeing on 112 and 113, are
3 those of Exhibit 109b?

4 A. That is correct.

5 MR. STREITZ: Okay. And the next
6 photograph Mr. Weber.

7 BY MR. STREITZ:

8 Q. Exhibit 114. If you can explain this to the
9 jury.

10 A. This is the right leg of those same pair of
11 jeans.

12 Q. And Exhibit 115?

13 A. And that is just the back upper portion of the
14 jeans.

15 Q. And, again, we're referring to 109b; is that
16 correct?

17 A. That is correct.

18 Q. When you note something as BLS, are you sure that
19 it is in fact blood?

20 A. No, I'm not.

21 MR. STREITZ: I have no further
22 questions, perhaps counsel does.

23 THE COURT: Mr. Goetz.

24 MR. GOETZ: I just have a few.

25

CROSS-EXAMINATION

1
2 BY MR. GOETZ:

3 Q. Officer Schmitz?

4 A. Yes.

5 Q. Let's talk a little bit about the examination
6 process itself. If you examine, for example,
7 Item 1 on your list, which would be 109a. Could
8 you tell the jury how you would conduct that
9 examination?

10 A. Well, like I said, I would, once I received the
11 packaging, I will cut that open, pull that out,
12 lay it down on the butcher paper, I usually have
13 a bright light to help me see a little better and
14 do a visual exam. And mostly what I'm doing at
15 this point of the exam is seeing if there is any
16 significant bloodstain evidence for me to do any
17 documentation. I'm not doing anything -- I'm not
18 technically looking for blood on the items. If I
19 note some, then I will document that. But my job,
20 what I do is I do bloodstain analysis, so if I
21 could say that maybe I have some castoff showing
22 that somebody might have hit somebody with a
23 hammer and the staining that's on that clothing
24 is an indication of that castoff stain, that's
25 typically what I'm looking for in that clotting,

1 and that's why I would sign them out and look at
2 them. I'm not technically doing a bloodstain --
3 looking for anything, you know, if I see it, I
4 will note it, but otherwise if there is nothing
5 significant there for me to do a documentation
6 on, I'm just going to take some overall
7 photographs. And that's what I did in this
8 particular case. I examined them, I didn't note
9 anything significant on any of the clothing. I
10 did note one bloodstain on the pocket of the one
11 jeans and that was photographed. So each item,
12 again, is taken out, examined using that light.
13 I'm not using any type of magnification at this
14 point, this is a visual exam. I put each item
15 separately, putting it back into the packaging
16 and seal it back up.

17 Q. You said magnification at this point. Do you
18 ever use magnification as part of your
19 examination?

20 A. Yes, I do.

21 Q. But you did not use any magnification in this
22 case?

23 A. No, I did not.

24 Q. The lighting conditions, just so we have a sense.
25 They're brighter than they are in the courtroom

- 1 now?
- 2 A. Yes.
- 3 Q. And is that a focus light directly on the object
- 4 that you're examining?
- 5 A. Yes.
- 6 Q. And you'll look on, for example, using a pair of
- 7 jeans, you'll look on the outside and then will
- 8 look on the inside of that item?
- 9 A. Yes, I usually do, yes.
- 10 Q. Is that how in 109a you found that speck of blood
- 11 on the inside right front pocket?
- 12 A. Yes.
- 13 Q. And I understand the examination is just with the
- 14 naked eye, but you've been doing these type of
- 15 examinations for how many years?
- 16 A. I've been in the bloodstain analysis, the
- 17 clothing portion for the last five years.
- 18 Q. And you tried to conduct your examinations very
- 19 carefully and diligently?
- 20 A. That is correct.
- 21 Q. And you did so in this case?
- 22 A. Yes.
- 23 Q. Now, you were specifically looking for blood-like
- 24 substances. It's true, is it not, that you
- 25 cannot with a naked eye look for saliva-like

1 substances or sweat-like substances because those
2 are clear liquids and you couldn't pick them up?

3 A. Typically, no, unless it was something that was
4 damp and I had a thought -- but, no, not in this
5 particular case.

6 Q. But blood when it's dry, it still might leave a
7 discoloration of the items so that's how
8 sometimes you can see?

9 A. That is correct, yes.

10 Q. Now, the items you were asked to examine in this
11 case were three pairs of jeans, one sweatshirt,
12 all from what was said to be the apartment of
13 Mahdi Hassan Ali?

14 A. That is correct.

15 Q. Were you given any footwear to examine?

16 A. That is not my area of expertise.

17 Q. So if blood-like substances might be on a piece
18 of clothing that happens to be a shoe or
19 something like that, you won't be given that to
20 take a look at?

21 A. That's a different -- footwear exam ould be like
22 if we had footwear at a scene, that's how I'm
23 picturing. If there was a pair of shoes that
24 might have blood then, yes, I would do an
25 examination.

1 Q. I'm not talking about tread comparisons, but the
2 same sort --
3 A. Yes.
4 Q. -- inspection for BLS?
5 A. Yes.
6 Q. So you do that for shoes?
7 A. Yes. I would examine shoes if I was requested.
8 Q. But you were not requested to examine any shoes
9 in this case?
10 A. That is correct.
11 Q. And you were not requested to examine clothing
12 from anyone other than Mahdi Hassan Ali; is that
13 correct?
14 A. In this case, yes.
15 MR. GOETZ: That's all I have. Thank
16 you.
17 THE COURT: Mr. Streit.
18 MR. STREITZ: I have nothing further.
19 Thank you.
20 THE COURT: You may step down.
21 THE WITNESS: Thank you.
22 (Witness steps down from the stand.)
23 MR. STREITZ: State would call Officer
24 Joseph Shepeck to the stand.
25

1 JOSEPH SHEPECK,
2 called as a witness, having been first duly sworn, was
3 examined and testified as follows:

4 THE COURT: Have a seat. Before you
5 begin, if you can give us your full name,
6 spelling each of your names.

7 THE WITNESS: Joseph, J-o-s-e-p-h,
8 middle name Walter, W-a-l-t-e-r, last name,
9 S-h-e-p-e-c-k.

10 THE COURT: Mr. Streitzi.

11 MR. STREITZ: Thank you, Your Honor.

12 **DIRECT EXAMINATION**

13 BY MR. STREITZ:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. How are you employed?

17 A. Minneapolis Police Department.

18 Q. In what capacity?

19 A. Crime lab.

20 Q. Are you a police officer?

21 A. Yes.

22 Q. And for how long?

23 A. I've been a police officer for Minneapolis for 22
24 years.

25 Q. Prior to that, any law enforcements experience?

1 A. Yes. I was a police officer in Wabasha Police
2 Department in Minnesota for approximately two and
3 a half years.

4 Q. Your current assignment?

5 A. Crime lab unit.

6 Q. And how long have you been in the crime lab?

7 A. Approximately five years.

8 Q. And what are your specific duties in the crime
9 lab?

10 A. In the crime lab we respond to crime scenes to
11 collect evidence, take photographs, process
12 evidence for fingerprints, DNA.

13 Q. Does the crime lab have a forensic garage?

14 A. Yes, they do.

15 Q. And where is that located?

16 A. It's located at the impound lot in the City of
17 Minneapolis.

18 Q. I want to take you back to January 13, 2010. Did
19 you get a request from Sgt. Rod Timmerman that
20 day?

21 A. Yes, I did.

22 Q. Mr. Timmerman is no longer alive; is that
23 correct?

24 A. That's correct.

25 Q. What was the request?

- 1 A. The request was to videotape a vehicle.
- 2 Q. And was that vehicle a red or maroon four-door
3 Crown Victoria?
- 4 A. Yes, it was.
- 5 Q. A 1995?
- 6 A. That's correct.
- 7 Q. And Minnesota license TPJ 926?
- 8 A. Yes, it was.
- 9 Q. And who had made that request of you and Sgt.
10 Timmerman?
- 11 A. I believe it was Sgt. Ann Kjos.
- 12 Q. And what specifically were you asked to do?
- 13 A. We were asked to videotape the vehicle showing
14 the lighting on the vehicle, the rear lights and
15 the front lights in their working conditions.
- 16 Q. And did you and Sgt. Timmerman do that?
- 17 A. Yes, we did.
- 18 Q. Can you take us through the process and procedure
19 that you used to do that?
- 20 A. What we did is we started with the lights on
21 inside the forensic garage and I had the video
22 camera in my hand, Sgt. Timmerman was inside the
23 vehicle and I would tell him what I wanted next,
24 like to push the brake lights, then I would
25 videotape the results of him pushing the brake

1 lights, and we went through every function of the
2 vehicle for lighting.

3 Q. So blinkers, backup lights, brake lights, that
4 type of thing?

5 A. That's correct.

6 Q. Okay. In conducting that, I guess I'll call it
7 experiment, with the lights on in the forensic
8 garage, what did you notice in terms of the
9 backup lights on the rear of the car?

10 A. The backup lights on the right side of the rear
11 of the car was not functioning.

12 Q. Was the backup light on the left side, left rear
13 of the car working?

14 A. Yes, it was.

15 Q. With respect to the back of the car, did you
16 notice anything else about the lighting systems?

17 A. The brake light in the rear window appeared to be
18 partly out.

19 Q. And by the rear window you mean what?

20 A. There was a light that was mounted in the rear
21 window of the vehicle and it's a brake light, you
22 push the brakes that should go on. When you
23 pressed the brakes, it only went partially on.

24 Q. Okay. Did the front light seem to be working
25 okay?

1 A. Yes.

2 Q. All the headlights, blinkers?

3 A. For the -- when we had the lights on, we started
4 the test, the right blinker was working fine.
5 And then if you continued the test, the right
6 blinker started to flash on and off rapidly.

7 Q. And that is the front one?

8 A. On both of the front and the rear of the car on
9 the right side.

10 Q. On the right side?

11 A. Yes.

12 Q. How about the blinker on the rear left of the car
13 when the lights were on in the forensic garage?

14 A. They worked properly.

15 Q. Did you then turn the lights off in the forensic
16 garage?

17 A. Yes, we did.

18 Q. Did you go through the same procedures in terms
19 of seeing what lights worked and so forth?

20 A. Yes.

21 Q. And with respect to the rear backup lights, what
22 did you find?

23 A. The rear backup light on the right side of the
24 vehicle was not working and the rear left one
25 was.

1 Q. I'd like to show you what's been introduced into
2 evidence at Exhibits 125, I believe a, b and c.
3 Over your left shoulder the jury is looking at
4 that on the screen there. Can you indicate what
5 we're seeing there?

6 A. This is the rear right side of the vehicle.

7 Q. And is this taken when you're testing the backup
8 lights?

9 A. Yes, it is.

10 Q. And do we see a backup light on in this
11 particular photograph?

12 A. There is no backup light on in this photograph.

13 Q. Where would the backup light be if it was
14 working?

15 A. It was just below that lighted light there on the
16 left side.

17 Q. You've got a little laser pointer there in front
18 of you. Press the red button. Where would we
19 have seen the backup light?

20 A. This area right here (pointing).

21 Q. Okay. So the left bottom of the light that is
22 on?

23 A. That's correct.

24 Q. Exhibit 25b --

25 THE COURT: 125b?

1 BY MR. STREITZ:

2 Q. 125b, I'm sorry. And what are we seeing here?

3 A. This is the, I believe, the brake light in the
4 rear window of the vehicle.

5 Q. Is that the one that you described as partially
6 out?

7 A. That's correct.

8 Q. Which side is partially out?

9 A. That would be the right side.

10 Q. And 125c, what are we seeing here?

11 A. This is the left side of the vehicle from the
12 rear.

13 Q. And what light are we seeing here?

14 A. This is the rear left brake light of the left
15 side.

16 Q. I want to take a look at 127. Do you recognize
17 that?

18 A. Yes, I do.

19 Q. And what is that?

20 A. This is the rear of the vehicle.

21 Q. And what are we seeing in this particular
22 picture?

23 A. In the picture it's the left side has the brake
24 light on and the brake light partially on in the
25 rear window and then the left side backup light

1 is on right here (pointing).

2 Q. And you're pointing to an area of the lower right
3 of the larger lights?

4 A. That's correct.

5 Q. And what do you note for us on the right rear
6 light system?

7 A. The light is not working, it's out.

8 Q. Including the right rear backup light?

9 A. That's correct.

10 Q. I want you to look at Exhibit 128. And what are
11 we seeing in this particular picture?

12 A. It's the rear of the vehicle with the light on
13 the right side partially out.

14 Q. And which light are we seeing?

15 A. This is the right side of the vehicle in the
16 rear.

17 Q. What about the left side?

18 A. That's completely out.

19 Q. I want to now show you Exhibit 130.

20 MR. STREITZ: May I approach, Your
21 Honor?

22 THE COURT: You may.

23 BY MR. STREITZ:

24 Q. After conducting the experiment in the forensic
25 garage, were you asked to review some footage

1 from some surveillance video from the market, the
2 Seward Market?

3 A. Yes, I was.

4 Q. Specifically, a camera viewing down 25th Avenue
5 towards the south?

6 A. That's correct.

7 Q. And what were you looking for when you reviewed
8 that particular footage?

9 A. I'm looking for a vehicle and I'm looking at the
10 rear lights on a vehicle.

11 Q. And in looking at that footage, did you -- were
12 you able to locate what you believed to be a
13 vehicle and the rear light portion of that
14 vehicle?

15 A. Yes, I was.

16 Q. And did you note anything about the back lights
17 of that car as compared to what you found when
18 doing the experiment on the red Crown Victoria in
19 the forensic garage?

20 A. On the vehicle it appeared that the left backup
21 light was on and the right backup light was not
22 functioning.

23 Q. On Exhibit 130, do you recognize that?

24 A. Yes, I do.

25 Q. And what is that?

1 A. This is surveillance footage.

2 Q. And does this show the rear lighting of a car
3 that you can see?

4 A. It appears to, yes.

5 Q. And do you note -- what did you note about this
6 particular picture?

7 A. That the backup light on the left side appeared
8 to be on and then the backup light on the right
9 side appeared not to be functioning.

10 Q. Can you use that laser pointer, point out what
11 specifically you're referring to?

12 A. This light right here, left side, and this is the
13 right side, it appears to be on here and not on
14 that side (pointing)

15 Q. Exhibit 131.

16 MR. STREITZ: Your Honor, could we
17 perhaps turn the lights down?

18 THE COURT: Sure.

19 BY MR. STREITZ:

20 Q. And, Officer Shepeck, if you can indicate to us
21 what we're seeing here and what you noted?

22 A. This is the back of the vehicle and you can see
23 both lights are on but on the left side you can
24 see a small square below the big light, it
25 typically is the backup light and there's no

1 square below the big light on the right side,
2 which I believe is the backup light is not
3 functioning.

4 Q. And is this specifically what you're referring to
5 these lights here (pointing)?

6 A. That's correct.

7 MR. STREITZ: Thank you. You can turn
8 the lights back on. Thank you.

9 BY MR. STREITZ:

10 Q. Did you remove anything from the car that
11 particular day?

12 A. We removed some floor mats and a cell phone.

13 Q. And where those property inventoried?

14 A. Yes, they were.

15 Q. Did you notice anything about whether the car had
16 a dome light or not?

17 A. The dome light, when we examined the dome light,
18 Sgt. Timmerman noticed it was not working so he
19 removed the lens and noticed that there was no
20 bulb in the dome light.

21 Q. Was a dome light bulb found in the car?

22 A. Yes, sir. Sgt. Timmerman found a dome light in
23 the cup holder in the front dash. He then put it
24 in the light and it was working.

25 Q. Did you notice if the car had courtesy lights?

1 A. Yes, it did.

2 Q. And by courtesy lights, what do you mean?

3 A. It's a light on the interior of the front
4 driver's door and the front passenger door.

5 Q. And where specifically would those be located?

6 A. On the interior usually to the lower right of the
7 door.

8 Q. And are they by the arm rest area?

9 A. Yes, just below it.

10 Q. Are those a white light?

11 A. Yes.

12 Q. And did this particular car have those courtesy
13 lights on both the driver -- both the front
14 driver and front passenger side?

15 A. Yes, they did.

16 Q. And were they operable?

17 A. Yes, they were.

18 MR. STREITZ: I have no further
19 questions, perhaps counsel does.

20 THE COURT: Mr. Goetz.

21 MR. GOETZ: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. GOETZ:

24 Q. Good morning, Officer. I have a few questions
25 for you. I want to ask you some questions about

1 the dome light.

2 A. Yes.

3 Q. Or lack thereof. So when you first conducted
4 your test, you at some point opened the door of
5 the car to see if the dome light would go on or
6 off?

7 A. That's correct. Yes, Sgt. Timmerman did, yes.

8 Q. And you were videotaping and the dome light did
9 not go on?

10 A. We did not videotape that part no, sir.

11 Q. I'm sorry, I missed that.

12 A. We did not videotape the dome light.

13 Q. But the result of that test were that the dome
14 light did not go on; correct?

15 A. That's correct.

16 Q. Then at some point you found the light bulb for
17 the dome light?

18 A. Yes, sir.

19 Q. You put it in the, I guess, the socket in the
20 ceiling of the car?

21 A. Yes, sir.

22 Q. And then that did go on; correct?

23 A. Yes, sir.

24 Q. And it remained on; correct?

25 A. Remained on?

1 Q. The other right? In other words, it didn't go
2 off after -- correct me if I'm wrong, did the
3 dome light go off after you put the light bulb
4 in?

