

1 THE COURT: All right. The Rule has been
2 invoked. That means that you cannot discuss the case
3 with each other or with anybody else while you are
4 sitting out there. Only discuss the case with the
5 lawyers in this case. And one of you will stay here and
6 testify. The others of you will be out in the hall.
7 Please inform the other witnesses they cannot talk about
8 this case while they are sitting out there.

9 Call your first witness.

10 MR. RAMIREZ: Ernest Aguilera.

11 **ERNEST AGUILERA,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 **BY MR. RAMIREZ:**

15 Q. Would you introduce yourself to the jury,
16 please?

17 A. My name is Ernest Aguilera. I'm a Houston
18 police officer assigned to the Identification Division.

19 Q. Now, is it Officer Aguilera?

20 A. Yes, it is.

21 Q. You are wearing a special type of uniform; is
22 that right?

23 A. Yes.

24 Q. What type of uniform are you wearing?

25 A. All the Crime Scene Units in the Houston Police

1 Department wear a different type of uniform. This
2 uniform is more flexible to get under houses and attics.
3 So, we get it dirty, it's able to be cleaned. So, it's
4 more flexible and more identified as a Crime Scene Unit.

5 Q. How long have you been crime scene
6 investigator?

7 A. This August will be 13 years.

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

9 A. I'm approaching my 17th year with the city.

10 Q. All right. So, 17 years ago you went through
11 the police academy; is that correct?

12 A. Yes, that's correct.

13 Q. What generally did that entail, your training
14 with the academy?

15 A. The academy entailed from Penal Code laws,
16 traffic laws, report writing, arrests. It's from an
17 array of topics to prepare you to go onto the streets.

18 Q. And upon completion of the coursework at the
19 police academy, did you then become a patrol officer?

20 A. Yes. You're on a probationary status for six
21 months after you -- after you graduate from academy,
22 you're on probation for six months. During those six
23 months you're in training with a senior officer, again,
24 for report writing, your tactics. And after those six
25 months, you're -- you're evaluated whether you're able

1 to get off probation or not.

2 Q. All right. Upon completing that probationary
3 period, where were you assigned within the department?

4 A. I -- I trained at Northeast Station, the
5 northeast side of town and I continued my -- my patrol
6 duties at that same station.

7 Q. At some point did you have a desire to try to
8 become a crime scene investigator?

9 A. Yes, I did.

10 Q. How did you go about fulfilling that desire?

11 A. Well, I -- I think I -- that I had it in me to
12 solve more crimes, bigger crimes. And I had heard of
13 the Crime Scene Unit during the academy. So, I applied.
14 And while waiting to get called, I had gone through
15 additional training that is offered at our police
16 academy.

17 Q. Okay. And you were then transferred to the
18 Crime Scene Division within the Homicide Division; is
19 that right?

20 A. Yes.

21 Q. Did you have on-the-job training at that point?

22 A. Yes, I did.

23 Q. Over the course of your 13 years as a crime
24 scene investigator, have you had the occasion to
25 investigate many crime scenes?

1 A. Yes, I have.

2 Q. Is that what your assignment was back in April
3 of 2009?

4 A. Yes, it was.

5 Q. Were you assigned to work a shooting scene on
6 the early morning of April 8th, 2009 at 2033 Mangum?

7 A. Yes, I was.

8 Q. What shift were you working back then?

9 A. I worked the nightshift, which is -- there are
10 two different hours which are nights, but the only
11 difference is one hour. Back then, I was working
12 11:00 p.m. to 7:00 a.m.

13 Q. How did you get assigned to work this
14 particular scene?

15 A. We are on a rotation. So, the -- the -- the
16 officer had a call previously, so the next officer is
17 up. So, we're on rotation. So, I was up in the
18 rotation for getting the call.

19 Q. Upon receiving the assignment, was it your
20 understanding that a person had been shot at this
21 location?

22 A. Yes.

23 Q. And were you to conduct your investigation in
24 conjunction with other police officers?

25 A. Yes.

1 Q. Who else were you working with that night, if
2 you recall?

3 A. Yes. Upon my arrival, I met with Officer
4 Brauner. He is a patrol officer. A short time later
5 after I arrived, I met with Homicide Investigators
6 Chavez and Carillo.

7 Q. Before we go any further, can you tell the jury
8 whether the address of this shooting scene at 2033
9 Mangum is an address within the limits of Harris County,
10 Texas?

11 A. Yes, it is.

12 Q. When you arrive at a scene, do you talk to the
13 patrol officers on the scene?

14 A. Yes, I do.

15 Q. Why do you do that?

16 A. To -- to get additional information about the
17 scene, to find out where the scene is located, where the
18 in and outs of that scene are, get more information.

19 Q. So that you can direct your investigative
20 skills where they need to go; is that right?

21 A. Yes, that's correct.

22 Q. And when you arrived on the scene, were you
23 directed to where the shooting scene was?

24 A. Yes, I was.

25 Q. What did you find the location to be?

1 A. It was a tattoo shop and it's located in a
2 stripcenter.

3 Q. That stripcenter carries an address on Mangum;
4 is that right?

5 A. Yes, it does.

6 Q. Can you briefly tell the jury, for those who
7 may not know where Mangum is or that part of Mangum is
8 within the city of Houston?

9 A. It's -- it's located in the northwest part of
10 town. I believe the -- the closest cross-street is
11 Dacoma, the -- the -- the closest major street around
12 there.

13 Q. Are there highways that are nearby this
14 particular location?

15 A. Yes.

16 Q. What are the main highways nearby?

17 A. There is 290 and 610.

18 Q. Now, you mentioned that you spoke to an Officer
19 Brauner, a patrol officer. Is that right?

20 A. Yes, I did.

21 Q. You also mentioned that you were working
22 with -- did you say Investigator Chavez?

23 A. Yes.

24 Q. Did Investigator Chavez have a partner?

25 A. Yes, he's got a partner.

1 Q. What was his partner's name?

2 A. Carillo.

3 Q. Chavez and Carillo were also assigned to work
4 this; is that right?

5 A. Yes.

6 Q. What was their function as opposed to your
7 function?

8 A. I'm in charge to search for the evidence, the
9 documentation, and the collection of the evidence.
10 Their part is to -- for the interview of witnesses and
11 to document the -- the scene that I'm not responsible
12 for and to document like lighting conditions across the
13 street, stuff like that.

14 Q. Now, do you recall about what time you arrived
15 at the crime scene?

16 A. Yes. I arrived at 2:10 in the morning.

17 Q. When you arrived, were the other Homicide
18 investigators, Chavez and Carillo, present or not?

19 A. No, not yet.

20 Q. Did you have to wait for them to begin your
21 work or did you proceed with your investigative work?

22 A. Yes. I proceeded before they arrived.

23 Q. And tell the jury what you did when you began
24 your investigation.

25 A. When -- when we arrived, we talked to the

1 patrol officer to get the information of where the scene
2 is, what kind of scene do we have. And then from there,
3 we do a walk-through. Now, through the walk-through, we
4 don't move anything or touch anything. We just want to
5 know what is the in and out of the scene, what type of
6 equipment are we going to need, are we going to need
7 additional help. And then from there, after we do our
8 walk-through, then we start processing the scene.

9 Q. When you did the walk-through in the tattoo
10 studio, what did you see that was of importance to you?

11 A. What was obvious is the body was still at the
12 scene along with shell casings around it. That was
13 pretty obvious.

14 Q. There was a body there. Was the body covered
15 in a sheet?

16 A. Yes.

17 Q. During the course of your investigation, are
18 you able to or authorized to handle the body in any way?

19 A. No.

20 Q. Why not?

21 A. The -- the -- the body belongs to the medical
22 examiner's office.

23 Q. And you're not allowed to handle it before they
24 arrive and do their investigation; is that right?

25 A. Yes, that is correct.

1 Q. You mentioned in addition to the body you also
2 saw some firearms evidence. Is that right?

3 A. Yes.

4 Q. Okay. After doing the walk-through and
5 understanding the way the scene was laid out, what did
6 you do at that point?

7 A. I -- I did my search, started from the outside
8 of the shop and then worked my way in. As evidence is
9 being located, I put evidence markers with number one,
10 number two, and so on. That doesn't mean that that's
11 how the shooting occurred, just how I'm locating
12 evidence.

13 Q. So, you mark the evidence with sequential
14 numbers; is that right?

15 A. That's right.

16 Q. For instance, you might put 1 with a casing and
17 No. 2 with another casing?

18 A. Yes.

19 Q. Is it your testimony that that doesn't mean 1
20 came before 2, that's just the order in which you
21 document the scene; is that correct?

22 A. Yes, that's correct.

23 Q. After marking all the evidence with markers,
24 what did you do as part of your investigation?

25 A. After that -- after everything is located from

1 the ground up to the shell casings, then I look at the
2 walls and see if there are any bullet holes or strikes
3 and then we go from there to document with letters to
4 identify. Being the letter is what's on the walls and
5 all the numbers is what's on the floor. And then we --
6 to mark those.

7 Q. All right. Did you find evidence of bullet
8 strikes and bullet holes within the walls and fixtures
9 there in the tattoo parlor?

10 A. Yes.

11 Q. After marking and documenting the bullet holes
12 and strikes, what did you do?

13 A. The documentation continues by the use of
14 photography, video, sketch, measurements, and we go
15 through that process.

16 Q. Everything is measured; is that right?

17 A. Yes.

18 Q. Do you prepare a diagram at that time or later?

19 A. A finished diagram is prepared later. What I
20 do is just a rough sketch of the scene and I go back
21 to -- to the office and then a final sketch is prepared
22 at a later date.

23 Q. Do you photograph the scene?

24 A. Yes, I do.

25 Q. Did you videotape the scene?

1 A. Yes.

2 Q. Did you eventually recover those items that you
3 marked, the firearms evidence?

4 A. Yes, I did.

5 Q. And at what point in your investigation did you
6 do that?

7 A. The recovery is pretty much the end of -- of --
8 after you photograph your video, you do your sketch and
9 your measurements, after all that's been documented then
10 the last part is the collection part. So, at that point
11 all of the evidence is collected.

12 Q. All right. Now, at some point during your
13 investigation did an investigator with the medical
14 examiner's office arrive?

15 A. Yes.

16 Q. At that point, did the investigator with the
17 M.E.'s office move the body?

18 A. Yes.

19 Q. Was anything found underneath the body?

20 A. Yes.

21 Q. What was that?

22 A. There was a fired bullet under the body.

23 Q. Okay. And when the sheet was removed from the
24 body, were you able to tell if there were any obvious
25 wounds to the body?

1 A. Yes.

2 Q. What wounds did you see?

3 A. What appeared to be gunshot wounds on the body.

4 Q. Now, you mentioned that you had had a very
5 brief conversation with the patrol unit, Officer
6 Brauner; is that right?