5 A. After we put the dome light in?

6 Q. Yeah.

7 A. It went on.

8 Q. Okay. But, typically, I think, for example, in
9 my car, if I open the door, the dome light will
10 go on, if you close it, at some point in time the
11 dome light will go off. What happened when you
12 did the experiment in your car?

13 A. Uh --

14 Q. Or I'm sorry, in the red Crown Victoria?

15 A. Sgt. Timmerman, he put it in there, he saw it
16 worked, and then after that I don't recall if we
17 saw it, how long did it stay on or anything. All
18 I recall is that he put it in there and it did
19 work at that time.

20 Q. Okay. So but it would be correct, would it not,
21 that in terms of the condition of the red Crown
22 Victoria when you found it and when you examined
23 it, the dome light would not have been
24 functioning when you first examined it because
25 there is no light bulb in there?

1 A. That's correct.

2 Q. So a videotape showing a car with a dome light
3 going on and off would be inconsistent with the
4 red Crown Victoria that you examined; correct?

5 A. I don't understand the question, sir.

6 Q. Sure. If you can -- you told us about looking at
7 surveillance footage of some backup lights?

8 A. That's correct.

9 Q. I'm asking you if you looked at a video
10 surveillance footage say, that showed a vehicle
11 with a dome light going on and off, that
12 functionality would be inconsistent with the red
13 Crown Victoria as it came into your shop for
14 examination?

15 A. As we examined it in the garage?

16 Q. Yes.

17 A. That's correct.

18 Q. You also talked about the red -- I'm sorry, the
19 right blinker starting to flash rapidly?

20 A. That's correct.

21 Q. How long after the blinker was turned on in your
22 test did it start to flash rapidly?

23 A. Well, we first -- we first started with the rear
24 of the vehicle looking at the lighting system
25 with the lights on and I'm videotaping it. And

1 we're in the rear, it worked fine. When I went
2 to the front of the vehicle and did the same
3 test, and when I told him to turn on the right
4 turning signal, at that time it was blinking
5 fast.

6 Q. So can you tell me from the point where the right
7 turn signal would have been put on how long after
8 that it started blinking rapidly?

9 A. From the initial test from when we started?

10 Q. Yeah.

11 A. Just probably a couple of minutes.

12 Q. So had the right turn signal been left on from
13 the time you were -- went back, you walked to the
14 front, it's still on and then it starts blinking
15 rapidly, is that what happened?

16 A. When we went from the back to the front -- we had
17 stopped the test, and I went to the front and I
18 told him to turn it on again.

19 Q. Okay. So when he turned it on again right away
20 it started blinking rapidly?

21 A. That's correct.

22 Q. Okay. And that's something that you could
23 clearly see, the rapid blinker was something that
24 was readily obvious to you?

25 A. That's correct.

1 MR. GOETZ: That's all the questions I
2 have. Thank you.

3 **REDIRECT EXAMINATION**

4 BY MR. STREITZ:

5 Q. Officer Shepeck, of course you are conducting an
6 experiment on January 13, 2010, not January 6th;
7 is that correct?

8 A. That's correct.

9 Q. But the courtesy lights worked in the car; is
10 that correct?

11 A. That's correct.

12 Q. And so that I'm clear, the right front and rear
13 blinkers, what was the issue with those?

14 A. When we first started the test I was in the back
15 of the vehicle with the lights on in the garage
16 and I told him to put on the right blinker and it
17 worked fine.

18 Q. On the rear?

19 A. Yes. And then we went through all the tests on
20 the rear of the vehicle checking all the lights,
21 and then I went to the front of the vehicle and
22 then I had him test the lights up there. When I
23 told him to put on the right blinker, at that
24 time it was flashing fast.

25 Q. That is the front blinker?

1 A. Yes.

2 Q. And when the lights were out, did you notice the
3 same issues with respect to the rear right
4 blinker and the front right blinker?

5 A. Yes.

6 Q. That is the right blinker worked, the rear
7 blinker worked, the front moved fast?

8 A. They both moved fast. When I went to the front
9 of the vehicle and the blinker was going fast
10 then when we moved back to do the test with the
11 lights out, the rear light blinker was going fast
12 also.

13 Q. Okay. And the courtesy lights, what do they do
14 when?

15 A. They come on when you open the door.

16 Q. And in this particular case, this Crown Victoria,
17 about where on the body would -- how high up on a
18 person's body if they were standing right next to
19 that door would those courtesy lights be?

20 MR. GOETZ: Objection, scope,
21 foundation.

22 THE COURT: Overruled.

23 THE WITNESS: I guess it depends on the
24 height of the person, but the light on the door
25 is pretty low. It's below the arm rest.

1 BY MR. STREITZ:

2 Q. Right below the arm rest?

3 A. Yeah.

4 MR. STREITZ: Okay. Thank you. I have
5 no further questions.

6 THE COURT: Mr. Goetz.

7 MR. GOETZ: I have no more questions.

8 THE COURT: Members of the jury, we'll
9 take a 15-minute break at this point. Please be
10 back in our usual spots at 11:15.

11 Counsel, can I see I at the bench?

12 (Discussion at the bench.)

13 (Recess.)

14 THE COURT: Mr. Streit.

15 MR. STREITZ: State would call Kristin
16 Reynolds to the stand.

17 KRISTIN REYNOLDS,
18 called as a witness on behalf of the State, having been
19 first duly sworn, was examined and testified as follows:

20 THE COURT: Have a seat. Before you
21 begin, give us your full name, spelling each of
22 your names.

23 THE WITNESS: Kristin, K-r-i-s-t-i-n;
24 Reynolds, R-e-y-n-o-l-d-s.

25 THE COURT: Mr. Streit.

1 MR. STREITZ: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MR. STREITZ:

4 Q. Good morning.

5 A. Good morning.

6 Q. How are you?

7 A. Fine, thanks.

8 Q. By whom are you employed?

9 A. I'm an employee of the City of Minneapolis
10 Police Department Crime Lab.

11 Q. And what do you do for the crime lab?

12 A. I'm a forensic scientist working as a firearm
13 examiner.

14 Q. And how long have you held that position with the
15 Minneapolis Police Department?

16 A. I've been in the crime lab since 1997 and a
17 firearms examiner since the year 2000.

18 Q. And what particular training in terms of
19 education, ongoing training or experience do you
20 have relevant to your current assignment?

21 A. The training for a forensic scientist is
22 four-year bachelor's degree, which I have. And
23 then to become a firearms examiner requires an
24 additional three years of training working under
25 a qualified examiner, attending various training

1 sessions throughout the country, following a
2 manual of different exercises to complete. And
3 at the end of that three years, prequalified
4 examiners check the work, we do a mock trial-type
5 thing and then I'm deemed qualified at that time.

6 Q. Have you testified as a firearms examiner in
7 Hennepin County District Court for other cases?

8 A. Yes, I have.

9 Q. For purposes of your testimony today, did you
10 prepare a PowerPoint that would assist you in
11 your testimony in explaining what firearms
12 examination consists of?

13 A. Yes. It's something I put together some time
14 ago.

15 MR. STREITZ: May we use that
16 PowerPoint, Your Honor? Counsel has seen it.

17 THE COURT: You may.

18 BY MR. STREITZ:

19 Q. So I'll follow the script here too. What is
20 firearms identification?

21 A. And it's just self-explanatory, you can read.
22 It's just the branch of forensic science that
23 where we identify bullets, cartridge casings or
24 any ammunition having come from a firearm. And
25 we can determine if it's been fired from the same

1 firearm, that's if we don't have one or if it's
2 been by a particular firearm if one has been
3 inventoried for us.

4 Q. Okay.

5 A. The types of things that I would see in the
6 firearm section of the crime lab are anything
7 having to do with a firearm. So we expect to see
8 handguns, that would be --

9 Q. There's a laser pointer up there.

10 A. That's okay, I don't need it. Firearms and
11 magazines, we expect to see pistols, revolvers,
12 we can get shotguns, long guns, that type of
13 thing. The big picture right in the middle is an
14 example of a large cartridge, the one that's
15 standing up. And one of the things that I'll be
16 talking about and just for a visual in your head,
17 when I talk about a live cartridge, that's a
18 piece of ammunition before it's fired. So that
19 what would be put into a magazine or gun or
20 chamber. So live cartridge consists of a
21 cartridge casing, which is what's holding that
22 bullet, and you'll see the bullet at the top, and
23 once a gun is fired, the bullet and the cartridge
24 casing separate. So the bullet is what flies out
25 the barrel of the gun and the cartridge casing,

1 in the case of a semiautomatic pistol will be
2 ejected out the side of the gun.

3 Q. There should be a little white -- let's try this
4 one and the red button there, that might help.

5 A. So this is what I'm talking about. That's a live
6 cartridge (pointing), this would be a discharged
7 cartridge, (pointing) and right here is a very
8 large sized, way larger than normal fired bullet
9 (pointing) and that would be a fired bullet in
10 very good shape. You can see some little
11 striations on here, and I'll talk about that in a
12 moment.

13 Q. Going back -- the fired bullet, where it says
14 fired bullet.

15 A. Yep.

16 Q. Can you direct the jury back to the center, upper
17 center photograph where that is?

18 A. This would be this right here (pointing).

19 Q. The top portion?

20 A. Right. And then down below is just an idea of
21 some of the different, I guess, conditions that
22 bullets and fragments come into our office.

23 Sometimes they look very nice like this
24 (pointing), this is a pristine fired bullet.

25 Sometimes they're in pieces. This would be

1 little tiny fragments, that is a metal core, this
2 is parts of the jacket which is this right here
3 and this right here (pointing). There is a metal
4 core, a lead core underneath and it goes to this
5 jacket, what we call a copper jacket, and you can
6 see sometimes that copper jacket gets fragmented
7 like this. And, again, this is just showing a
8 couple of live cartridges.

9 Q. You had mentioned, you had used the word
10 magazine. Is a magazine shown on that particular
11 slide?

12 A. Yes. This is the magazine (pointing) and these
13 live cartridges get inserted into this magazine
14 up and down right here (pointing), and this would
15 be inserted right here (pointing), and that way
16 those live cartridges are ready to go into the
17 chamber of the gun. So these get loaded into the
18 magazine and then the magazine is put into that
19 grip and then ready to be chambered.

20 Q. Okay. Thank you.

21 A. Okay. And I'll go really briefly on this. When
22 we're talking about handguns, there's two general
23 types of handguns, and that's revolvers and
24 semiautomatic. So those are both pistols,
25 they're just two different types the way they

1 work. In a revolver those live cartridges are
2 loaded into -- this is also a chamber, but it's
3 six separate chambers here, and this is this part
4 right here (pointing). So a revolver when the
5 gun is fired, this just turns and nothing is
6 ejected from the gun. Those empty casings just
7 stay inside of here. When in a semiautomatic
8 pistol, like I talked about, the live cartridges
9 are loaded into this magazine, that's put into
10 the grip of the gun and every time this gun is
11 fired, or this trigger is pulled, those
12 discharged cartridges will be ejected from the
13 gun and a new one will go into the chamber.

14 Q. Before you go on here, and tell me if you were
15 going to cover it with other slides, but when the
16 casings, the discharged casings are ejected, how
17 do they come out of the gun?

18 A. I do have a slide that will show that a little
19 bit better.

20 Q. Okay.

21 A. Okay. This -- I won't go into all of this, but
22 this is just basically the parts of a revolver.
23 And when you're talking about terminology, this
24 is what we talk about the grip (pointing), this
25 is the trigger (pointing). Guns always have a

1 trigger guard. The barrel of your gun, that's
2 where the bullets are going to go through
3 (pointing). The muzzle is where the bullet comes
4 out (pointing). In a revolver this is again the
5 chamber (pointing) or the cylinder and this is
6 where the live cartridges are stored (pointing).
7 And the hammer is what you pull back and that
8 will fire the guard -- excuse me, the gun, when
9 the trigger is pulled.

10 Q. Okay.

11 A. And, again, this gun is kind of a cartoon picture
12 of a semiautomatic automatic. Live rounds would
13 be loaded into the magazine, it would be placed
14 into the grip of the gun. And you'll see many of
15 the parts are the same. We have the hammer,
16 which causes the firing pin to strike this live
17 cartridge when it's in there. A trigger. Again,
18 a trigger guard. A muzzle, this is where the
19 barrel is kind of hidden underneath here
20 (pointing). And then the one different thing on
21 the semiautomatic is what's called the slide.
22 And the slide is going to move back and forth.
23 This is a movable part of the gun. So when this
24 magazine is loaded into the grip of the gun, it's
25 going to be just sitting there and you need to

1 chamber that live cartridge. So what you do is
2 pull the slide back and that is going to come
3 back forward again and strip the top live
4 cartridge out of that magazine. So that way
5 instead of sitting here it's going to go into
6 this chamber and you'll have a live round sitting
7 there. As soon as this hammer is pulled, or the
8 trigger is pulled, that will ignite -- that will
9 ignite that and make the live cartridge go off.
10 And what happens is the bullet comes out the
11 muzzle of the gun and then the slide will come
12 back, which is called recoiling. If you've ever
13 shot, you'll fire and then you have that, what's
14 called recoil, it comes back a little bit. What
15 that is is that slide moving back and forward.
16 So the slide is coming back and that casing is
17 ejecting out the side of the gun, and the slide
18 comes forward and strips that next live round
19 out. So you can continue to pull the trigger
20 until you run out of live rounds in your
21 magazine, and the slide will keep going back and
22 forth kicking out the ejected casings as the
23 bullets are coming out the muzzle.

24 Now, in my job I need to go a step further
25 and that's -- what I do is called firearms

1 identification. And what I need to do is be able
2 to identify certain cartridge casings or bullets
3 as having come from the same firearm or a
4 particular firearm or even in many cases several
5 firearms. And the way that we look at cartridge
6 casings -- now clear the bullet from your mind,
7 just think about that cartridge casing. When
8 that's sitting in the chamber of the gun, this is
9 what your cartridge case looks like, it
10 usually -- in this case it's a 9 mm, and it will
11 have your brand name, usually Federal or
12 Winchester listed here and it will say what
13 caliber it is. This one is a 9 mm. When that's
14 sitting in the gun, it's going to be right there
15 (pointing). When you shoot, like I said, you
16 have that recoil. It goes forward and comes
17 back. That cartridge case is slamming against
18 that breech. This is called the breech of the
19 firearm, and you get kind of a stamped mark on
20 that casing. And these are just different breech
21 faces from different firearms. So if you took
22 this gun apart and looked at that part straight
23 on, this is what it looks like. And this little
24 dot in the middle is the firing pin that comes
25 out and fires the gun. So when you look at a

1 cartridge casing under a microscope, it's pretty
2 clear each gun fires a different kind of stamp
3 mark and that's what we look at under the
4 microscope to try to identify guns to each other.

5 And when I talk about the microscope, this is
6 not my microscope, it's just a typical microscope
7 that we use. It has two stages so we can always
8 look at two piece of evidence at the same time.
9 So this picture over here is what I would look at
10 when I'm looking through the microscope and I
11 have two cartridge casings side by side, that's
12 what I see in the microscope. And in this case I
13 can see that this would be an identification.

14 Okay. Now, clearing your minds of cartridge
15 casings, bullets is a completely different
16 function of a firearm. Bullets are what come
17 down the barrel of a gun. And as you can see,
18 this is just an example of what it would look
19 like if you put your eye right into the nook,
20 right into the barrel of a gun. It has these
21 marks in there, which is called rifling, and
22 they're also called lands and groves. The lands
23 are the little sections that stick out a little
24 bit and then the groves, just like it says, it's
25 a grove. It's pieces of metal and then indented

1 in between is a groove.

2 So inside most pistols -- in shotguns you
3 don't have rifling, but in most pistols they'll
4 have these lands and grooves. And the way we can
5 tell -- when we talk about caliber, caliber is
6 pretty much a size determination. So .22 would
7 be, you know if you took a caliber and measured
8 the diameter, that would be .22 inches. You
9 know, you get into some of your rifle calibers.
10 Here's your .357, .38 which are typical revolver
11 calibers plus your 9 mm. When you're getting
12 into .40 caliber it's a little bigger, .44, .45.
13 And these measurements are all based on inches so
14 it would be .45 inches, .44 inches, .40 inches,
15 .35 inches. And the 9 mm, for some reason they
16 throw millimeters in there. That's equal to
17 about a .3555, so it's pretty close to those
18 calibers.

19 Then bullets, the way bullets get their
20 markings, that's coming down -- bullets come down
21 the barrel of the gun and they're rifled, so if
22 you just pulled one out, this is what it would
23 look like. So they just spin, that's the
24 rifling, they'll kind of swirl down the barrel of
25 the bullet and they'll get those impressions from

1 those land and grove markings that you see.
2 That's what this very large size land impression
3 is there (pointing).