7 A. Yes.

8 Q. Was it your understanding that there had been
9 people, witnesses inside the tattoo parlor when the
10 crime had occurred?

11 A. That's my understanding.

12 Q. And when you arrived at the location, were
13 there any people inside the tattoo studio or not?

14 A. No, there were no people inside.

15 Q. When you arrived, had crime scene tape been put
16 up?

17 A. Yes.

18 Q. You mentioned that you arrived at 2:10?

19 A. Yes.

20 Q. Do you have any idea what time the crime had
21 occurred?

22 A. No, I do not.

23 Q. Okay. And do you have any idea how many people
24 had been inside or through that crime scene before you
25 got there to document it?

1 A. No, I don't.

2 Q. Do you recall about what time you finally
3 completed your investigation?

4 A. Yes. I left the scene at approximately 6:40 in
5 the morning.

6 Q. So, if you had arrived at 2:10 and left at
7 6:40, you were there for right at about four-and-a-half
8 hours doing your part of the investigation?

9 A. Yes, that's correct.

10 Q. Now, Officer Aguilera, you mentioned that as
11 part of your investigation you photograph the scene; is
12 that right?

13 A. Yes, I do.

14 Q. I want to show you a series of photographs that
15 have been marked starting with State's Exhibit 201
16 through 262, inclusive. Would you look at these for me
17 (indicating)?

18 A. Yes, sir.

19 (Pause)

20 Q. Have you had a chance to go through all of
21 them?

22 A. Yes, I have.

23 Q. Do you recognize them?

24 A. Yes, I do.

25 Q. Are they photographs you took?

1 A. Yes, they are.

2 Q. Or I should say copies of photographs you took?

3 A. Yes.

4 Q. Do they fairly and accurately depict the way
5 the scene looked when you did your investigation in the
6 Black Widow Tattoo Parlor?

7 A. Yes.

8 MR. RAMIREZ: Move to introduce 201 through
9 262 inclusively. Tender to defense counsel.

10 (State's Exhibit No. 201 through 262
11 Offered)

12 MR. GAISER: Thank you.

13 (Pause)

14 MR. GAISER: I have no objection, Your
15 Honor.

16 THE COURT: Admitted without objection.

17 (State's Exhibit No. 201 through 262
18 Admitted)

19 MR. RAMIREZ: May I publish these to the
20 jury, Your Honor, by showing them on the big screen?

21 THE COURT: You may.

22 Q. (By Mr. Ramirez) I'm showing you what's in
23 evidence as State's 201. Officer Aguilera, would you
24 tell the jury what are we seeing in this photograph
25 (indicating)?

1 A. Yes. We're standing outside of the shop
2 looking into the interior portion of the tattoo shop.

3 Q. All right. Now, this is space typical of what
4 you might find in any stripcenter in town; is that
5 right?

6 A. You're talking about the spacing?

7 Q. The space, yes.

8 A. Yes, yes.

9 Q. Is it fair to characterize that office space or
10 business space there as much longer than it was wide?

11 A. Yes. It goes further back than it does wide,
12 correct.

13 Q. All right. And, in fact, to the left we see
14 another window on the far left there. Was that part of
15 the tattoo shop or another business?

16 A. This part here is another business
17 (indicating).

18 Q. All right. Do we also see in this photograph
19 the crime scene tape that you said had been placed
20 blocking the entrance to the tattoo studio (indicating)?

21 A. Yes, we do.

22 Q. Did you find any items of interest to you
23 outside the front door to the business?

24 A. Yes.

25 Q. Let's look at 202. What is shown in this

1 photograph (indicating)?

2 A. The bottom left of this photograph, there's a
3 No. 1. That No. 1 is marked -- is marking a spent shell
4 casing and it's to the bottom left of our photo.

5 Q. About how far was that casing from the front
6 door to the tattoo studio?

7 A. It was approximately 20 feet, 2 inches from the
8 door.

9 Q. And it is sitting in front of a business
10 adjacent to the tattoo studio; is that right?

11 A. Yes, it is.

12 Q. Now, as a police officer do you typically carry
13 a weapon, Officer Aguilera?

14 A. Yes, I do.

15 Q. What type of weapon do you carry?

16 A. It's a Glock semiautomatic.

17 Q. A semiautomatic pistol?

18 A. Yes.

19 Q. When you fire a semiautomatic pistol in your
20 own experience, is anything ejected from the weapon?

21 A. Yes. A casing is ejected from the gun, from my
22 gun.

23 Q. And in your experience, when casings are
24 ejected from your weapon, when you have fired it in the
25 past, do the casings travel in a -- or land in a

1 predictable pattern or are they likely to land --

2 MR. GAISER: Your Honor, I object to any
3 anecdotal evidence from his experience as irrelevant.
4 He isn't qualified as a ballistics expert.

5 THE COURT: Overruled.

6 Q. (By Mr. Ramirez) In your experience, being a
7 police officer for 17 years, when you fire a
8 semiautomatic pistol, what happens to the casings as
9 they are ejected?

10 A. It ejects to the right and to the back.

11 Q. Okay. And once they strike a hard surface,
12 what happens to the casings?

13 A. It rolls -- it strikes another item. It will
14 roll differently. So, it's not too predictable once it
15 ejects from the weapon.

16 Q. Let's move to State's Exhibit No. 203. What is
17 shown in this photograph?

18 A. That's a close-up of a spent shell casing. The
19 previous picture we saw No. 1, this is what the No. 1
20 marker is marking, that casing there.