4 And the same thing on the microscope. It's
5 virtually the same examination except bullets
6 instead of cartridge casings this time. So this
7 is a very large, that's enlarged multiple,
8 multiple, multiple times. And that would be
9 right there, that land impression is it's going
10 through that barrel, it's picking up that little
11 part that is sticking out, it's scrapping against
12 that, and these are called striation or scrape
13 marks.

14 And what we would do is line up our bullets,
15 one on each side of the microscope -- and this is
16 a little bit hard to tell, but right down the
17 middle there, that would be the split between
18 which side of the microscope it's on (pointing).
19 So I think of it when I'm talking to school
20 groups or that, it kind of look like matching up
21 barcodes, you know, you just have to line up the
22 lines together and they either match or they
23 don't.

24 So just in finishing up here, usually we can
25 come to three different conclusions, sometimes

1 more, but general conclusions that we come to in
2 firearms is that -- I'll refer to an
3 identification. And that means that a particular
4 bullet or discharged cartridge casing is
5 consistent with having come from either a
6 particular firearm or if we do have a firearm, a
7 specific firearm. And in the case where we do
8 have a gun recovered, we take test fires from
9 that gun and we call that our known test fire and
10 we'll compare that to our evidence test fire, so
11 we can compare known to evidence. If we don't
12 have known, then we can compare evidence to
13 evidence. And anything that we ever do that's
14 either an elimination or identification is always
15 verified by a second qualified examiner.

16 An inconclusive is a very common finding and
17 that is that there is simply not enough of those
18 individual marks or that the piece is unsuitable.
19 Sometimes it's just too small, there is no
20 rifling, or there is such a small piece of
21 rifling that you can't make any kind of
22 determination.

23 The other thing that happens is sometimes is
24 the core, you know, so you're not getting those
25 jacket fragments in the core. There is nothing

1 that is marking against on the gun. So a core
2 would be unsuitable for any kind of
3 determination.

4 And the last thing would be the elimination,
5 and that would be looking at two different things
6 and saying these came from two separates or two
7 different firearms. And, again, that is always
8 verified by a second examiner. And that's the
9 end.

10 MR. STREITZ: May I approach, Your
11 Honor?

12 THE COURT: You may.

13 BY MR. STREITZ:

14 Q. Ms. Reynolds, the case before us, State versus
15 Mahdi Ali, were you requested by homicide
16 detectives Kjos and Porras to examine various
17 items of evidence for purposes of a firearms
18 identification?

19 A. For an examination, yes, I was.

20 Q. Showing you what has been marked and received
21 into evidence as Exhibits 268 and 269. Did you
22 examine these particular items of evidence?
23 First of all, 269?

24 A. Right. Yes, I did.

25 Q. And these have been identified as discharged

1 cartridge casings found at the Seward Market on
2 January 6, 2010, and one on return trip on
3 January 7th. Did you examine those discharged
4 cartridge casings?

5 A. Yes, I did.

6 Q. And also Exhibits 269f. Did you examine that?

7 A. Yes, I did. And on everything I examine, I
8 itemize, date and initial, so that's how I know.

9 Q. And 269f, is what?

10 A. That is a fired lead fragment, so that's that
11 lead core.

12 Q. And Exhibit 268, what is that item that you
13 examined?

14 A. That's also discharged cartridge casings.

15 Q. Said to have been recovered -- we've had
16 testimony that it was recovered at a later date
17 by store personnel and turned over to the police
18 department?

19 A. Okay.

20 Q. With respect to the discharged cartridge casings
21 in Exhibits 269 and 268, what did -- what
22 examination did you perform and what were the
23 results?

24 A. Okay. Looking at those discharged cartridge
25 casings, I looked at them one at a time, took

1 notes on what the marking was on the head of that
2 cartridge case. Then on that, if you remember
3 that microscope, I put one up on the left side of
4 the scope, and one by one, put the second, the
5 third, the fourth, the fifth, the sixth, looking
6 at them to each other and determined that all has
7 been consistent with being fired in one single
8 firearm.

9 Q. So one gun?

10 A. Right.

11 Q. Now, those casings that are before you, are those
12 all from the same manufacturer?

13 A. They're all Federal, although one cartridge
14 casing was marked Blazer.

15 Q. In your experience in firearms identification and
16 examination, do you often find that a particular
17 gun uses different manufacturer's ammunition?

18 A. Yes. As long as it's the right caliber, in this
19 case it's a .40 Smith & Wesson, any manufacturer
20 will fit as long as it's a .40 caliber.

21 Q. I forgot to ask you about the mechanics of how --
22 well, let me back up. A .40 caliber, you found
23 that those are .40 caliber cartridges?

24 A. Yes.

25 Q. And they're all fired from the same gun?

1 A. They're all consistent with having been fired
2 from the same .40 caliber semiautomatic pistol.

3 Q. Semiautomatic?

4 A. Yes.

5 Q. The mechanics of how a cartridge is fired from a
6 semiautomatic, in that process, does heat get
7 generated?

8 A. Yes. There is a good amount of heat during that
9 very minute second.

10 Q. And in your experience, is it difficult to get
11 usable fingerprints off discharged cartridge
12 casings because of that heat that is generated?

13 A. Yes. It's very unusual or it's very difficult to
14 get fingerprints off of discharged cartridge
15 casings after they've been fired.

16 Q. With respect to how a semiautomatic weapon is
17 fired and the discharged cartridge casings are
18 ejected --

19 A. Uh-huh.

20 Q. -- are you able to say a particular position of a
21 person in relationship to where the discharged
22 cartridge casings are found?

23 A. I personally don't believe in that. You know,
24 it's possible that person was in that area, but
25 as far as where they eject and that type of

1 thing, in my experience they can go multiple
2 directions.

3 Q. Okay. Do you always have the gun, the handgun
4 when you're doing an examination such as you have
5 here?

6 A. No.

7 Q. Is that rare?

8 A. Rare not to have the gun?

9 Q. No. Rare to have the gun.

10 A. No, it's not rare. Sometimes we have the gun and
11 sometimes we don't.

12 Q. Okay. Were you also provided some test fires by
13 Sgts. Kjos and Porras that were said to have come
14 from a St. Louis Park gun store?

15 A. Yes, I was.

16 Q. And, first of all, what is a test fire?

17 A. A test fire is when you take a live -- a live
18 cartridge and fire it in the gun and you get a
19 known sample from that gun.

20 Q. And the test fire that you received, do they come
21 from a different -- a variety of different types
22 of guns?

23 A. Yes, they did.

24 Q. Okay. And did you compare -- did you find any of
25 the test fires said to have come from the St.

1 Louis Park gun store to the discharged cartridge
2 casings that you have in the exhibits in front of
3 you?

4 A. Yes.

5 Q. And what did your examination reveal in comparing
6 those?

7 A. One of the test fired discharged cartridge
8 casings was consistent with having been fired in
9 the same as those casings that I looked at in
10 this case.

11 Q. So you have all the discharged cartridge casings
12 said to have been found from the crime scene
13 fired from the same gun?

14 A. Correct.

15 Q. And those matching a gun from the St. Louis Park
16 gun shop?

17 A. It was from an envelope said to have come from a
18 specific gun.

19 Q. And, again, the type of gun that you believe that
20 was fired from?

21 A. On the envelope it was mached Springfield.

22 Q. Anything more about the model or type?

23 A. It was Springfield Armory Model XD40.

24 Q. Do you know what the XD40 stands for?

25 A. Not off the top of my head, no. I know the 40

1 stands for .40 caliber.

2 Q. Okay.

3 MR. STREITZ: May I approach again, Your
4 Honor?

5 THE COURT: You may.

6 BY MR. STREITZ:

7 Q. Did you receive some additional -- did you
8 retrieve some additional items that the
9 detectives in this case were requesting that you
10 examine?

11 A. Yes, I did.

12 Q. Okay. Showing you what's been marked as Exhibits
13 275b -- excuse me, a, b and c. Do you recognize
14 those?

15 A. Yes, I do.

16 Q. And those have been received into evidence and
17 just for the jury, 275a is a bullet envelope
18 bearing the name of Mohamed Warfa. 275b, a
19 bullet envelope bearing the name Anwar Mohammed.
20 And 275c, a bullet envelope bearing the name of
21 Anwar Mohammed. Did you also receive -- it's
22 been received into evidence Exhibit 280a, a
23 bullet envelope bearing the name of Osman Elmi?

24 A. Yes, I did.

25 Q. 270b, a bullet envelope bearing the name of, I

1 believe it's Elmi?

2 A. Yes, Elmi.

3 Q. Osman Elmi?

4 A. Yes.

5 Q. Exhibit 280c, a bullet envelope bearing the name
6 of Osman Elmi?

7 A. Yes, that's correct.

8 Q. And 280d, a bullet envelope bearing the name of
9 Osman Elmi?

10 A. Correct.

11 Q. 280e, a bullet envelope bearing the name Osman
12 Elmi?

13 A. Yes.

14 Q. And finally, 280f a bullet envelope bearing the
15 name of Osman Elmi?

16 A. Yes, that's correct.

17 Q. Of course, those bullet envelopes I'm referring
18 to are from the Medical Examiner's Office; is
19 that correct?

20 A. Yes, that's right.

21 Q. With respect to those items, what examination did
22 you conduct and what were your conclusions?

23 A. Okay. With the bullets from the medical
24 examiner, I open up the envelope one at the time,
25 clean it in a bleach solution, take notes,

1 various notes on it, testing the weight, the
2 diameter, just giving a visual inspection of it
3 and then giving it an item number.

4 Q. And your examination?

5 A. Then when I've gone through all the bullets,
6 weighed them, measured them, and made all kinds
7 of notes, then I get to the part where I do
8 comparisons to each other.

9 Q. And what were the conclusions of your comparison?

10 A. In this, regarding all of these bullets, what you
11 called 275a, 275c, 280d and it 280e, all were --
12 they were good enough to compare to each other
13 and they all revealed the presence of matching
14 features, which means that they're all consistent
15 with having been fired from the same firearm.

16 Q. And what about the other items of evidence?

17 A. The others were bullet fragments that just
18 weren't suitable for the comparison examination,
19 either they were lead so there was nothing that
20 they lined up with or they were just
21 insufficient.

22 Q. And were you able to determine what the caliber
23 of the bullets that you were able to compare,
24 what that caliber would be?

25 A. Yes. Those that I did, were able to do a good

1 comparison on, were consistent with being in the
2 .40 caliber.

3 Q. Are you able to associate the bullets in those
4 exhibits before you to the discharged cartridge
5 casings that you had examined?

6 A. No. Because there was not a gun, you cannot
7 compare bullets to cartridge casings.

8 Q. So the discharged cartridge casings all were
9 fired from the same gun?

10 A. Correct.

11 Q. The bullets that were suitable for comparison
12 were fired from the same gun?

13 A. That's correct.

14 Q. But you can't make that association between the
15 discharged cartridge casings and the bullets?

16 A. Correct.

17 Q. And the rest of the items of evidence that you
18 were provided were just unsuitable for
19 comparison?

20 A. That's right.

21 Q. And was your examination -- the results of your
22 examination reviewed by a colleague?

23 A. Yes, it was.

24 Q. And the results of that review?

25 A. We do a merely blind, so the other examiner would

1 take the same evidence, go through the same
2 process that I went through and then we compare
3 notes and in this case we had the same
4 conclusion.

5 Q. If I can just look at my notes quick. As you
6 mentioned, without having the actual firearm
7 itself you're limited to any further examination
8 or comparison?

9 A. Correct.

10 MR. STREITZ: I have no further
11 questions, perhaps counsel does.

12 THE COURT: Mr. Goetz.

13 MR. GOETZ: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY MR. GOETZ:

16 Q. I just have a few, Ms. Reynolds. And I want to
17 ask you some more about these test fires from
18 that Springfield XD40, just a few clarification
19 questions.

20 A. Okay.

21 Q. The casing that you got from the St. Louis Park
22 Police Department; correct?

23 A. Yeah, it was brought to me by Sgt. Porras.

24 Q. It was your understanding that St. Louis Park
25 Police Department had sent that to Sgt. Porras to

1 the Minneapolis Police Department?

2 A. That's my understanding, yes.

3 Q. And that casing is what is known as a factory
4 test fire; is that right?

5 A. Correct.

6 Q. So a test fire that was done at the Springfield
7 factory?

8 A. Yes. There was a variety of different brands,
9 but, yes, from the factory where the gun was
10 produced, yes.

11 Q. I just want to talk about that Springfield test
12 factory test fire in particular.

13 A. Okay.

14 Q. And that was said to have come from, as counsel
15 mentioned, a Springfield XD40; correct?

16 A. That's correct.

17 Q. And then there was a particular serial number for
18 that casing; correct?

19 A. Yes.

20 Q. And it was US187667; correct?

21 A. That's correct.

22 Q. And you compare that factory test fire from that
23 specific firearm and it was consistent with the
24 six discharged casings that you were given that
25 were said to have come from the scene of the

1 Seward Market; correct?

2 A. That's correct.

3 MR. GOETZ: Thank you. No further
4 questions.

5 MR. STREITZ: Nothing further, Your
6 Honor.

7 THE COURT: Thank you. You may step
8 down.

9 (Witness steps down from the stand.)

10 THE COURT: Members of the jury, this is
11 a good time to take our lunch break. Please be
12 in the usual spot at 1:30.

13 (Recess for the noon hour.)
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1 (Afternoon session:)

2 THE COURT: Mr. Streit.

3 MR. STREITZ: The State calls Ryan
4 Luepke.

5 RYAN LUEPKE,

6 called as a witness on behalf of the State, having been
7 first duly sworn, was examined and testified as follows:

8 THE COURT: Have a seat in the witness
9 chair. Before you begin, give us your full name,
10 spelling each of your names.

11 THE WITNESS: My full name is Ryan
12 Steven Luepke, R-y-a-n, middle name, S-t-e-v-e-n,
13 last name, L-u-e-p-k-e.

14 THE COURT: Mr. Weber.

15 MR. WEBER: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 BY MR. WEBER:

18 Q. Mr. Luepke, where do you work?

19 A. I work for Fairview Health Services in
20 Minneapolis.

21 Q. What do you do for Fairview?

22 A. I'm their investigator.

23 Q. And where is Fairview located?

24 A. I work mainly out of Fairview Riverside, which is
25 2450 Riverside Avenue.

- 1 Q. That's in Minneapolis?
- 2 A. Yes, 2450 is the general mailing address.
- 3 Q. Were you working at Fairview on January 6, 2010?
- 4 A. Yes.
- 5 Q. And in what capacity on that day?
- 6 A. Just general shift investigation, whatever
- 7 happens to come out.
- 8 Q. What does the investigator do at Fairview
- 9 Hospital?
- 10 A. Find specks on any number of different incidents,
- 11 could be of any nature.
- 12 Q. Is that generally related to security?
- 13 A. Yes.
- 14 Q. Are you familiar with a person named Amir Farah?
- 15 A. Yes.
- 16 Q. How are you familiar with Mr. Farah?
- 17 A. I know Amir, he's been there for a few years, I
- 18 don't know exactly how long. He works in
- 19 nutrition services at the hospital and I see him
- 20 from time to time in the hallway.
- 21 Q. Do you recall being contacted by Minneapolis
- 22 Police homicide detectives on January 11, 2010?
- 23 A. Yes.
- 24 Q. Do you recall what they asked of you?
- 25 A. I do.

1 Q. What was that?

2 A. They asked if we could find video of Amir Farah
3 in the hospital.

4 Q. And the hospital has surveillance video?

5 A. Yes.

6 Q. And you have access to that video?

7 A. Yes.

8 Q. And did you watch the video with the detectives?

9 A. Yes.

10 Q. Were you able to find any surveillance video of
11 Mr. Farah on January 6, 2010?

12 A. Yes.

13 Q. And what did you do with that video?

14 A. I gave it to the detectives.

15 Q. Were you able to capture any still images?

16 A. Yes.

17 Q. Now, there is timestamps on the still images; is
18 that right?

19 A. Yes.

20 Q. How accurate, if you know, are those timestamps?

21 A. It varies. The DVRs could be off on the time.
22 Varies from one to another, sometimes as much as
23 15 to 20 minutes.

24 Q. Generally, did you find on the videos that you
25 pulled that the hour was correct?

1 A. If I remember correctly, the hour was correct,
2 yes.

3 MR. WEBER: Your Honor may I approach?

4 THE COURT: You may.

5 BY MR. WEBER:

6 Q. I'm going to show you a series of exhibits, let
7 me know if these are from the still captures of
8 the videos that you took. There are Exhibits
9 149, 150, 151, 272 and it 283. If you take a
10 moment to look through those.