21 Q. When you later recovered the item marked No. 1
22 and the other items, did you document the caliber and
23 brand of the particular casing that you recovered?

24 A. Yes, I did.

25 Q. Moving to State's 204. What is shown here

1 (indicating)?

2 A. Still outside of the -- of the tattoo shop. We
3 see a No. 2 at the bottom of our photo. And that's also
4 another spent shell casing.

5 Q. What do you see in the background there?

6 A. As we go into the tattoo shop, we see the body
7 here and we see additional markers inside the shop
8 (indicating).

9 Q. State's 205, is that a close-up view of the
10 casing you marked with No. 2 (indicating)?

11 A. Yes, it is.

12 Q. Looking at State's Exhibit 206 now, what is
13 shown here (indicating)?

14 A. We are standing at the door looking into the
15 shop. And, again, you see the covered body and more
16 evidence markers that are marking evidence.

17 Q. Now, were there places to sit or relax just
18 inside the front door of the business?

19 A. Yes.

20 Q. And, specifically, over on the right side, what
21 did you see that a person or persons may have been able
22 to sit on as they're inside the business?

23 A. You've got sofa type of furniture there. We've
24 got another one to the right of the door. So, there
25 were a couple of pieces of furniture to the right of the

1 door (indicating).

2 Q. Let me see if I can zoom in on -- that's a
3 small couch; is that right (indicating)?

4 A. Yes.

5 Q. And another one you said by the front entrance;
6 is that right?

7 A. Yes.

8 Q. What about over on the left side, what did you
9 see over on the left side?

10 A. This photo shows there's some chairs and a
11 table here. Two of the chairs are turned to the right,
12 which is outward, you know, where a person might go in
13 there and sit down. So, we've got one here and a couple
14 more on the left.

15 Q. All right. And did you find where it was that
16 someone getting a tattoo would have the work done?

17 A. There was a chair with a -- inside an island,
18 which is further back over here, here. And it is my
19 understanding that that's where they get their -- their
20 tattoos done. I've never had a tattoo, so I don't know
21 about the chair and the comfort, stuff like that
22 (indicating).

23 Q. Let's move to State's 207. Where have you
24 positioned yourself here to take this photograph
25 (indicating)?

1 A. We're a little further into the shop. We
2 talked about a couch on the right. And that's a couch
3 there. We talked earlier about a seat. That's the same
4 chair. So, I'm photographing it and I look a little bit
5 further into the shop.

6 Q. What is that just beyond the couch on the right
7 side (indicating)?

8 A. This item here (indicating)?

9 Q. Yes, sir.

10 A. It's an aquarium type of furniture where you
11 can place a fish or an animal in there.

12 Q. Moving to State's 208, what is shown in this
13 photograph (indicating)?

14 A. This is a walkway. You're walking towards the
15 back of the shop. You go back to this wall here and you
16 would have to go to the right and then to the left to
17 continue going into the shop.

18 Q. All right. And in the sort of the left top of
19 this photograph, is there a work of neon art there shown
20 (indicating)?

21 A. Yes.

22 Q. Looking at State's Exhibit No. 209, does this
23 offer a better view of the path that one would take if
24 you were going to the very back of the tattoo parlor
25 (indicating)?

1 A. Yes, it does.

2 Q. And is that a very narrow pathway back there?

3 A. Yes.

4 Q. State's Exhibit No. 210 shows what?

5 A. Going -- once you make that right that I talked
6 about to continue on to the back of the shop, you come
7 to this small room here. And that is being documented.
8 You see in No. 19 here and see another marker down here
9 (indicating).

10 Q. All right. Moving back out towards the front.
11 This is State's Exhibit No. 211. What is shown here
12 (indicating)?

13 A. That is a spent shell casing on the floor just
14 inside the door.

15 Q. And State's Exhibit No. 212?

16 A. That's another spent shell casing that was on
17 the floor.

18 Q. 213 (indicating).

19 A. The photo shows two spent shell casings that
20 were also on the floor.

21 Q. Marked 5 and 6; is that correct?

22 A. Yes, that's correct.

23 Q. What would have been just above Marker No. 6 in
24 this photograph out of view (indicating)?

25 A. The -- you can partially see the -- some white,

1 the white sheet here. So -- so that would be where the
2 body would be located (indicating).

3 Q. This is 213. And does it show casings in close
4 proximity to the body (indicating)?

5 A. Yes.

6 Q. Looking at State's Exhibit No. 214, what is
7 shown here (indicating)?

8 A. The No. 7 is a fired bullet here and the No. 8
9 at the top of the photo was a spent shell casing.

10 Q. Now, are you still moving from front to back
11 here and you're numbering 7 then 8?

12 A. Yes.

13 Q. So, No. 7 would have been closer to the front
14 door; is that correct?

15 A. Yes. Yes, in that area.

16 Q. Moving to State's Exhibit No. 215. Is this the
17 fired bullet that you were mentioning earlier marked by
18 No. 7?

19 A. Yes, it is.

20 Q. State's Exhibit No. 216 shows what, sir
21 (indicating)?

22 A. A No. 8 placard and that was a spent shell
23 casing.

24 Q. And what else is shown?

25 A. The bottom right of our photo shows the sheet

1 where the body was at.

2 Q. Is 217 a close-up view of the casing marked
3 No. 8 (indicating)?

4 A. Yes, it is.

5 Q. 218 shows another casing; is that correct
6 (indicating)?

7 A. Yes, it is.

8 Q. 219, yet another casing (indicating)?

9 A. Yes.

10 Q. 220 is another casing marked 11 (indicating)?

11 A. Yes.

12 Q. 221, another casing marked 12 (indicating)?

13 A. Yes.

14 Q. 222, a casing marked 13 (indicating)?

15 A. Yes.

16 Q. 233, a casing marked 14 (indicating)?

17 A. Yes.

18 Q. All right. And then moving over to the right
19 side of the business looking at State's Exhibit No. 224,
20 what is shown here (indicating)?

21 A. That's the placard No. 15. That's a spent
22 shell casing. We talked earlier about an aquarium.
23 Well, that's just to the left of the aquarium or right
24 past the aquarium.

25 Q. All right. Now, is there a mirror -- is there

1 a mirror shown in this photograph (indicating)?

2 A. Yes, there is.

3 Q. Where are the mirrors in this photograph?

4 A. They are along the wall here (indicating).

5 Q. So, there are actually mirrors on three sides
6 in this little space (indicating)?

7 A. There's one here and here that shows the
8 basketball (indicating).

9 Q. And this is the close-up view of what you
10 marked 15 behind the basketball?

11 A. Yes.

12 Q. This is State's Exhibit No. 225.

13 Looking at 226, what is this (indicating)?

14 A. A spent shell casing.

15 Q. Marked 16?

16 A. Yes, that's correct.

17 Q. State's Exhibit 227, what is this (indicating)?

18 A. Another spent shell casing.

19 Q. Marked No. 17?

20 A. Yes, Evidence Marker 17.

21 Q. 228, State's Exhibit, shows what (indicating)?

22 A. Evidence marker No. 18 shows a fired bullet.

23 Q. State's Exhibit No. 229 (indicating)?

24 A. Evidence Marker No. 19 was a fired bullet.

25 Q. Moving to State's Exhibit No. 230. What do we

1 see here (indicating)?

2 A. I talked about an -- an island earlier. This
3 is the island here, all this area here. And there was a
4 chair right in the middle of the island (indicating).

5 Q. Is there a toy or decorative car in the
6 foreground of this picture?

7 A. Yes, there is.

8 Q. Did you find that it had been apparently struck
9 by anything?

10 A. Yes. There's a -- what appears to be a bullet
11 hole and I marked that as No. A.

12 Q. Let me zoom in on that. Here you've drawn an A
13 with the arrow pointing to the hole (indicating)?

14 A. Yes.

15 Q. Moving backward -- forward, I should say,
16 towards the back, State's Exhibit No. 231 shows what
17 (indicating)?

18 A. This is the back wall of that island. So,
19 we're standing looking at this wall. Right behind us
20 would be that chair in the middle of the island. This
21 wall here had bullet holes (indicating).

22 Q. All right. And up at the top, you can just
23 make out the bottom of it, was there a television
24 attached to the wall (indicating)?

25 A. Yes. You can see the corners of the television

1 here (indicating).

2 Q. Looking at State's Exhibit No. 232, what is
3 shown here (indicating)?

4 A. We're looking at that same wall where the TV
5 was at, but there was a bullet hole right below the
6 television on the wall.

7 Q. Now, earlier we looked at the toy car and you
8 had marked a hole, bullet hole A. Have you marked this
9 particular hole -- and I'll move to the next exhibit so
10 we can see it better, State's Exhibit No. 233. You have
11 marked this in a similar way; is that right
12 (indicating)?

13 A. Yes.

14 Q. Did you designate it A-2?

15 A. Yes.

16 Q. Why did you give it that designation?

17 A. We used a laser and we try to match up the
18 bullet holes. It's a continuation. In this particular
19 case, I was able to match it up. I shined a laser
20 through the car and it struck the wall and there was a
21 bullet hole in that wall. And so, that was matched up
22 to the original impact of that little small car and it
23 struck here. So, that's why it's still No. A.

24 Q. Let me ask you, was there an A one, or did you
25 go from A to A-2?

1 A. From -- once -- the initial impact will be A.
2 The exit of that impact would be 1. And then if it
3 struck something else, it would be A-2. So, it's just a
4 continuation.

5 Q. So, are you saying on the little toy car that
6 we saw there would have been an A-1 on the other end of
7 it where the bullet came out?

8 A. Yes.

9 Q. Looking at State's Exhibit No. 234, what does
10 this show (indicating)?

11 A. That is a bullet strike along the right wall by
12 the -- if you're looking -- in the island, looking
13 towards the back of the shop, it's going to be the wall
14 on the right side. There was another impact there.

15 Q. Moving to State's Exhibit No. 235. What is
16 shown here (indicating)?

17 A. The same impact. It's going to be right here
18 on the right side of that wall (indicating).

19 Q. And 236, what is shown in this photograph
20 (indicating)?

21 A. We have a -- the overall photo and what's on
22 top of the counter. There were two electrical devices,
23 a VCR type of device, and there was some impacts on that
24 device.

25 Q. And are they shown more closely in State's

1 Exhibit No. 237 (indicating)?

2 A. Yes. The top portion, I labeled that as No. C.
3 That's the top part here. And then the -- there was
4 a -- an entry here and an exit and that was labeled with
5 No. D and it continued on.