11 A. (Witness complies) These are the still photos
12 that I took.

13 Q. And are these fair and accurate copies of those
14 still photos that you took?

15 A. Yes.

16 MR. WEBER: I'd offer is 149, 150, 151,
17 272 and 273.

18 MR. GOETZ: Your Honor, I previously
19 reviewed the exhibits and I have no objection.

20 THE COURT: Exhibits 149, 150, 151, 272
21 and 273 are received.

22 MR. WEBER: May I publish, Your Honor?

23 THE COURT: You may.

24 BY MR. WEBER:

25 Q. Mr. Luepke, will you describe to us what you're

1 seeing in Exhibit 149, which I've projected to
2 the jury.

3 A. Image 149 is a still surveillance photo from our
4 west lobby. It's from inside looking out towards
5 the west circle where people can pull up to drop
6 off and pick up.

7 Q. And time noted on that still?

8 A. 8:26:01 p.m.

9 Q. And image 150, Exhibit 150, what are we seeing
10 here?

11 A. Exhibit 150 is surveillance still photo looking
12 towards the main area but a little bit to the
13 north of it, or left of it. Over the top of the
14 white vehicle on the right-hand side would be
15 that same entrance that was in 149.

16 Q. There is a white laser pointer in front of you.
17 Would you mind pointing that out for the jury?

18 A. This thing (pointing).

19 Q. Point it out on the map.

20 A. Where the entrance is?

21 Q. Behind you.

22 A. The entrance is basically right over here
23 (pointing). This is the windows that are along
24 the lobby, and the main entrance door to the
25 lobby would be right here (pointing).

1 Q. So it's just outside the view of that picture to
2 the right?

3 A. Yes.

4 Q. And Exhibit 151?

5 A. 151 is what we call a vestibule camera, and
6 that's a still photo from that vestibule camera.
7 And it just shoes the area between the main set
8 of doors.

9 Q. And it has an individual walking through there?

10 A. That's correct.

11 Q. Do you know who that person is?

12 A. I believe it's Amir Farah.

13 Q. Why do you say that?

14 A. Because I had -- I followed Amir on video through
15 the hospital from the time he punched out and
16 this is him exiting the hospital.

17 Q. And the time on this picture is 8:41?

18 A. 8:41:01, yes.

19 Q. And that's within about that 15-minute range you
20 talked about?

21 A. Correct.

22 Q. Exhibit 272, what are we seeing here?

23 A. That's Amir Farah entering our library. We have
24 computers that the employees can use after work.

25 Q. And this is at 7:41 p.m.?

1 A. Correct.

2 Q. And in watching Mr. Farah after he punched out
3 from work that day, do you recall what he did?

4 A. I do. From when he punched out from work, he
5 went down the main lobby hallway, passed the
6 pharmacy, and then to the library here, and then
7 left here, went back the same way, and went out
8 towards the west building and exited the west
9 lobby.

10 Q. How long was he in the library?

11 A. Roughly an hour or under an hour.

12 Q. And from your viewing of surveillance video, was
13 he in the, actually in the library that full
14 hour?

15 A. As far as I know he was, yes.

16 Q. Do you know what time approximately, based on the
17 surveillance video you watched, he punched out?

18 A. I don't know the exact time he punched out, I
19 don't recall what it was.

20 Q. And, finally, 273?

21 A. 273 is Amir Farah and he would have punched out
22 probably roughly less than a minute before this,
23 and then that would have been on Level 1, this is
24 on Level 2 walking towards the library past the
25 pharmacy.

1 Q. Okay. Walking toward the library you said?

2 A. Right.

3 Q. And was 272 after he got to the library?

4 A. Right. 273 would have been before 272 time wise.
5 These two cameras are on two different DVRs so
6 there's going to be a little bit of a time
7 difference.

8 Q. Between 272 and 273?

9 A. Right.

10 MR. WEBER: Let me have a moment, Your
11 Honor?

12 THE COURT: You may.

13 BY MR. WEBER:

14 Q. And, again, if we -- we see the individual at the
15 bottom right-hand corner, you identified him as
16 Amir Farah; is that right?

17 A. That's correct.

18 Q. And, again, how do you know that's him?

19 A. Because I see him in the hallway; I know who he
20 is.

21 Q. Thank you. And after meeting with Minneapolis
22 Police detectives, did you talk with Amir Farah?

23 A. Yes.

24 Q. What was the purpose of you talking to him?

25 A. The purpose was to find out if there is any risk

1 to Amir, and to find out what his whereabouts
2 were.

3 Q. His whereabouts where when?

4 A. At the time that the crime occurred.

5 Q. Based upon your conversation with him and viewing
6 video from surveillance from Fairview Hospital,
7 where do you believe he was at the time?

8 A. I believe he was --

9 MR. GOETZ: Objection, lack of personal
10 knowledge, foundation.

11 THE COURT: Sustained. Jury will
12 disregard the answer.

13 MR. WEBER: No further questions.

14 THE COURT: Mr. Goetz.

15 MR. GOETZ: Thank you, Your Honor.

16 **CROSS-EXAMINATION**

17 BY MR. GOETZ:

18 Q. Good afternoon, Mr. Luepke.

19 A. Good afternoon.

20 Q. I have just a few questions on the timing system,
21 or systems perhaps is a better word, plural. So
22 I understand from your testimony that timers that
23 we see on the surveillance stills are not exact
24 determinations of the time when that image was
25 captured; is that right?

1 A. There's generally a variance. Could be for a
2 number of different reasons.

3 Q. And in your experience, the variance could be 15,
4 20 minutes?

5 A. Yeah, it could be an hour during daylight savings
6 time if it doesn't get set back.

7 Q. So maybe even up to an hour, we don't know as you
8 sit here today, do you, as to any particular
9 image entered into evidence in this case what the
10 exact time was when that image was captured?

11 A. I'd have to compare it to the time, or the e-time
12 punches, his time clock.

13 Q. But as you sit here today, do you know, for
14 example, if we take, maybe it was 272, that
15 exhibit, it's not up, but just thinking of that
16 as to reference what the exact time was when that
17 image was captured, do you know that as you sit
18 here right now?

19 A. No, I don't.

20 Q. So there is a difference between the displayed
21 time and the actual time on a particular DVR; is
22 that right?

23 A. Occasionally.

24 Q. Digital Video Recorder; is that right?

25 A. Occasionally.

1 Q. And then if you have images captured on different
2 DVRs there might be differences between those two
3 as to their timing; correct?

4 A. Yep, small variances, yes.

5 Q. One might say 7:05 p.m., for example, and the
6 other one might say 7:15?

7 A. Correct.

8 Q. Okay. You said that in your experience, in
9 response to question from counsel, that the hour
10 is usually correct. But just so I understand it,
11 if you have a DVR that's say 20 minutes off and
12 it's 20 minutes fast, if that were to display
13 8:10 p.m., but it was in actuality 7:50 p.m. that
14 the hour and minutes would both be off in that
15 incidence?

16 A. That's correct.

17 Q. Okay. Then, lastly, I want to ask you about the
18 amount of time that Amir Farah was in the
19 library. You said an hour, could be under an
20 hour, do you know exactly how long he was in the
21 library?

22 A. I don't recall exactly how long, no.

23 MR. GOETZ: That's all the questions I
24 have.

25 THE COURT: Mr. Weber.

REDIRECT EXAMINATION

1
2 BY MR. WEBER:

3 Q. As you observed those pictures and as you
4 observed the videos, is it your belief that the
5 timing was set correctly as to whether it was
6 daylight savings time or daylight standard time?

7 A. Yes.

8 Q. And it was correct?

9 A. As I recall it was.

10 Q. And you said that you followed Amir Farah from
11 the time he punched out until the time he left;
12 is that right?

13 A. That's correct.

14 Q. And except for the time he was in the library?

15 A. That's correct.

16 MR. WEBER: Nothing further.

17 MR. GOETZ: Nothing else.

18 (Witness leaves the stand.)

19 THE COURT: All right. You may step
20 down, sir.

21 (Witness leaves the stand.)

22 MR. WEBER: State calls Christa Thorne.

23 CHRISTA THORNE,

24 called as a witness on behalf of the State, having been
25 first duly sworn, was examined and testified as follows:

1 THE COURT: Have a seat in the witness
2 chair. Before you begin, if you can give us your
3 full name, spelling each of your names.

4 THE WITNESS: Okay. Christa,
5 C-h-r-i-s-t-a, Roslee, R-o-s-l-e-e, Thorne,
6 T-h-o-r-n-e.

7 THE COURT: Mr. Weber.

8 MR. WEBER: Thank you, Your Honor.

9 **DIRECT EXAMINATION**

10 BY MR. WEBER:

11 Q. Ms. Thorne, you live in the Metro area?

12 A. Yes.

13 Q. And what type of work do you do?

14 A. Banking.

15 Q. Back on January 6, 2010 what type of work were
16 you doing?

17 A. I worked at Wilson's Leather.

18 THE COURT: I'm sorry, I couldn't hear.

19 THE WITNESS: Wilson's Leather.

20 THE COURT: Maybe you could pull up a
21 little closer to the microphone.

22 BY MR. WEBER:

23 Q. Is that a retail store?

24 A. Yes, it was.

25 Q. And where is that located?

1 A. It's off Glenwood Avenue in Minneapolis.

2 Q. North Minneapolis?

3 A. Uh-huh, correct.

4 Q. Yes?

5 A. Yes.

6 Q. And how long had you worked there on January 6,
7 2010?

8 A. At that location, I worked there about two years.

9 Q. And what was your job there?

10 A. Assistant manager.

11 Q. Was that a factory outlet-type store?

12 A. Correct.

13 Q. And is that business still there?

14 A. No.

15 Q. And when did you stop working there?

16 A. When it closed about a year and a half ago.

17 Q. On a number of different occasions over the past
18 year and a half or so you've had conversation
19 with the Minneapolis Police about a shoplifting
20 incident from January 6, 2010; is that right?

21 A. Correct.

22 Q. Do you specifically recall that incident?

23 A. Yes.

24 Q. Do you recall around what time of day it
25 occurred?

1 A. It happened around 6 p.m.

2 Q. Do you recall how many people were involved?

3 A. If I remember now I would say it's three or four.

4 Q. It was a long time ago?

5 A. Yeah.

6 Q. Do you recall whether they were male, females or
7 a mixture of the two?

8 A. All male.

9 Q. Do you recall what race or ethnicity they were?

10 A. They were, I guess, black or Somalian.

11 Q. When those individuals came into the store, is
12 there anyone else in the store?

13 A. Yes. I had a part-timer with me.

14 Q. Any other customers in the store?

15 A. No.

16 Q. So if my addition is correct, there were -- once
17 they were in the store, there were five or six
18 people in the store?

19 A. Correct.

20 Q. Was there something that drew your attention to
21 them?

22 A. Yes, the way they were acting.

23 Q. How was that?

24 A. There were acting suspicious as if he they wanted
25 to steal jackets.

1 Q. And in relation to you where you were, let's back
2 up, where were you in the store?

3 A. I was at the front of the store.

4 Q. And where were they?

5 A. I had one up front with me, the others disbursed,
6 some went within 20 feet of me, some went to the
7 far back corner where I couldn't see them.

8 Q. And did you have a conversation with the person
9 in front?

10 A. Yes. He was asking me specific questions about
11 sales, pricing, locations of jackets, things to
12 keep my attention.

13 Q. And did your attention stay on that individual or
14 was it also on the individuals in the back?

15 A. It also was on the individuals in the back.

16 Q. And did you notice them do anything?

17 A. Yes. They were suspicious of looking up at me,
18 looking down, trying to hide behind racks where I
19 couldn't see them.

20 Q. And at some point did they leave the store?

21 A. Yes.

22 Q. How long after they had entered would you say
23 they left?

24 A. About 15 minutes or so.

25 Q. As they were leaving, did something happen?

1 A. Yes. When the first few left, they almost just
2 ran out. The last one went out the correct way
3 and was stopped by our security system.

4 Q. How does that work?

5 A. It has -- there are ink tags on jackets, and when
6 you go through, it sets off the alarm.

7 Q. And what did you do when you heard the alarm go
8 off?

9 A. I asked him to come back into the store.

10 Q. Did he?

11 A. Yes.

12 Q. What did you say next?

13 A. I asked him if he had anything on him that would
14 trigger the alarm. He said he had his cell phone
15 at first.

16 Q. Did he say anything else?

17 A. I said, a cell phone can't do that. And he kept
18 trying to hide what was underneath his jacket.
19 So I asked him if he had stolen merchandise to
20 please remove it and leave the store.

21 Q. Did he?

22 A. He walked to the back of the store, he tried to
23 hide the sensor a little more by tucking it in
24 his pants. I followed him in the back and asked
25 him to just to take off the jacket because I

1 could see him.

2 Q. And did you get that jacket back?

3 A. Yes, I did.

4 Q. Now, the next day, did you notice any other
5 jacket missing?

6 A. Yes, I did.

7 Q. And how did you know there was another jacket
8 missing?

9 A. Well, they were the last ones in the store, so
10 when we do cleanup we have to go through and
11 check which hangers were empty, and I knew
12 exactly where they were and I went to that
13 section and found an empty hanger or two.

14 Q. And do you recall what type of jacket it was that
15 was missing?

16 A. Yes.

17 Q. What was that?

18 A. It was a Sean John faux shearling jacket.

19 Q. What does that mean?

20 A. Faux shearling is fake suede.

21 Q. How do you know that those individuals left with
22 that jacket?

23 A. Like I said, they were the last ones in the
24 store, just the way I can guarantee. And the
25 fact that they didn't go out the correct way.

1 MR. Weber: Your Honor, may I approach?

2 THE COURT: You may.

3 BY MR. WEBER:

4 Q. I'm showing you what I have marked for
5 identification as Exhibit 267, can you tell the
6 jury what that is?

7 A. It's the store where I used to work.

8 Q. It's a picture of the store?

9 A. Uh-huh.

10 Q. Yes?

11 A. Correct.

12 Q. Does it fairly and accurately depict the store as
13 you recall it back then?

14 A. Yes.

15 Q. Other than it's not winter as it was in January?

16 A. Yes.

17 MR. WEBER: Your Honor, I would offer
18 267.

19 MR. GOETZ: No objection.

20 THE COURT: 267 is received.

21 BY MR. WEBER:

22 Q. And, Ms. Thorne, and back in January of this
23 year, did the Minneapolis -- did Minneapolis
24 police detectives come to you and ask you to look
25 at a surveillance photo of an individual?

1 A. Yes.

2 Q. And did they ask you if you could identify a
3 jacket in the surveillance video?

4 A. Yes.

5 Q. And I'm showing you what I marked for
6 identification as Exhibit 271. Is this the
7 surveillance video they showed you?

8 A. Yes.

9 Q. And have you signed the bottom of this picture?

10 A. Yes.

11 Q. And you dated it 1/6/11?

12 A. Correct.

13 Q. And as we look at the picture, what did you see
14 that you recognized?

15 A. The Sean John jacket that was stolen.

16 Q. Is that on the individual in the middle wearing
17 the black hat towards the front of the picture?

18 A. That's correct.

19 MR. WEBER: Your Honor, may I publish
20 this the old-fashioned way?

21 THE COURT: Is that 271?

22 MR. WEBER: I would offer 271.

23 MR. GOETZ: No objection.

24 THE COURT: It's received.

25 MR. WEBER: If I haven't offered 267

1 yet, I would offer that as well.

2 THE COURT: That is received.

3 BY MR. WEBER:

4 Q. And would you just point out for the jury where
5 the jacket is?

6 A. Right here (pointing).

7 MR. WEBER: I have nothing further at
8 this time.

9 THE COURT: Mr. Goetz.

10 MR. GOETZ: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. GOETZ:

13 Q. Good afternoon, Ms. Thorne.

14 A. Hello.

15 Q. I have a few questions for you.

16 MR. GOETZ: May I just have a moment
17 before we start, Your Honor?

18 THE COURT: You may.

19 MR. GOETZ: Thank you. Sorry for the
20 delay. May I approach?

21 THE COURT: You may.

22 BY MR. GOETZ:

23 Q. Ms. Thorne, I want to start by bringing you back
24 to one of those meetings that you had with some
25 of the detectives, okay? The prosecutor went

1 through some surveillance photos that you looked
2 at. Do you remember they also showed you some
3 other photographs?

4 A. Yes.

5 Q. Some photographs of individuals?

6 A. Yes.

7 Q. And they asked if you recognized them; is that
8 right?

9 A. Correct.

10 Q. And if they did -- if you did recognize them,
11 they wanted you to sign your name on them and
12 date them?

13 A. Yes.

14 Q. I'm showing you what's been marked as Exhibit
15 409. And do you see the front?

16 A. Yes.

17 Q. Okay. And do you see the back?

18 A. Yes.

19 Q. Is that your signature that appears in the back?

20 A. Yes, it is.

21 Q. And is this one of the photographs that you
22 looked at on April 26, 2010 and signed because
23 you recognize somebody shown in this photograph?

24 A. Correct.

25 Q. And Exhibit 410. Is that also your signature on

1 the back?

2 A. Yes, it is.

3 Q. Dated April 26, 2010?

4 A. Yes.

5 Q. Again, you signed that because you recognize the
6 person in this paragraph?

7 A. Correct.

8 Q. And, lastly, Exhibit 411. Again, your signature
9 and the date April 26, 2010?

10 A. Yes.

11 Q. You signed that because you recognize this person
12 as well?

13 A. Correct.

14 MR. GOETZ: Offer 409, 410, 411, Your
15 Honor.

16 MR. WEBER: No objection.

17 THE COURT: 409, 410 and 411 are
18 received.

19 BY MR. GOETZ:

20 Q. And we don't have these loaded so if you can,
21 just for the jury's benefit, holding this up, who
22 do you recognize this person in 409 to be?

23 A. He was one of the gentlemen in the store.

24 Q. Okay. Do you remember as you sit here today
25 which of the gentlemen he was?

1 A. He wasn't the one who asked me questions, but he
2 was one that was specifically talking to me.

3 Q. Okay. We'll come back to this, but is this the
4 individual that you talked about with counsel
5 that basically set off the alarm?

6 A. Correct, he is.

7 Q. And Exhibit 410, you recognize this individual?

8 A. Yes.

9 Q. And can you tell the jury how you recognize him;
10 what was he doing?

11 A. He was in the front of the store. He was one
12 that caught my attention for suspicious --

13 Q. Was he the individual talking to you in the
14 front?

15 A. Yes.

16 Q. And, lastly, Exhibit 411.

17 A. Yes.

18 Q. This individual --

19 A. Yes.

20 Q. What do you remember him doing?

21 A. He was in the group. I don't remember speaking
22 with him, but I do remember him being in the
23 store.

24 Q. Okay. Now I'm going to ask you some questions
25 about this individual in 409.

1 A. Okay.

2 Q. So, as I understand it, when you confronted that
3 individual, the individual in Exhibit 409,
4 because the security system was going off -- it
5 was beeping; correct?

6 A. Correct.

7 Q. And you confronted him about what he was doing,
8 why would the alarm go off is essentially what
9 you asked him; correct?

10 A. Correct.

11 Q. He looked you in the eyes?

12 A. Uh-huh.

13 Q. That's a yes?

14 A. Correct.

15 Q. And he lied to you, didn't he?

16 A. Yes, he did.

17 Q. He said, it must be my cell phone, but you found
18 out he didn't have a cell phone; is that right?

19 A. That is correct.

20 Q. And then you asked him, you're stealing a coat,
21 aren't you, or something to that effect; correct?

22 A. That is correct.

23 Q. And, again, he looked you in the eyes and he lied
24 to you again, didn't he?

25 A. Yes, he did.

1 Q. And did he also then tell you something to the
2 effect, well, I've got a BB gun on me. Do you
3 remember him saying something like that?

4 A. Yes, I do.

5 Q. Do you know whether or not he had a BB gun or any
6 kind of gun on him?

7 A. No, I didn't want to find out.

8 Q. But that's what he told you, he had a gun that
9 was a BB gun on his person?

10 A. Correct.

11 Q. At some point he goes in the back in the store
12 and -- did you actually see the coat he was
13 trying to steal?

14 A. Yes. He had opened his jacket to tuck the sensor
15 into his pants.

16 Q. So you can see the guy, he's stealing the jacket
17 but he still looking into your eyes and lying to
18 you about doing that; is that right?

19 A. That's correct.

20 Q. But then he goes and puts it away finally?

21 A. He ended up walking to the middle of the store
22 and actually handed it to me.

23 Q. Okay. Okay. Then did you tell him to kind of
24 get out of the store?

25 A. Yes.

1 Q. But he didn't at that point, did he?

2 A. I don't -- as far as I can remember, he left the
3 store after I asked him to.

4 Q. Correct me if I'm wrong, I know it was some time
5 ago, but didn't he actually try to hit on you,
6 for lack of a better term?

7 A. That was before.

8 Q. Okay. Before he had given you the jacket back,
9 you had a sense that he was trying to hit on you?

10 A. Correct.

11 Q. Asking you how old you were?

12 A. Correct.

13 Q. And you told him, I think you were 25 at the
14 time, something like that?

15 A. Well, I wasn't 25 at the time, I was 23.

16 Q. Twenty-three?

17 A. Correct.

18 Q. Okay. But did he tell you, oh, I'm about 25, or
19 he said he was in his 20s?

20 A. Correct.

21 Q. And whether he was lying to you again you don't
22 know?

23 A. No, I don't.

24 Q. Let's talk about the person in the red shirt as
25 we have depicted here. And that --

1 MR. GOETZ: If I may approach again,
2 Your Honor?

3 THE COURT: You may.

4 BY MR. GOETZ:

5 Q. This is Exhibit 410. In one of your statements
6 to law enforcement, you described that person in
7 terms of what you remember him wearing when he
8 was in the Coat Factory on January 6th of 2010.
9 Do you remember doing that?

10 A. Yes, I do.

11 Q. You specifically described his pants that you
12 remember him wearing?

13 A. Correct.

14 Q. And you remember them being a sort of
15 camouflaged-type pants; is that right?

16 A. Correct.

17 Q. And the image you were shown from the
18 surveillance, from the Minneapolis Impound Lot
19 where we see the person in that Sean John coat.
20 Did you know whether or not the person with the
21 coat was wearing camouflage pants or not?

22 A. No, I did not.

23 Q. Lastly, the individual depicted in Exhibit 411.
24 Is it true that that person was, as far as you
25 recall, one of the first ones in and first ones

1 out?

2 A. Correct.

3 MR. GOETZ: Your Honor, I have no
4 further questions. Permission to publish
5 Exhibits 409, 410 and 411 to the jury?

6 THE COURT: You may.

7 Members of the jury, keep in mind all
8 the exhibits will be with you in the jury room
9 for deliberations. If you can pass them one at
10 the time, that will move things along. You can
11 look at them, don't feel like you can't spend
12 time looking at them.

13 (Jury reviews exhibits.)

14 THE COURT: Mr. Goetz, could you
15 retrieve?

16 MR. GOETZ: Yes, Your Honor. Thank you.

17 THE COURT: Mr. Weber.

18 MR. WEBER: Just briefly.

19 **REDIRECT EXAMINATION**

20 BY MR. WEBER:

21 Q. Ms. Thorne, you remember talking to the
22 Minneapolis police detectives on April 26, 2010?

23 A. Yes.

24 Q. And you talked to them about the individual
25 saying that he had a BB gun; do you remember

1 that?

2 A. Yes.

3 MR. WEBER: Your Honor, may I approach?

4 THE COURT: You may.

5 BY MR. WEBER:

6 Q. Your answer to them at that time, would it
7 refresh your recollection if you read it?

8 A. Sure.

9 THE COURT: Just read it to yourself.

10 MR. GOETZ: Can we have a page, counsel?

11 MR. WEBER: It's Page 3.

12 MR. GOETZ: Thank you.

13 THE WITNESS: Okay.

14 BY MR. WEBER:

15 Q. And do you remember whether or not you believed
16 that he had a BB gun?

17 A. I don't.

18 MR. GOETZ: Objection, foundation.

19 THE COURT: Overruled. Question is, do
20 you remember if you believed him?

21 THE WITNESS: Where I worked, yes, I
22 believed that.

23 MR. WEBER: May I have a moment?

24 THE COURT: Yes.

25 BY MR. WEBER:

1 Q. And from reviewing what you just read you recall
2 telling the police at that time in April of 2010
3 you didn't believe he did have a BB gun?

4 A. What I remember, since it was so long ago is I
5 don't believe a BB gun would set it off. So at
6 that time, no, I don't believe that he had have a
7 BB gun that would set off the alarms.

8 Q. What generally would set off the alarms?

9 A. A sensor.

10 Q. And, again, this was a long time ago so some of
11 the details are fuzzy?

12 A. Yes.

13 Q. Is that fair?

14 A. Yes, very fuzzy.

15 MR. WEBER: Nothing further.

16 THE COURT: Mr. Goetz.

17 MR. GOETZ: No further questions, Your
18 Honor.

19 THE COURT: Okay. You may step down.

20 (Witness leaves the stand.)

21 MR. STREITZ: Your Honor, the State
22 would call Sainab Osman.

23 THE COURT: Counsel approach.

24 (Discussion at the bench.)

25 THE COURT: First, our interpreter for

1 the record.

2 INTERPRETER: Abdul, A-b-d-u-l, Aziz,
3 A-z-i-z.

4 (Interpreter duly sworn.)

5 SAINAB OSMAN,
6 called as a witness on behalf of the State, having been
7 first duly sworn, was examined and testified as follows:

8 THE COURT: Have a seat.

9 With the help of the interpreter, we're
10 going to have you say and spell your full name.

11 THE WITNESS: I don't know how to spell,
12 Your Honor, but my name is Sainab Osman.

13 THE COURT: All right. Mr. Streit.

14 MR. STREITZ: Thank you.

15 **DIRECT EXAMINATION**

16 BY MR. STREITZ:

17 Q. Good afternoon, Ms. Osman.

18 A. Good afternoon.

19 Q. Are you related to the defendant, Mahdi Ali?

20 A. He's my -- I'm the mother.

21 Q. Back on January 6, 2010, did you live in the
22 Seward Towers?

23 A. Yes.

24 Q. And what was your apartment number?

25 A. 10, Apartment 10.

1 Q. Did you live on the 13th floor?

2 A. 1310.

3 Q. Thank you. Did Mahdi Ali live with you in that
4 apartment?

5 A. Yes.

6 Q. During the evening of January 6, 2010, was Mahdi
7 Ali at home with you?

8 A. No, he wasn't -- he wasn't -- he wasn't there
9 that night, but he come home late, after 10
10 o'clock. But around 10 o'clock.

11 Q. Are you sure that it was 10 o'clock that he got
12 home?

13 A. I'm not sure exactly what time, but I think it
14 was after 10 o'clock.

15 Q. On January 11, 2010, do you remember two homicide
16 detectives coming to your apartment?

17 A. Yes.

18 Q. And do you remember telling them that Mahdi came
19 home around midnight?

20 A. Yes. I'm repeating also to you that he came
21 after 10 o'clock, which is around midnight, but
22 exactly -- I don't remember exactly what time.

23 Q. Well, I guess my question is, if he didn't come
24 home around midnight, why would you tell us it
25 was around 10 o'clock?

1 MR. GOETZ: Objection, 403. Cumulative.

2 THE COURT: Objection is overruled.

3 Ms. Osman, you can answer. Break them
4 up so the interpreter can interpret for you.

5 INTERPRETER: Will you repeat your
6 question, please?

7 BY MR. STREITZ:

8 Q. Which is it, did he come home around 10 o'clock
9 that night or around midnight that night?

10 MR. GOETZ: Object to the form of the
11 question.

12 THE COURT: Overruled.

13 THE WITNESS: I don't remember exactly
14 what time.

15 BY MR. STREITZ:

16 Q. Do you remember telling the homicide detectives
17 about what time your son got home?

18 A. I'm telling you what I tell them, which I said to
19 them he come late. And I told them I don't
20 remember exactly what time but I told them
21 midnight. But I don't remember, that's what I
22 told them.

23 Q. Would it refresh your memory to look at the
24 report that the homicide detectives wrote about
25 what you told them?

1 A. Possible.

2 MR. STREITZ: May I approach, Your
3 Honor?

4 THE COURT: Counsel, everybody approach.
5 (Discussion at the bench.)

6 BY MR. STREITZ:

7 Q. This is a police report. And I'm going to have
8 you read this sentence to Ms. Osman starting
9 right there.

10 MR. GOETZ: Your Honor, could we have a
11 supplement number, please?

12 MR. STREITZ: Sure. Supplement 45, the
13 second to the last paragraph, counsel.

14 MR. GOETZ: Thank you.

15 (Interpreter reads to the witness in
16 Somali.)

17 THE WITNESS: I thought I tell you that
18 too.

19 THE COURT: Let's -- for the record,
20 could you indicate what was said in the
21 supplement in English.

22 INTERPRETER: Ms. Osman said Mahdi came
23 home around midnight.

24 THE COURT: And her answer to that was?

25 INTERPRETER: That's what I tell you

1 exactly.

2 THE COURT: All right.

3 INTERPRETER: No, excuse me, Your Honor.

4 What she said was, didn't I tell you that now.

5 Didn't I tell you that now.

6 BY MR. STREITZ:

7 Q. That night, did you hear the news about what had
8 happened over at the Seward Market?

9 A. Yes. We come out, it was cold, we were outside
10 cold.

11 Q. You said "we," was that Ayan Abukar?

12 A. Yes, me and Ayan. Yes, we come out.

13 Q. And what time -- do you recall what time the news
14 came on?

15 A. No, I don't remember.

16 MR. STREITZ: I have no further
17 questions at this time.

18 THE COURT: Mr. Goetz.

19 MR. GOETZ: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MR. GOETZ:

22 Q. Good afternoon, Ms. Osman.

23 A. Good afternoon.

24 Q. I just have a few questions for you, all right.

25 Now, is it true that you're unable to read and

1 write?

2 A. Yes, I don't read and write, yes.

3 Q. How old were you when you came to this country?

4 A. Sixty -- seventy.

5 Q. And do you speak English?

6 A. No.

7 Q. When the officers were interviewing you, were
8 they speaking in Somalian or in English?

9 A. English.

10 Q. But your, is it niece, Ayan Abukar, was there
11 translating for you?

12 A. Yes.

13 Q. Okay. Now, you were also asked about your
14 relationship with Mahdi Ali.

15 A. Yes. I tell them that he's my son and they took
16 a DNA to prove that he's my son.

17 MR. STREITZ: Objection, Your Honor.

18 Could the witness be instructed to answer only
19 the questions posed to her?

20 MR. GOETZ: Your Honor, may we approach?

21 THE COURT: You may.

22 (Discussion at the bench.)

23 THE COURT: Answer will stand.

24 Mr. Goetz, anything further?

25 MR. GOETZ: Thank you, Your Honor.

1 Ms. Osman, I have no more questions.

2 **REDIRECT EXAMINATION**

3 BY MR. STREITZ:

4 Q. Ms. Osman, hopefully one more question. The
5 detectives spoke to you, and Ayan Abukar
6 translated for you, didn't she?

7 A. Yes.

8 Q. And, in fact, she's translated, helped you with
9 translation in the past, hasn't she?

10 A. Yes.

11 MR. STREITZ: Thank you, nothing
12 further.

13 THE COURT: Mr. Goetz.

14 MR. GOETZ: No further questions.

15 THE COURT: You may step down.

16 (Witness leaves the stand.)

17 MR. STREITZ: State would call Ayan
18 Abukar.

19 THE COURT: If you would come up here.

20 AYAN ABUKAR,

21 called as a witness on behalf of the State, having been
22 first duly sworn, was examined and testified as follows:

23 THE COURT: Have a seat.

24 Our interpreter for the record.

25 Interpreter: My first name is

1 Abdulaziz, A-b-d-u-l-a-z-i-z; my last is Hussen,
2 H-u-s-s-e-n.

3 (Interpreter duly sworn.)

4 THE COURT: Ma'am, if you could start,
5 you already had the oath. And I understand you
6 speak some English, but in order to keep things
7 clear, we're going to have you speak Somali and
8 have the interpreter translate for you. I'd like
9 you to begin by stating your full name and
10 spelling each of your names.

11 THE WITNESS: Ayan Abukar, A-y-a-n,
12 A-b-u-k-a-r (in English).

13 INTERPRETER: Ayan Abukar, A-y-a-n,
14 A-b-u-k-a-r.

15 THE COURT: Mr. Streit.

16 MR. STREITZ: Thank you.

17 **DIRECT EXAMINATION**

18 BY MR. STREITZ:

19 Q. Good afternoon, Ms. Abukar.

20 A. Good afternoon.

21 Q. Do you know Mahdi Ali?

22 A. Yes.

23 Q. How do you know him?

24 A. I used to -- he used to live with us.

25 Q. Are you related to him?

1 A. Yes.

2 Q. I want to take you back to January 11, 2010. Did
3 some homicide officers, detectives ask you if you
4 would act as a translator for Ms. Osman?

5 A. Yes.

6 Q. And did they pick you up and take you to Ms.
7 Osman's home at the Seward Towers?

8 INTERPRETER: I did not hear that, Your
9 Honor.

10 THE COURT: Repeat.

11 BY MR. STREITZ:

12 Q. Did the detectives then pick you up that day and
13 take you to Ms. Osman?

14 A. They took Sainab up and they brought her to my
15 house.

16 Q. Okay. And did the police then ask her some
17 questions?

18 A. Yes.

19 Q. And you acted as a translator for them?

20 A. Yes.

21 Q. Had you been over at Ms. Osman's house or
22 apartment on the evening of January 6, 2010?

23 A. Yes.

24 Q. And were you and Ms. Osman watching the news that
25 evening?

1 A. We were part of the Somali people who were
2 standing in front of the shop. People were
3 coming out of the shop.

4 Q. My question was, did you see the news the evening
5 of January 6, 2010?

6 A. Yes.

7 Q. And did you learn about some people at the Seward
8 Market being killed?

9 A. Yes.

10 Q. And did you and Ms. Osman go outside and look
11 across the street?

12 A. We were outside. We were in front of the shop.

13 Q. Were the police there?

14 A. Yes.

15 Q. And did the police let you get very close to the
16 store?

17 A. No.

18 Q. Did you and Ms. Osman then go back to her
19 apartment?

20 A. Yes.

21 Q. At the time the news came on, Mahdi Ali was not
22 in the apartment, was he?

23 A. No, he was not there.

24 Q. When you and Ms. Osman returned from being
25 outside, he was not in the apartment either, was

1 he?