6 Q. And let me zoom in. The entry that you're
7 talking about, is that shown there (indicating)?

8 A. Yes.

9 Q. And the exit (indicating)?

10 A. Yes. It's on this side here (indicating).

11 Q. Okay. On the other side, not shown in this
12 photograph.

13 Let me show you State's Exhibit No. 238.
14 What do you see here (indicating)?

15 A. The previous picture had a D and D-1. And that
16 continued on -- it struck the chair and it continued on
17 pass the chair. So, this is a strike. So, in other
18 words, it's coming towards us.

19 Q. Okay. Now, looking at this photograph, is D-3
20 an exit or entrance, can you tell (indicating)?

21 A. That was an exit. The top part -- the top part
22 of our photo is the front door area and that VCR that I
23 talked about. So, it was coming towards us and it
24 continued on.

25 Q. All right. So, as you're taking this

1 photograph, you're oriented looking towards the front
2 more or less, the front of the business?

3 A. Yes, that's correct.

4 Q. Is there some writing on this chair
5 (indicating)?

6 A. Yes, there is.

7 Q. Does it appear to say: TAT SOUL?

8 A. Yes.

9 Q. State's Exhibit No. 239 shows what
10 (indicating)?

11 A. That shows the backside of that chair. And I
12 put a D-2 on it here. And it entered the chair and it
13 continued on.

14 Q. State's Exhibit No. 240 shows what, sir
15 (indicating)?

16 A. Shows the overall of that chair and what's
17 around it. You can also see the No. 17 marker there
18 (indicating).

19 Q. Okay. Did any bullets strike the glass
20 surrounding the island in this photograph?

21 A. Yes. You can see the glass breakage here at
22 the bottom of the counter on the glass side.

23 Q. Does State's Exhibit No. 241 show a close-up of
24 that (indicating)?

25 A. Yes, it does. And I labeled that as No. E.

1 Q. Looking at State's Exhibit No. 242, what is
2 shown here (indicating)?

3 A. Previous pictures we saw a neon type of wall
4 with a dog. Well, in that wall there at the bottom
5 right was another bullet strike -- bullet hole. I
6 labeled that as No. G.

7 Q. Is that bottom right or bottom left?

8 A. The bottom left.

9 Q. Labeled G.

10 State's Exhibit No. 243, does this show a
11 portion of that same piece of art (indicating)?

12 A. It shows the same wall, but this particular
13 photo has the number H and it's at the bottom portion of
14 that same wall.

15 Q. 244 shows what, sir (indicating)?

16 A. There was another strike here on the glass, the
17 bottom part of the counter toward the back of the
18 counter, and that was labeled with a No. J.

19 Q. Letter J?

20 A. Yes.

21 Q. Moving to State's Exhibit No. 245, what is
22 shown here (indicating)?

23 A. I talked about the wall with the neon letter --
24 the neon on it with the dog. Well, that wall had
25 another bullet strike at the bottom right of that wall

1 and that was labeled with No. I.

2 Q. And State's Exhibit No. 246 shows what?

3 A. Along the edge of that same wall, there was
4 another bullet strike and that was labeled as No. K.

5 Q. State's Exhibit No. 247 (indicating)?

6 A. We talked about the letter J a few minutes ago.
7 And that's the bottom of the counter, the glass area
8 towards the back of the island (indicating).

9 Q. State's Exhibit No. 248?

10 A. Going past the island and past that wall with
11 the neon on it was a room to our right where the door
12 frame of that room had a strike on it and that was
13 labeled with No. L.

14 Q. Looking at State's Exhibit No. 249, does this
15 show the inside of a portion of that room off to the
16 right (indicating)?

17 A. Yes, it does. As we travel this way, we'll be
18 going towards the front of the business. And this here
19 is the small room and it's got a mirror and it's shining
20 back, but that's No. 18 that was on the floor
21 (indicating).

22 Q. Right there (indicating)?

23 A. That's correct. It was a fired bullet.

24 Q. Fired bullet.

25 Looking at State's Exhibit No. 250, what is

1 shown here (indicating)?

2 A. Towards the front of that counter, closer to
3 the door was another strike. So, we talked about the
4 car with the bullet hole. Well, below that, the counter
5 had a strike in the wooden area (indicating).

6 Q. Is that a close-up view of the bullet strike
7 (indicating)?

8 A. Yes.

9 Q. Again, did you give this a letter label?

10 A. Yes, No. O.

11 Q. Okay. State's Exhibit No. 251 shows what
12 (indicating)?

13 A. If we walk back towards the back of the shop,
14 we see this room here that appeared to be a storage room
15 and that had half a door, the bottom half. At the
16 bottom of that half door were some bullet strikes.

17 Q. Okay. And, again, this is a very narrow
18 passageway, is it not?

19 A. Yes, it is.

20 Q. And as you've pointed out, at the bottom of
21 that door at the end of this little hallway you found
22 some bullet strikes; is that right?

23 A. Yes.

24 Q. Looking at State's Exhibit 252, is that a
25 close-up of the bullet strikes (indicating)?

1 A. Yes, it is.

2 Q. Do all of these bullet strikes that we've
3 been -- you've been describing appear to have been made
4 by bullets traveling from the front of the shop towards
5 the back of the shop roughly?

6 A. Yes.

7 Q. What does State's Exhibit No. 253 show
8 (indicating)?

9 A. This is a close-up to the door and what is
10 inside. You can see an M and N at the bottom of the
11 door and they continue on into the room. And beyond
12 that was a freezer. Those two bullets struck the
13 freezer there (indicating).