2 A. He was not present in the house.

3 Q. Did you receive a phone call from Mahdi Ali when
4 you and Ms. Osman returned to the apartment?

5 A. Yes, he called.

6 Q. Did he tell you where he was?

7 A. Yes.

8 Q. Where did he say he was?

9 A. He said he was in St. Paul.

10 Q. Did he tell you he would be home soon?

11 A. Yes. Because I don't let him stay out for a long
12 time.

13 Q. Did you give the police your cell phone number?

14 A. Yes, they asked me.

15 Q. And was that 612 --

16 A. Yes.

17 Q. 644 --

18 A. Yes.

19 Q. 3740?

20 A. Yes.

21 Q. And did you tell the police the number that
22 registered on your phone when Mahdi called you?

23 A. Yes. They called me and I told them that he used
24 this number to call me.

25 Q. That number was 612 --

1 A. I'm not sure now. I do not remember now, but it
2 was in the telephone list.

3 Q. And you shared that number with the police?

4 A. I gave them, yes.

5 Q. And do you remember about what time you got that
6 call from Mahdi Ali?

7 A. I do not remember the exact time, but I think it
8 was maybe 9, 10 o'clock, might be before that.

9 Q. Do you remember telling the police that you
10 received the call around 10 p.m.?

11 A. It was around. Is that not what I'm telling you
12 now?

13 Q. Was it around 10 o'clock?

14 A. It must have been the time between 9:30 and 10
15 o'clock. It's the time that I'm telling you now.

16 Q. My question to you is, do you remember telling
17 the police though that it was around 10 p.m.?

18 A. That was an approximate.

19 MR. STREITZ: Thank you. I have no
20 further questions.

21 THE COURT: Mr. Goetz.

22 MR. GOETZ: Thank you, Your Honor.

23

24

CROSS-EXAMINATION

25 BY MR. GOETZ:

1 Q. Ms. Abukar, I just have a few questions for you.

2 You know Sainab Osman?

3 A. Yes.

4 Q. She is Mahdi Ali's mother; is that correct?

5 A. Yes.

6 Q. Is it true though that growing up she was
7 referred to as his grandmother?

8 A. Yes.

9 Q. So as of January 6th of 2010 she held herself out
10 to people as Mahdi Ali's grandmother; is that
11 right?

12 A. Yes.

13 Q. Now, Mahdi Ali, you recognize the young man to my
14 left; is that right?

15 A. Yes.

16 Q. His birth name is not Mahdi Ali, is it?

17 MR. STREITZ: Objection, relevance, Your
18 Honor.

19 THE COURT: Sustained.

20 MR. GOETZ: May we approach Your Honor?

21 THE COURT: You may.

22 (Discussion at the bench.)

23 THE COURT: Mr. Goetz, reask the
24 question.

25 MR. GOETZ: If I might have a moment to

1 shift some technology over.

2 THE COURT: Sure.

3 BY MR. GOETZ:

4 Q. I'm going to reask the question. Suffice it to
5 say that Mahdi Ali is not his birth name; is that
6 correct?

7 A. Yes.

8 Q. In the Somali culture, is the concept of clan
9 important?

10 A. Yes.

11 Q. Do people in the same clan tend to help each
12 other if they can?

13 A. Yes.

14 Q. I understand, correct me if I'm wrong, but there
15 are five main clans in the Somali culture; is
16 that right?

17 A. I think so, yes.

18 Q. What clan do you know that the young man to my
19 left is from?

20 A. I do not like to talk about tribes, but if it's
21 important, I will let you know.

22 Q. Could you please. I understand, but can you
23 please give us the name of the clan that Mahdi
24 Ali, the person who is known today as Mahdi Ali
25 is from?

1 A. He is member of the Hawiye clan.

2 Q. And I have a spelling of that as H-a-w-i-y-e.

3 Does that sound about right?

4 A. I do not know how the spelling is, but that's how
5 it sounds.

6 Q. Okay. Another of the five main clans is called
7 the Darod --

8 MR. STREITZ: Objection, Your Honor.
9 Counsel is testifying.

10 THE COURT: Sustained. Approach.

11 (Discussion at the bench.)

12 THE COURT: Rephrase.

13 BY MR. GOETZ:

14 Q. We had testimony that one of the witnesses in
15 this case, Mr. Galony, is from the Darod clan,
16 D-a-r-o-d. Is that the same clan or a different
17 clan as the Hawiye clan, the clan that Mahdi Ali
18 is part of?

19 A. Darod is also another big tribe in the Somali
20 culture.

21 Q. Is that the same tribe or different tribe as the
22 Hawiye?

23 A. A different tribe.

24 Q. There's also been testimony from Ahmed Shire Ali
25 about the Marjeerteen. Are you familiar with

1 that clan?

2 A. Yes.

3 Q. Is that clan different or the same clan as the
4 Hawiye clan?

5 A. That is Darod clan.

6 Q. That is a Darod clan, is that your answer?

7 A. Yes.

8 Q. So would that be a different clan than the Hawiye
9 clan?

10 A. Yes. They are equal tribes who are all members
11 of the Somali people.

12 Q. But different clans?

13 A. Yes.

14 MR. STREITZ: Objection, repetitious.

15 THE COURT: Overruled.

16 BY MR. GOETZ:

17 Q. So if you could just, so we understand the
18 relationship between the Majarteen clan and the
19 Darod clan --

20 THE COURT: Counsel approach.

21 (Discussion at the bench.)

22 THE COURT: Go ahead.

23

24 BY MR. GOETZ:

25 Q. Just so just -- last question, Ms. Abukar. So

1 the Darod clan is the main clan and the
2 Marjeerten is a subclan of the Darod clan; is
3 that right?

4 A. Yes.

5 MR. GOETZ: Thank you. I have no
6 further questions.

7 THE COURT: Mr. Streitz.

8 MR. STREITZ: No further questions.

9 THE COURT: Ma'am, you may step down.

10 (Witness leaves the stand.)

11 THE COURT: Members of the jury, we'll
12 take our afternoon recess. Let's be back in
13 place at 3:20.

14 (Recess.)

15 (Jury not present:)

16 THE COURT: Mr. Goetz.

17 MR. GOETZ: Yes. We had a discussion in
18 chambers, I wanted to put on the record my
19 renewed objection to the opinion testimony by
20 Sgt. Ann Kjos as to identification of the
21 defendant as being the person with the gun in the
22 Seward Market videotape surveillance video. The
23 basis for the objection is Minnesota Rules of
24 Evidence 401, 402, 403 insofar as it's our
25 position that based on the record at this point

1 the probative value of such evidence is
2 substantially outweighed by the danger of unfair
3 prejudice and confusion of the issues and it's
4 also cumulative. It's also based on Rule 701 and
5 702 in the sense that any testimony as to the
6 state of the investigation after the defendant's
7 arrest on January 8th of 2010 would not be
8 helpful. And it's also based on the due process
9 clause of the 14th Amendment in Article 1 Section
10 7.

11 THE COURT: All right. Court's ruling
12 will remain the same. And just as a reminder,
13 we've had some discussions to appropriately limit
14 the testimony. Investigators may testify that
15 after watching, or gathering information from
16 video tapes, photographs, that they noticed some
17 similarities and they can generally summarize
18 what those are without referring back to the
19 videotape, that is, we're not going to have
20 another parade of the videotape and photographs
21 but simply a summary on why they formed a belief
22 that at the time of the investigation that the
23 person in the videotape of the Seward Market was
24 the defendant, to explain why they focused on the
25 defendant and not Abdisalan Ali to explain their

1 investigation and put it into context. That is
2 the purpose for what it is being allowed.

3 Anything that's beyond reaching that
4 goal of putting the investigation in context
5 would not be permissible. For example, the
6 investigators will not be allowed to give an
7 opinion today as some kind pseudo expert that the
8 person in the videotape is in fact the defendant.
9 That is for the jury to ultimately decide.

10 And I would draw everyone's attention
11 back to State versus Brad Grunig, G-r-u-n-i-g.
12 And this would be 2010 West Law 2035721. And
13 I'll note again there are two different cases
14 involving Mr. Grunig, but that is the one that
15 says that the opinion by the investigator that
16 defendant was the person in the video was not
17 error mostly because that opinion was phrased in
18 the past tense, that is at the time they viewed
19 it and were doing their investigation they
20 believed that the person in the videotape was the
21 defendant for the sole purpose of putting the
22 investigation into context and why the focus was
23 on the defendant. So I'll allow a similar query
24 here, but not to the extent of soliciting an
25 opinion today as to what they believe currently.

1 Any questions? All right. Bring in the
2 jury.

3 (Jurors enter the courtroom.)

4 THE COURT: Mr. Weber.

5 MR. WEBER: Your Honor, State calls Sgt.
6 Ann Kjos to the stand.

7 ANN KJOS,
8 called as a witness on behalf of the State, having been
9 first duly sworn, was examined and testified as follows:

10 THE COURT: Sergeant, before you begin,
11 if you could give us your full name, spelling
12 each of your names.

13 THE WITNESS: Ann, A-n-n, last name
14 Kjos, K-j-o-s.

15 THE COURT: Mr. Weber.

16 MR. Weber: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 BY MR. WEBER:

19 Q. Goat afternoon, Sgt. Kjos. There is some water
20 in front of you if you need it.

21 A. Thank you.

22 Q. For whom do you work?

23 A. I work for the Minneapolis Police Department.

24 Q. And for how long have you worked for Minneapolis?

25 A. I've worked there for a little over 23 years now.

1 Q. And what is your current position?

2 A. I'm currently a sergeant assigned to the homicide
3 unit.

4 Q. And how long have you been assigned to the
5 homicide unit?

6 A. Since -- almost five years, since 2007.

7 Q. And prior to that what did you do with
8 Minneapolis?

9 A. Well, I was promoted in '96, so -- to the rank of
10 sergeant -- I was a patrol supervisor, so I
11 patrolled the shifts of officers out on the
12 street.

13 Q. And what relevant training and education do you
14 have with your current position?

15 A. The police department sends you to training
16 specific to homicide investigation. When you
17 first come onto the unit, you work with senior
18 detectives, detectives that have been within the
19 unit for many years, field training, did that for
20 half a year and just learning on the job as you
21 go.

22 Q. What was your specific assignment on January 6,
23 2010?

24 A. In the homicide unit we have several teams, I was
25 a team with -- my partner Luis Porras, and our

1 assignment for that work was to be the on-call
2 investigator, so if there was any major event, a
3 shooting, officer involved shooting, a murder, we
4 were to respond and then we were going to be
5 assigned that case.

6 Q. From where do you respond when you're on call
7 detectives?

8 A. From home generally.

9 Q. And did you then receive a call on January 6,
10 2010?

11 A. Yes, sir.

12 Q. And about when did you receive that call?

13 A. It was about 8 o'clock in the evening.

14 Q. What were you initially told?

15 A. That there was a shooting at the Seward Market
16 and -- on Franklin Avenue, and there was at least
17 one person dead at the scene. My partner Luis
18 Porras said that we were assigned this case and
19 that we were to respond to Minneapolis to
20 investigate.

21 Q. Did you respond?

22 A. I did. I responded to the office actually
23 because I was told there was at least two
24 witnesses that were at the scene and they were
25 being transported down to our office to

1 interview.

2 Q. And do you know what Sgt. Porras did?

3 A. Sgt. Porras, he responded directly to the scene
4 to get a kind of an overview of what the store
5 looked like and ascertain exactly how many
6 witnesses there were, how many victims, any early
7 suspect information.

8 Q. And did you interview witnesses at City Hall?

9 A. I did.

10 Q. When I say City Hall, is that where your office
11 is?

12 A. Yes, sir.

13 Q. And who were those witnesses?

14 A. Mamilla Ahmed and Youb Ala.

15 Q. After interviewing those two witnesses, what did
16 you do?

17 A. My partner and I, Luis and I, we went to --
18 responded back to the scene.

19 Q. Do you recall what time you got to the scene?

20 A. Probably about 11:30 in the evening.

21 Q. You arrived on the scene, were the deceased
22 individuals still there?

23 A. Yes, sir.

24 Q. At what point were they taken away?

25 A. After the scene had been photographed, documented

1 by our crime lab, the Medical Examiner's Office
2 came and they recovered the bodies.

3 Q. Now, what role do the investigators take when you
4 go out to the scene when you're investigating?

5 A. It's mainly -- it's a collaborative interaction
6 between the forensic scientists and the
7 investigators. They -- we, a lot of times want
8 them to gather specific pieces of evidence, they
9 let us know if that is possible. And so sort of
10 the conversation, and then we let them know a lot
11 of the things that we want recovered.

12 Q. And them being people from the crime lab, for
13 example?

14 A. Yes, sir.

15 Q. And in this particular case, did you and Sgt.
16 Porras direct the collection and processing of
17 evidence?

18 A. Yes.

19 Q. There was a great deal of blood at the scene; is
20 that fair to say?

21 A. Yes, sir.

22 Q. What, if anything, did you do to direct the
23 forensic scientists in processing of that blood?

24 A. To collect samples within the -- all the blood.
25 And, obviously, you can't sweep up all the blood

1 that was at the scene but they can take random
2 samples throughout the blood that's found
3 throughout the scene.

4 Q. As you processed the blood, was there any reason
5 to believe that it had come from anyone other
6 than the three victims?

7 A. We didn't know at that time. All we knew is we
8 had three victims and a lot of blood. So at that
9 time we had no idea.

10 Q. In a situation where you have that much blood, is
11 it prudent to ask that the DNA tests be performed
12 on all the areas of blood that you see in the
13 store?

14 A. Well, if you tested all the blood, they'd just,
15 the cost alone would be astronomical, so you take
16 samples within the large areas of blood that you
17 have.

18 Q. Did it appear to you that any of the blood has
19 been disturbed by -- the victim's blood has been
20 disturbed by anybody such as perpetrators,
21 witnesses or first responders?

22 A. It certainly could have been. There was
23 different areas that were kind of tracked
24 through -- through where -- away from where the
25 bodies were going into the store. We do know

1 that responding officers entered the scene, I
2 believe EMS, ambulance personnel, entered the
3 scene.

4 Q. Did you note any tracks going out of the store?

5 A. There was none that I saw.

6 Q. Did you note any blood on the sidewalks away from
7 the store?

8 A. No, sir.

9 Q. Did you learn that the store had a surveillance
10 system?

11 A. Yes.

12 Q. Now, does the fact that the store did have a
13 surveillance system change the way you process
14 the scene?

15 A. Yes.

16 Q. How so?

17 A. If there is a surveillance system, obviously, it
18 will show, well, hopefully will show the event,
19 the actual robbery and the shootings as they
20 happened. You can -- once you get that video you
21 can look at it and you can see if there is
22 specific areas that you want your scientists to
23 check, windows or somewhere more specific in the
24 store you -- rather they check and you can
25 eliminate a different area of the store

1 completely.

2 Q. And then based on that, did you have the scene
3 secured in the early morning hours of January 7,
4 2010?

5 A. Yes, sir.

6 Q. And were you able to get a viewable copy of the
7 video?

8 A. Yes.

9 Q. And did you watch it?

10 A. I did.

11 Q. And what did you conclude from watching the video
12 that had happened at the Seward Market?

13 A. I knew that at the time of the robbery there was
14 two individuals at the front counter and then
15 there was another gentleman near the front
16 counter when a female walked into the store. She
17 was -- she walked to the back of the store and I
18 could see the clerk, one of the guys at the front
19 counter pointing, an older gentleman walk towards
20 the back of the store with her. And around that
21 same time, two men came into the store, they both
22 had masks on, or their face covered, one of them
23 had a gun in his hand, the taller male suspect
24 went to the back of the store and he basically
25 corralled the two, the examiner and the other

1 gentleman, the older gentleman from the store
2 while the suspect with the gun was with the two
3 clerks at the front of the counter. Continued to
4 watch the video, you can see that the suspect --

5 MR. GOETZ: Observation at this point.
6 The exhibit speaks for itself.

7 THE COURT: Overruled.

8 THE WITNESS: You can see the suspect
9 with the gun is trying to get the clerks to get
10 down on the ground. It's almost like the clerks
11 are not complying with him.

12 MR. GOETZ: Objection, speculation, Your
13 Honor.

14 THE COURT: Sustained. Jury will
15 disregard the last remark.

16 THE WITNESS: So it's continually an up
17 and down by the clerks and the guy with the gun.
18 And then there was another gentleman comes into
19 the store, immediately upon him entering the
20 store, the man with the gun turned towards him
21 and then that guy falls to the ground. At that
22 same instant, the two clerks chase the guy with
23 the gun outside of the store and like the second
24 they're outside the doorway that clerk -- one
25 clerk falls to the ground. And as that's

1 happening, the guy from the back of the store,
2 the suspect in the back of the store, runs to the
3 front of the store, steps over the body that's
4 laying in the doorway and both the two suspects
5 run out. But within seconds, the suspect with
6 the gun comes back into the store and at that
7 time the -- one of the clerks had gotten his cell
8 phone out and was beginning to make a phone call
9 when the guy with the gun comes in and he gets
10 chased throughout the store. It's off camera,
11 you can't see what happens, but the next thing
12 you know the suspect with the gun runs up and
13 bends down close to where the first examiner, or
14 the first the guy that had come in during the
15 robbery had fallen and then the guy with the gun
16 runs out.

17 BY MR. WEBER:

18 Q. Having watched the videos, did you then go back
19 to the store?

20 A. Yes.

21 Q. And were you looking for specific evidence based
22 on having watched the video?

23 A. Yes.

24 Q. And what specifically were you looking for?

25 A. The suspect that was in the back of the store, he

1 only -- he had a glove on, I can't remember which
2 hand, I believe he only had a glove on his left
3 hand, or one of his hands only had a glove on and
4 as he's running -- after something causes him to
5 run from the back of the store to the front of
6 the store, you see him grab a food rack and then
7 as he's going out the doorway he also touches the
8 glass, touches the door frame, and then he goes
9 out. So those two specific areas we were very
10 interested in for, you know, DNA analysis,
11 fingerprint analysis.

12 Also, we now know pretty much exactly where
13 the suspect with the gun was when the shootings
14 occurred and you can kind of better locate maybe
15 where casings are, or the casings that come out
16 of the gun when they're fired.

17 Q. When you watched the video, did you note anything
18 about what the assailant wore or carried that you
19 would note for the purposes of future
20 investigations and searches?

21 A. Yes.

22 Q. What was that?

23 A. Well, obviously, the gun was a black semiauto and
24 we specifically noted their clothing that they
25 were wearing at the time. The suspect that went

1 to the back of the store had a black hoodie on,
2 but sticking out from below the black hoodie was
3 a white and black horizontally striped shirt. He
4 had black jeans on. He also had white tennis
5 shoes and on the white tennis shoes you could see
6 a diamond shape, or a -- definitely a black decal
7 shape on the top of the -- and that's the guy in
8 the back of the store. The guy with the gun, he
9 had big puffy grey coat on, blue jeans that were
10 cuffed at the base, and some shoes that were not
11 normal colored, but just off-colored shoes,
12 almost a brownish red. And then he had some
13 strings coming down that were hanging out from
14 the hood.

15 Q. Did you also look at a video down 25th Avenue
16 South and 25th Avenue from the market?

17 A. Yes, sir.

18 Q. And did you note anything on that video that
19 assisted in the investigation?

20 A. Yes.

21 Q. And what was that?

22 A. You could -- before the actual shooting had
23 happened you can see that there is a car that
24 drives north on 25th -- 25th is a north/south
25 street -- drives north on 25th and sort of mid

1 block, it's south of the store, it makes a U-turn
2 in the street. And after completing that U-turn
3 it backs into a parking position on the west side
4 of 25th so it's facing south.

5 Q. And while watching that video, is there anything
6 about the car that you noted that seemed unique
7 to that particular car?

8 A. Just that the, as it was backing up, the lights
9 weren't uniformed, I'll say, they just -- it
10 looked like the light on the driver's side was
11 different than the light on the passenger's side.

12 Q. As you watched the video, were you able to
13 observe any individuals exit?

14 A. Yes.

15 Q. Did you observe anything about the lights in the
16 car when the individuals exited the car?

17 A. Yeah. When the doors opened there was lights
18 that came on both the doors.

19 Q. How soon after the incident did the media arrive
20 at the store?

21 A. Well, they were there very quickly, within an
22 hour or two I would say.

23 Q. Were they there when you arrived?

24 A. Yes, sir.

25 Q. Did you receive any information that night or in

1 the first 24 hours about a possible suspect?

2 A. We received some information about -- yes,
3 somebody.

4 Q. Who did you get that information from?

5 A. An officer, excuse me, Mohamud Galony got ahold
6 of one of the police officers on our department
7 and said he had some information, that he talked
8 to a kid, he called him a kid, at one of the
9 places he worked, I believe it's the Brian Coyle
10 Center, and during this -- I'm sorry, this was
11 while standing outside the Seward Towers. This
12 gentleman has a friend that lives at Seward
13 Towers. While there, a kid, he didn't know what
14 his name was, just said that he had talked
15 about --

16 MR. GOETZ: Objection, hearsay, Your
17 Honor.

18 THE COURT: Sustained.

19 BY MR. WEBER:

20 Q. Did you get any information related to who this
21 individual that Mohamud Galony was talking about
22 was?

23 A. Yes.

24 Q. And what was that information?

25 A. That the -- he drove a dark, I believe he said it

1 was a black Caprice, and that the Caprice was
2 parked on the second level of a parking ramp that
3 is utilized by the people that live at the Seward
4 Towers, and that the window was broken out in
5 this Caprice and, I believe, he said that he
6 always parked the car closest to the wall by the
7 Wells Fargo. So there was a specific area within
8 the parking ramp this car was always parked.

9 Q. And did you -- based on that information, what
10 did you do?

11 A. We actually just drove to that ramp after we left
12 the Seward Tower -- Seward Market. We went to
13 that parking ramp, drove up to the second level
14 and almost immediately noted a black Caprice
15 parked up against the south wall of this ramp.
16 It did have a broken out window on the passenger
17 side with black plastic covering it, and we noted
18 the license plate.

19 Q. Was it parked in a specific spot, numbered spot,
20 that kind of thing?

21 A. It may have been, I don't recall if it was
22 specifically. I believe my only information was
23 that it was always parked closest to the south
24 wall.

25 Q. Did you later obtain information that that

1 specific parking spot was associated with a
2 specific apartment?

3 A. Yes, sir.

4 Q. And what apartment was it associated with?

5 A. The Seward Towers is, I believe 2515 South 9th
6 Street and it belongs to Apartment No. 1310.

7 Q. And did you learn who at that time lived in
8 Apartment 1310?

9 A. Yes.

10 Q. Who was that?

11 A. A lady by the name of Sainab Osman and then her
12 16 -ear-old grandson, Mahdi Ali.

13 Q. Having learned that name Mahdi Ali, did you then
14 at that point seek to have him arrested?

15 A. No, sir.

16 Q. Why not?

17 A. Because this is just a theory, or a tip given to
18 us by somebody, it's not any kind of information
19 you can arrest somebody on.

20 Q. Did you later receive information from another
21 citizen?

22 A. Yes.

23 Q. And how did that information come about?

24 A. A citizen came into -- actually came into the
25 police department, the chief's office, and asked

1 to talk to an investigator involved in the
2 murders at the Seward Market.

3 Q. Did you talk to that individual?

4 A. We did.

5 Q. You actually had a formal interview with him; is
6 that right?

7 A. Yes, sir.

8 Q. You read him his Miranda rights?

9 A. I don't believe we read him his Miranda rights,
10 no.

11 Q. And what information did you get from that
12 tipster?

13 A. He had been at school the day before, so the day
14 he came in was Friday, the shootings all happened
15 on Wednesday, so Thursday he had been at school
16 and a kid he knows as Abdisalan came up to him,
17 told him he needed to tell him something. Abdi
18 told Abshir that he was at the Seward Market last
19 night, so Wednesday night, when those three guys
20 were shot and killed. Abdi apparently told
21 Abshir that he went into the store with a kid
22 named Mahdi, Mahdi had a gun, that Abdi said he
23 was at the back of the store with some customers,
24 and then when there was a gunshot, that he ran
25 out of the store and had to jump over a body that

1 was laying on the floor in front of the doorway.

2 Q. Those details given to you seem to fit with what
3 you had seen in the videos?

4 A. Yes.

5 Q. And had those videos been released to the media?

6 A. No, sir.

7 Q. Had anything about the details of what happened
8 been made public?

9 A. No.

10 Q. So based on that information what did you do?

11 A. We attempted to identify Abdisalan. Abshir knew
12 that Abdi -- first of all, he said his first name
13 was Abdi, last name Salan, and he knew that he
14 lived in South Minneapolis. So we attempted to
15 identify Abdi based on that information. We were
16 finally able to determine that the Abdisalan he's
17 talking about is Abdisalan Ali.

18 Q. And did you have the individual that you had,
19 Abshir, identify Abdisalan Ali?

20 A. We were able to get a photograph of Abdi. We
21 showed that picture to be Abshir, and Abshir said
22 Abdi was the kid that told him that he was one
23 that was in the back of the store.

24 Q. What did you do next?

25 A. We asked our VCAT team, that's a team we utilize

1 to go out --

2 MR. GOETZ: Objection, Your Honor, 403.

3 THE COURT: Overruled. Move on.

4 THE WITNESS: Team that we use to arrest
5 people, or in this case we had probable cause to
6 believe that Abdi may have been involved in the
7 shooting deaths of three men at the Seward
8 Market, so we asked them to go pick him up and
9 bring him down to us so we could interview him.

10 BY MR. WEBER:

11 Q. Did they do that?

12 A. They did.

13 Q. And how long after you had met with Abshir did
14 you have Abdisalan Ali arrested?

15 A. He was down in our office by 3, maybe 3:30, so
16 probably just a little over two hours.

17 Q. Did you interview him?

18 A. We did.

19 Q. Did you first give him a Miranda warning?

20 A. We did.

21 Q. Why was that?

22 A. We believed he was involved in the murders at the
23 Seward Market.

24 Q. What did you believe his involvement was?

25 MR. GOETZ: Objection, 403, Your Honor.

1 THE COURT: Overruled.

2 THE WITNESS: That he participated in a
3 robbery. His participation was to go to the back
4 of the store and keep control of customers while
5 his partner was up front trying to rob the
6 clerks.

7 BY MR. WEBER:

8 Q. Was he initially forthcoming with you?

9 A. He was not.

10 Q. And did he eventually, however, tell you what he
11 did on January 6, 2010?

12 A. He did.

13 Q. What did he tell you he did on January 6, 2010?

14 A. He said he was at school, he goes to school with
15 his cousin Ahmed Shire Ali, and his school is
16 VOA, Volunteers of America. Ahmed has a friend
17 named Mahdi who was going to pick up Ahmed that
18 day. So Abdi went with. Abdi said that Mahdi
19 came to school driving a red Crown Victoria.
20 They went to a gas station, he couldn't remember
21 which gas station, he believes they bought
22 cigarettes and pop. Mahdi needed to drop
23 somebody else off, so he took them back to
24 school, left for not too long of a time, came
25 back and picked them up. After Mahdi came back

1 to the school and picked them up, they went to
2 what Abdi called the Coat Factory, which we
3 learned is a coat outlet store in North
4 Minneapolis. While at that store Abdi says they
5 bought a coat. And after getting a coat at the
6 outlet factory, they went to the impound lot, the
7 Minneapolis Impound Lot. And that was to -- so
8 Mahdi could try to get a car out of the impound
9 lot. Mahdi or Abdi said that after the impound
10 lot they drove to South Minneapolis, they went to
11 the SuperAmerica at 22nd and Lyndale South to get
12 some gas. And then after the SuperAmerica they
13 drove down to an area of Franklin and Nicollet
14 Avenue South. Abdi says he wanted to visit a
15 friend that lives in an apartment in that area,
16 and Ahmed and Mahdi had gotten out of the car.
17 So when Abdi got back -- and his friend wasn't
18 there -- he got back to the car and Ahmed and
19 Mahdi weren't in the car. After about 10 or 15
20 minutes, Abdi asked them to take him home and
21 they did. And Abdi says he got home 6:30, 7
22 o'clock in the evening.

23 Q. Abdisalan having told you that story from January
24 6th, what, if anything, did you do to verify it?

25 A. The easiest way to verify these type of

1 statements is to get video, SuperAmerica has
2 quality system, so right away my partner Luis
3 Porras went to the SuperAmerica from that day,
4 from January 6th.

5 Q. Did you later view that video?

6 A. I did.

7 MR. WEBER: Your Honor, may I approach?

8 THE COURT: You may.

9 BY MR. WEBER:

10 Q. I'm showing you what's marked as Exhibits 142,
11 143 and 144. Do you recognize these?

12 A. Yes, sir.

13 Q. And these are videos that you viewed in my
14 office; is that right?

15 A. Yes.

16 Q. And these are from the SuperAmerica that Sgt.
17 Porras obtained from January 6, 2010; is that
18 right?

19 A. Yes, sir.

20 Q. And you viewed these videos in my office and
21 initialled each one; is that right?

22 A. I did.

23 Q. Do these fairly and accurately depict those
24 videos you viewed back in January of 2010?

25 A. They do.

1 MR. WEBER: I would offer 142, 143 and
2 144.

3 THE COURT: 142 through 144 are
4 received.

5 BY MR. WEBER:

6 Q. Based on having viewed the SuperAmerica video,
7 what conclusions did you come to?

8 A. Well, the main conclusion was that the guy that
9 was in the back -- we saw a red Crown Victoria
10 park and pull up to a gas pump at the
11 SuperAmerica, a black male exits the front
12 passenger seat of that car. As he enters the
13 SuperAmerica store, we immediately note that he's
14 wearing a black sweatshirt and underneath the
15 black sweatshirt is a black and white
16 horizontally striped shirt. We see white tennis
17 shoes with that diamond decal or black decal on
18 top. And right away -- and as he enters the
19 store, he turns his head and when he turns his
20 head and literally looks at the camera, then that
21 moment we notice that it's not Abdisalan that's
22 wearing those clothing, it's somebody else.

23 Q. Did you have an opinion as to whether the person
24 in the video, then in the SuperAmerica that's
25 just been admitted, was involved in the Seward

1 Market shootings?

2 A. Yes.

3 Q. What was that opinion?

4 MR. GOETZ: Objection, Your Honor, 701,
5 702.

6 THE COURT: Sergeant, limit your
7 testimony to what you thought at the time you
8 viewed the video and what conclusions you drew
9 then and then only.

10 THE WITNESS: At that time when I saw
11 the gentleman from the SuperAmerica, I at that
12 time, I believed that he was the person that had
13 entered the store, the Seward Market, and had
14 gone to the back of the store to control the
15 customers.

16 BY MR. WEBER:

17 Q. Having seen that, what did you do with Abdisalan
18 Ali that night?

19 A. We continued to talk to him and actually wanted
20 more information on his cousin Ahmed Shire Ali so
21 that we could better identify him. And we also
22 followed up with other video evidence. He had
23 said that he had gone -- they had gone to the
24 impound lot. Before going to the SuperAmerica,
25 they had stopped at the impound lot. So we had a

1 team go down to the impound lot and try to
2 recover their surveillance video from January 6th
3 of 2010.

4 Q. Did you eventually take Abdisalan home?

5 A. I did.

6 Q. Why did you take him home?

7 A. After seeing the video from both the SuperAmerica
8 and the impound lot, I believed at that time that
9 Abdisalan was not one of the two people -- was
10 not either of the two people that had entered the
11 Seward Market with the intention of robbing them
12 and eventually killing three men.

13 MR. GOETZ: Objection, Your Honor. May
14 we approach?

15 THE COURT: You may.

16 (Discussion at the bench.)

17 THE COURT: Members of the jury, any
18 statement made by the witness regarding the state
19 of mind of other people is to be disregarded by
20 you. In addition, the Sergeant's conclusions
21 regarding who's depicted in various videos are to
22 put the investigation of this case into context.
23 You are to draw your own conclusions based on all
24 the evidence on who might be in any of the
25 videotapes that are in evidence at this time.

1 Mr. Weber.

2 BY MR. WEBER:

3 Q. Did you continue your investigation as to
4 Abdisalan's whereabouts around the time of the
5 Seward Market homicides?

6 A. Yes. We -- actually, when we brought him home,
7 or I interviewed his mom. I did this, because
8 she didn't speak English, I used Abdi's sister.
9 And without Abdi talking, he never had an
10 opportunity to talk to his mom or anybody -- any
11 family member. And I asked her what time Abdi
12 got home on Wednesday, and she said he got home
13 somewhere between 6 and 7 o'clock. She continued
14 to tell me while Abdi was away, Abdi received two
15 phone calls from their cousin Ahmed Shire's
16 brother, and that Ahmed's brother asked that Abdi
17 give him a call back as soon as he got home.