14 Q. Okay. The thing I'll ask about in this
15 photograph, State's Exhibit No. 253, does this appear to
16 be an unfinished half of a door (indicating)?

17 A. Yes.

18 Q. Did there appear to have been some remodeling
19 going on in at least a portion of this business space?

20 A. I don't remember.

21 Q. Okay. State's Exhibit No. 254 shows what
22 (indicating)?

23 A. It's a closer view of those two impacts that
24 initiated or that struck the door and continued on into
25 the room. That one in the freezer was marked with M-2.

1 There was one to the right of this and that was marked
2 with N-4.

3 Q. And N-4, does it appear that bullet penetrated
4 the freezer or not?

5 A. Yes.

6 Q. Looking at State's Exhibit No. 255, what is
7 shown here (indicating)?

8 A. We are looking at what's behind the wall that
9 has the neon on it with the dog. Well, behind that wall
10 is kind of a raised type of platform that had the walls
11 around it. In order to get to this -- this little area,
12 you would need to go through that small hallway and make
13 a "U" and then you're into this little area here
14 (indicating).

15 Q. So, upon getting through that narrow hallway
16 would you take a left or a right to get to this area
17 (indicating)?

18 A. You'd take a left.

19 Q. Take a left?

20 A. So, if you're walking back towards the rear of
21 the shop, you make a left and you go around and then
22 there are the stairs to get up to this platform here
23 (indicating).

24 Q. All right. And your position, when you're
25 taking this photograph, are you facing towards the front

1 of the business or the back of the business?

2 A. Facing towards the front of the business. So,
3 the front door would be beyond these walls here
4 (indicating).

5 Q. And are there various items in this photograph?

6 A. I didn't understand your question.

7 Q. Are there various items in this photograph?

8 A. Yes, there are.

9 Q. Okay. Off to the right-hand side, do there
10 appear to be a few board games?

11 A. Yes.

12 Q. What is shown here in the bottom left-hand
13 corner (indicating)?

14 A. It's a copier type of machine.

15 Q. Is there a ladder shown in this photograph as
16 well?

17 A. Yes, there is.

18 Q. Could you tell whether or not any of the
19 ceiling tiles appeared to have been moved?

20 A. Some tiles were moved. You can see a partial
21 tile here. It's off to the right or away from its drop
22 there. So, it's opened (indicating).

23 Q. And does it appear that the ladder was directly
24 beneath this ceiling tile that had been moved?

25 A. It -- it was pretty much close to it.

1 Q. Now, this area with the copier and board games,
2 this whole area we're looking at, was it your testimony
3 that it appeared to be raised off the floor a short way
4 (indicating)?

5 A. Yes, it was raised off the floor.

6 Q. And looking at 256, does this show the area
7 behind the island that you had described earlier
8 (indicating)?

9 A. Yes.

10 Q. All right. I'm going to jump ahead to State's
11 Exhibit No. 259. And can you tell us what is shown here
12 (indicating)?

13 A. Yes. The body has been uncovered now. You can
14 see he's got a shirt in between his arms. And it looks
15 like there's what appears to be bullet holes that's
16 obvious.

17 Q. Right there, sir (indicating)?

18 A. Yes.

19 Q. You mentioned that his shirt is underneath him;
20 is that right?

21 A. Yes.

22 Q. Did it appear to you that he had received some
23 medical attention prior to your arrival?

24 A. Yes.

25 Q. And is there -- does it appear something had

1 been placed on the underside of his arm there
2 (indicating)?

3 A. Yes.

4 Q. What was that?

5 A. It looks like a treating pad that the fire
6 department or EMS would put on a person.

7 Q. Could you touch the screen where you're talking
8 about?

9 A. Yes. It's right here (indicating).

10 Q. Was this gentleman wearing gloves?

11 A. Yes.

12 Q. And is that consistent with someone who is
13 doing tattoo work?

14 A. Yes.

15 Q. Did it appear that the shirt had been cut?

16 A. I don't remember.

17 Q. Okay. Is it pretty common to find articles of
18 clothing cut away so that someone can have better
19 access, easier access to try to give them medical
20 attention?

21 A. Yes.

22 Q. And this gentleman had a number of tattoos on
23 his body, did he not?

24 A. Yes.

25 Q. And is that consistent with someone who is

1 doing work in a tattoo parlor and likes tattoos?

2 A. I've seen that, that a person has tattoos and
3 works for a tattoo place.

4 Q. Looking at State's Exhibit No. 260, what is
5 shown here (indicating)?

6 A. Once the body was turned over onto the -- the
7 bag there, the sheet, there was a fired bullet under the
8 body.

9 Q. Is that shown more closely in State's Exhibit
10 No. 261 (indicating)?

11 A. Yes.

12 Q. Moving back to 260. When the body of this
13 gentleman was turned over, did you see additional
14 evidence of gunshot wounds on the front of him
15 (indicating)?

16 A. Yes.

17 Q. And is there blood shown there on his abdomen?

18 A. Yes. There's blood here on the side and on
19 top here (indicating).

20 Q. And do we now get a different view of part of
21 the cloth there --

22 A. Yes, there's --

23 Q. -- the shirt he was wearing?

24 A. Yes, sir, there's --

25 MR. GAISER: Objection to whether he was

1 wearing the shirt, Your Honor. Assuming facts not in
2 evidence.

3 MR. RAMIREZ: Well, let me --

4 THE COURT: Sustained.

5 Are we going to argue back and forth or let
6 me rule?

7 Sustained.

8 Q. (By Mr. Ramirez) The shirt that was underneath
9 this gentleman, is that what we're describing and seeing
10 on the screen now (indicating)?