18 Q. Did Abdi also make mention of those phone calls?

19 A. He did.

20 Q. Did you make any attempt to investigate those
21 phone calls?

22 A. I did. We had some administrative subpoenas for
23 the phones that belonged to both his sister and
24 Ahmed's brother and we weren't able to obtain --
25 we were never able to obtain the records for

1 Ahmed's brother but we were able to get the
2 records from his sister's cell phone.

3 Q. From Abdi's sister's cell phone?

4 A. Abdi's sister's cell phone, yes sir.

5 MR. WEBER: Your Honor, may I approach?

6 THE COURT: You may.

7 BY MR. WEBER:

8 Q. I'm showing you what I've marked as Exhibit 157.

9 A. Yes, sir.

10 Q. Is this the cell phone record you received in
11 relation to Abdi's sister?

12 A. Yes.

13 Q. And in whose name is the cell phone?

14 A. Ahmed Yusef.

15 Q. And who do you know him to be?

16 A. I know him to be Abdi's father.

17 Q. What address is that associated with?

18 A. Abdi's home, 2912 Clinton Avenue South.

19 Q. And the cell phone number that we're talking
20 about specifically is what?

21 A. It's the mobile cell phone number, which is
22 612-229-0384.

23 Q. And the number that you learned Ahmed's brother
24 had?

25 A. Yes.

1 Q. Do you know what that is?

2 A. I can check my notes real quick.

3 Q. Would that refresh your recollection?

4 A. Yes, 612-644-6469.

5 MR. WEBER: Your Honor, I would offer
6 Exhibit 157.

7 MR. GOETZ: No objection.

8 THE COURT: 157 is received.

9 BY MR. WEBER:

10 Q. If you would refer to 157, there is some calls
11 highlighted there.

12 A. Yes.

13 Q. Can you tell the jury, please, what those
14 highlighted calls are?

15 A. The -- they're calls on January 6, 2010. There
16 are two incoming, the first incoming at 16:46, a
17 second incoming at 18:28.

18 Q. Is that 4:46 and 6:28 p.m.?

19 A. Yes, sir. And then there is one outgoing at
20 18:51 or 6:51.

21 Q. And those incoming calls are from and that
22 outgoing call is from --

23 A. It's from 612-644-6469.

24 Q. And, again, how do you know that that number
25 belongs to Ahmed's brother?

1 A. I actually interviewed Ahmed's brother. To
2 arrange that interview, I contacted him using
3 that cell phone number.

4 Q. Did you later learn of the arrest of Mahdi Ali?

5 A. Yes, sir.

6 Q. And when was that?

7 A. It was basically around the same time that we're
8 taking Abdi home. Talking to Abdi's mom, we
9 found out that Mahdi had just gotten back to the
10 Seward Towers and I had -- we had a team of
11 officers there and they arrested him at that
12 point.

13 Q. And you also asked for assistance in obtaining
14 and executing a search warrant at Mahdi Ali's
15 home?

16 A. Yes.

17 Q. Had you obtained a search warrant at some point
18 for Abdisalan Ali's home?

19 A. Yes, we did.

20 Q. Did you execute that search warrant?

21 A. No, sir.

22 Q. Why not?

23 A. Because we believed after interviewing Abdi and
24 then verifying his statements by video, looking
25 at video evidence, we believed that the probable

1 cause that I based that search warrant on was no
2 longer valid. I didn't have probable cause to
3 enter his house anymore.

4 Q. Did you receive information at some point
5 regarding a red Crown Victoria and a partial
6 license plate?

7 A. Yes, sir.

8 Q. How did you receive that information?

9 A. A detective with the Hennepin County Sheriff's
10 Office actually received information from one of
11 the people that he works with that Mahdi Ali was
12 seen inside of a red Crown Victoria within the
13 last hour. This person talking to the detective
14 with Hennepin County said --

15 MR. GOETZ: Objection, hearsay, Your
16 Honor.

17 THE COURT: Sustained.

18 BY MR. WEBER:

19 Q. Did you later learn that the police officers
20 found the suspected red Crown Victoria?

21 A. Yes, sir.

22 Q. And do you know who was driving it at that time?

23 A. Amir Farah.

24 Q. Did you later learn who that Crown Victoria
25 belonged to?

1 A. Yes.

2 Q. Who was that?

3 A. I believe it was Amir's car.

4 Q. Did you talk to Amir Farah that night?

5 A. No. Well, we tried to, but we couldn't get a
6 statement from him.

7 Q. Did you direct that a search warrant be executed
8 on that Crown Victoria?

9 A. We did.

10 Q. And what, if anything, did you collect from it?

11 A. We collected some swabbing samples from the door
12 handles, forensic evidence throughout to include
13 fingerprinting on a lot of the areas. We found
14 some Timberland boots in the trunk, and we asked
15 them to take -- recover all of the floor mats on
16 the floor, and there was actually a receipt for
17 that -- for January 6th found in, I believe it
18 was in the side pocket of one of the doors that
19 was recovered.

20 Q. And do you recall from where that receipt
21 originated?

22 A. From the SuperAmerica in Brooklyn Center.

23 MR. WEBER: Your Honor, may I approach?

24 THE COURT: You may.

25

1 BY MR. WEBER:

2 Q. I'm showing you what I have marked for
3 identification as Exhibit 153. Do you recognize
4 that?

5 A. Yes, sir.

6 Q. And what is that?

7 A. That's a SuperAmerica receipt from January 6th,
8 timestamp on it says 9:22 p.m.

9 Q. Is that the receipt you recovered from the red
10 Crown Victoria?

11 A. Yes, sir.

12 Q. Is it in substantially the same condition as the
13 time when you recovered it?

14 A. Yes, sir.

15 MR. WEBER: I would offer 153.

16 MR. GOETZ: No objection.

17 THE COURT: It's received.

18 BY MR. WEBER:

19 Q. Now, when you are executing a search warrant or
20 collecting evidence from anyplace, whether it be
21 a car or a home, you take a broad or narrow
22 approach to collecting evidence?

23 A. You want to go broad rather than narrow for sure.

24 Q. Why is that?

25 A. Because you can -- you can't get harm by getting

1 more evidence. If you were to release the car
2 and then you realize later you should have taken
3 the floor mats or you should have grabbed those
4 boots, now it's too late, so you take what you
5 can at the time of the search warrant so --
6 because at the time of the search warrant you
7 don't know what will become of evidentiary value.

8 Q. And what was it about the floor mats that
9 directed your attention?

10 A. Just that because of the scene from the Seward
11 Market, it was thought that it's possible that
12 there was blood evidence that might, or DNA that
13 might have come from the -- transferred from the
14 actual scene to the car.

15 Q. Was there anything you saw in the car that led
16 you to believe that it was blood or what forensic
17 scientists would call BLS or blood-like
18 substance?

19 A. Yes.

20 Q. Did you direct the collection of that?

21 A. Yes, sir.

22 Q. And do you know whether or not that actually was
23 blood?

24 A. I was told it --

25 MR. GOETZ: Objection, hearsay, Your

1 Honor.

2 THE COURT: Sustained.

3 BY MR. WEBER:

4 Q. Let's go back to the receipt. Based on the
5 receipt from the SuperAmerica in Brooklyn Center,
6 what did you do?

7 A. We went to that store, the SuperAmerica store,
8 it's off of 252, and spoke -- asked the manager
9 there to show us the video from that day. We
10 were able to -- viewing that video, we were able
11 to see a red Crown Victoria pull into the parking
12 lot and Amir Farah exited the car and made a
13 purchase inside of the store.

14 MR. WEBER: Your Honor, may I approach?

15 THE COURT: You may.

16 MR. WEBER: If I may just have a
17 moment, Your Honor?

18 MR. WEBER: The Exhibits 145, 146, 147
19 and 148 have already been received into evidence.

20 I would ask permission to publish those
21 at this time.

22 THE COURT: You may.

23 BY MR. WEBER:

24 Q. If you look over your shoulder, this is Exhibit
25 145. It's been received into evidence. Can you

1 tell us what we're seeing here?

2 A. In the middle you can see a -- it's a dark
3 colored car, in the video you can see that it's a
4 Crown Victoria.

5 Q. And would you note the surveillance camera time?

6 A. The timestamp on the camera date is 1/6/10 and
7 the timestamp is 9:22 and 3 seconds.

8 Q. Exhibit 146?

9 A. The car has moved further into the parking lot,
10 it's time stamped at January 6, 2010, 9:22 and 8
11 seconds in the p.m.

12 Q. And Exhibit 289?

13 A. 289, I recognize as Amir Farah. He has exited
14 the red Crown Victoria and is about to enter the
15 SuperAmerica store. Again, the date is 1/6/10
16 and its time is 9:22:13 p.m.

17 Q. You also asked that latent fingerprint testing be
18 done on the car; is that right?

19 A. Yes, sir.

20 Q. And to whom did you ask the latent fingerprints
21 be prepared?

22 A. Mahdi Ali, Ahmed Shire Ali and Amir Farah.

23 Q. And why those individuals?

24 A. We knew -- just to, it's part of the broad
25 investigation, more so to identify, verify that

1 they were inside of the car possibly through
2 fingerprint analysis.

3 Q. And did you later ask that the forensic
4 scientists perform tests on the vehicle's
5 lighting?

6 A. Yes.

7 Q. And at what point did you direct that Ahmed Ali
8 be arrested?

9 A. It was after we saw the video evidence from
10 SuperAmerica, impound lot, and at that time we
11 believed that Ahmed Shire Ali was the -- one of
12 the suspects from the Seward Market robbery, so
13 we told -- told our VCAT unit or our team that
14 goes out and arrests people to attempt to locate
15 Ahmed Shire Ali and arrest him, bring him to us
16 as soon as he's found.

17 Q. Just to step back a minute. You also received
18 information, another citizen tip, for lack of a
19 better word, related to a money transfer
20 business; is that right?

21 A. Yes, sir.

22 Q. What was the nature of that tip?

23 A. The -- this gentleman who identified himself said
24 that he -- he was alerted to a couple of
25 suspicious males that were in his store on the

1 same night as the robbery and shootings at the
2 Seward Market. This male told me that he has
3 video, he's got a surveillance video of these
4 guys. He said they had their hoods up and their
5 hands in their pocket, they were acting really
6 suspicious, and this all came about an hour
7 before the actual shootings at the Seward Market.

8 Q. And did you obtain that video?

9 A. Yes, sir.

10 Q. You observed it?

11 A. Yes.

12 Q. Did the timing of that video seem to fit with
13 what you had already learned in terms of where
14 the individuals were on the day of January 6th?

15 A. Yes. The video was about 6:30 and that is the
16 time that, both the time Abdi Ali and Mahdi Ali
17 had said that they were in that area -- and that
18 area, sorry about that, being Nicollet and
19 Franklin Avenue.

20 Q. Did you speak with Abdisalan Ali again?

21 A. Yes, sir.

22 Q. How many occasions, would you say?

23 A. I think in total we talked to him four times.

24 Q. Did he take you around the various locations they
25 had been that day?

1 A. Yes, sir.

2 Q. You also took a statement from Mahdi Ali; is that
3 right?

4 A. Yes, sir.

5 Q. And we'll get into specifics of his statements at
6 a different time, but what did you learn from
7 what he had said that matched what you knew at
8 that point?

9 A. He also said that he was using his friend Amir
10 Farah's red Crown Victoria. He said that he
11 picked up his other friend, Ahmed Shire Ali and
12 Ahmed's little cousin, Abdi Ali from school.
13 Mahdi said that after, I believe he said that
14 they had gone to the impound lot to try to get
15 his car out. He didn't have enough money to get
16 the car out, and so they went to the SuperAmerica
17 to put gas in the car. Mahdi said that Ahmed had
18 gone into the store, or into the SuperAmerica to
19 pay for the gas. After the SuperAmerica he said
20 that they drove down to Franklin and Nicollet
21 Avenue South where he said they stepped out of
22 the Crown Victoria leaving Abdi inside of the
23 car. He and Ahmed stepped out, Ahmed had walked
24 away is what Mahdi had told us, he thought maybe
25 to get something to drink at the Starbucks. And

1 once Ahmed came back, they got back into the
2 Crown Victoria and they took Abdi home.

3 Q. Did you learn at some point that Ahmed had turned
4 himself into authorities?

5 A. Yes, sir.

6 Q. And on the day that he turned himself into
7 authorities, did you attempt to talk with him?

8 A. We did.

9 Q. Did he talk to you that day?

10 A. No, sir.

11 Q. And were you involved in negotiating with the
12 prosecution and Ahmed's attorney?

13 A. Yes, sir.

14 Q. Prior to Ahmed giving a statement, what
15 information did you give either him or his
16 attorney that you already knew about either the
17 Seward Market homicides or the investigation at
18 that point?

19 A. We didn't give him any information except for, I
20 believe they had given a photograph of Ahmed in
21 the SuperAmerica.

22 Q. And during the interview with Ahmed, did he
23 identify surveillance videos that you showed him?

24 A. He did.

25 Q. And did you again show him video of himself at

1 the SuperAmerica?

2 A. I did.

3 Q. Did he identify himself?

4 A. Yes, he did.

5 Q. Did you show him a video of himself at the
6 impound lot; is that right?

7 A. Yes, sir.

8 Q. Did he identify himself?

9 A. Yes, he did.

10 Q. And you showed him a video of himself at the
11 Seward Market?

12 A. Yes, sir.

13 Q. And he identified himself?

14 A. Yes, he did.

15 Q. Prior to seeing those videos, did you ask him
16 where he had been that day?

17 A. Yes.

18 Q. And what did he tell you?

19 A. He said that he had been at school. He arranged
20 to be picked up by his friend Mahdi Ali. When
21 Mahdi came to pick them up from school he was
22 driving a red Crown Victoria, his little cousin
23 Abdisalan Ali was with them, they went to a gas
24 station, he didn't know where exactly, to pick up
25 some pop. Mahdi dropped them back off at school

1 so that Mahdi could pick up the owner of the red
2 Crown Victoria and take him to work. A short
3 time later Mahdi came and picked them up from
4 school at the VOA and they went to the Coat
5 Factory in North Minneapolis. After the Coat
6 Factory they went to the impound lot and -- where
7 Mahdi tried to get -- he had another car in the
8 impound, it was a Caprice. Mahdi apparently
9 needed \$360 to get the car out, it was only \$180
10 was what he had on him, so they weren't able to
11 get that car out. After leaving the impound lot,
12 Ahmed says that he fell asleep. When he woke up
13 they were at a gas station. He believes that
14 they were in St. Paul at the time and that they
15 put gas in the car. After leaving that gas
16 station, he said they went down to Franklin and
17 Nicollet Avenue South in South Minneapolis where
18 him and Mahdi went into the check cashing
19 business with the intention of robbing the store,
20 or that business. Ahmed said there were too many
21 people. He didn't comfortable; he didn't want to
22 do it. He said he was scared. So they left
23 there. Once they left that store, they went back
24 to the car where Abdi was still in the car and
25 they took Abdi home. After dropping Abdi off at

1 home, he said that he and Mahdi drove back
2 towards where Mahdi lives, over at the Seward
3 Towers. He said that they sat there for awhile.
4 And Mahdi said that he wanted Ahmed to help him
5 with a mission. Ahmed wanted to know what did he
6 mean by a mission. He said, I know this place,
7 it's a money wiring place, there is a lot of
8 money, you just help me, if you help me out
9 you'll get that car, we'll get that car out of
10 the impound lot, so help me. Ahmed says that
11 he'll do it. This is what Ahmed is telling us.
12 He, at this point they go to the Seward Market.
13 Once there he says that Mahdi gives him a mask to
14 put on and he says that Mahdi has a mask on his
15 face, he called it a light blue bandana. He said
16 that Mahdi had a gun. And when they went into
17 the store, he was told to go to the back of the
18 store and keep control of the customers, don't
19 let them make any phone calls.

20 MR. GOETZ: Your Honor, I object.

21 Narrative.

22 THE COURT: It is. And, actually,
23 members of the jury, this is a good time to take
24 our break for the day. We'll reassume at 9
25 o'clock tomorrow.

1 (Jurors leave the courtroom.)

2 THE COURT: Mr. Goetz.

3 We are outside the hearing of the jury.

4 MR. GOETZ: Yes, Your Honor. This is
5 the defendant's motion for a mistrial. The
6 record should reflect, and I believe that the
7 record was captured to some extent, but during
8 the testimony of Sgt. Kjos, at one point she
9 testified something to the effect that they went
10 into the store with the intent on robbing the
11 store and killing three people. This is an
12 experienced officer. That was not a -- it's our
13 position that she interjected clearly
14 inadmissible testimony in front of the jury.
15 It's inadmissible under 602 because she didn't
16 have personal knowledge.

17 Also, Your Honor, the prejudicial effect
18 of that, her speculative statement about intent
19 far outweighed any, if any probative value it
20 had. So under 602.403, also Mr. Ali's right to
21 due process and a fair trial, the defense moves
22 for a mistrial and would again make a motion for
23 a mistrial.

24 THE COURT: At the time the Court gave a
25 limiting instruction to the jury to disregard any

1 statements by the witness regarding state of mind
2 of other people, and I think that's sufficient to
3 cure any prejudice that may have been caused by
4 that. I don't think the detective was intending
5 to prejudice the defendant or cause a mistrial or
6 otherwise introduce inadmissible, that was the
7 conclusion she drew from watching the videotape
8 and talking to Ahmed Ali, and I think she
9 inadvertently stated it as one of her
10 conclusions. It would have been better if she
11 had not, but I think the limiting instruction
12 cures any prejudice to the defendant.

13 All right. 9 o'clock tomorrow.

14 MR. GOETZ: Thank you, Your Honor.

15 (Court in recess until the following
16 day, September 20, 2011.)
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