11 A. Yes.

12 Q. Does it appear to have blood on it?

13 A. Yes, it does.

14 Q. All right. Officer Aguilera, you testified
15 that you took measurements and at a later time you did a
16 couple of scene diagrams. Is that right?

17 A. Yes.

18 Q. Let me show you a couple of items that have
19 been marked for identification purposes as State's
20 Exhibit No. 302 and -- going backwards here -- and 301.
21 Do you recognize these items (indicating)?

22 A. Yes, I do recognize them.

23 Q. Are they blowups of the scene diagrams you made
24 later?

25 A. Yes, they are.

1 MR. RAMIREZ: I'll move to introduce
2 State's Exhibit No. 301 and 302 and tender to defense
3 counsel.

4 (State's Exhibit No. 301 and 302 Offered)

5 MR. GAISER: I have no objections.

6 THE COURT: Admitted without objection.

7 (State's Exhibit No. 301 and 302 Admitted)

8 MR. RAMIREZ: Your Honor, may the witness
9 step down so that he can describe what is shown on the
10 diagrams?

11 THE COURT: He may.

12 A. (Witness complies).

13 Q. (By Mr. Ramirez) Officer Aguilera, as we're
14 talking about these diagrams, you'll be facing away from
15 the court reporter. So, if you'll keep your voice up so
16 she will be able to hear you.

17 A. Yes.

18 Q. First look at State's Exhibit No. 301 on this
19 easel. Can you tell the members of the jury what is
20 shown in 301 (indicating)?

21 A. This is a diagram that I created after I left
22 the office. And at a later date, I created this diagram
23 of that scene. A little bit about the scene, this is
24 the front area or the parking lot area of the -- of the
25 shop. And then further down is looking into the shop.

1 You can see the body here, a table, and then we walk
2 down and we're walking into that little narrow space we
3 talked about earlier (indicating).

4 Q. Okay. These items here on the right side, do
5 those correspond to the small couch or chair that you
6 saw in the photographs (indicating)?

7 A. Yes.

8 Q. Is this rectangle the aquarium (indicating)?

9 A. Yes.

10 Q. Is this island area in here (indicating)?

11 A. Yes.

12 Q. With the seat that someone that was having work
13 done would sit in (indicating)?

14 A. Correct.

15 Q. Now, there are numbers on this diagram. What
16 do they correspond to?

17 A. We talked about spent shell casings, fired
18 bullets. Well, for example, there's No. 2 here. That
19 number will represent a spent shell casing. Each number
20 here is so we can refer to this legend and we can know
21 what it was. It goes down the line with the numbering
22 system.

23 Q. All right. So, No. 1, the first casing you
24 found outside the business?

25 A. Yes, correct.

1 Q. Actually, in front of an adjacent business. Is
2 that right?

3 A. Yes.

4 Q. And you have added this writing over here, have
5 you not (indicating)?

6 A. Yes.

7 Q. You put No. 1 spent shell casing, and in
8 parenthesis: 9-millimeter Luger, IWT. Would you tell
9 the jury what that stands for (indicating)?

10 A. The spent shell casings in the back had a
11 stamping, a caliber, a brand. So, we record that to
12 identify that one shell casing. So, each shell casing
13 has the information and that's what I record. So, that
14 No. 1 was a 9-millimeter and that's the brand and so on.

15 Q. Okay. Now, 9-millimeter Luger, is that a
16 reference to the size of the cartridge or bullet that
17 would be fired in a particular type of weapon?

18 A. It's a -- it's going to be a caliber.

19 Q. And you've listed 1 through -- well, actually,
20 1 through 6 being casings. Is that right?

21 A. Yes.

22 Q. And then 8 through 17 being additional casings;
23 is that right?

24 A. Yes.

25 Q. So, total how many 9-millimeter Luger casings

1 did you find?

2 A. So, we can count down. One, two, three, four,
3 five, six, seven, eight, nine, ten, eleven, twelve,
4 thirteen, fourteen, fifteen, sixteen.

5 Q. All the same caliber, 9-millimeter Luger. Is
6 that right?

7 A. Yes.

8 Q. Okay. No. 7 is a fired bullet; is that right?

9 A. Yes, it is.

10 Q. And have you designated where a fired bullet
11 was found right there (indicating)?

12 A. Yes.

13 Q. Where my finger is pointing (indicating)?

14 A. Yes.

15 Q. Is it fair to say that all of the casings --
16 most all of the casings are found in the front part of
17 the business?

18 A. Yes.

19 Q. The casing that is farthest back would No. 17
20 found here even with the island. Is that right
21 (indicating)?

22 A. Yes.

23 Q. And then the next farthest back from the
24 front will be No. 16. Is that right?

25 A. Yes.

1 Q. And everything else is in the front area or
2 outside; is that correct?

3 A. Yes.

4 Q. Okay. Now, we talked about No. 7. 18 and 19
5 represent fired bullets; is that correct?

6 A. Yes.

7 Q. Where are they on the diagram?

8 A. They're in that next room that we talked about.
9 You go down to this small hallway to your right and it
10 was No. 18 and No. 19 (indicating).

11 Q. We saw photographs of a fired bullet that was
12 found underneath the man's body when he was moved.

13 A. Yes.

14 Q. Have you noted that fired bullet on this
15 diagram or not?

16 A. No, I did not.

17 Q. Okay. So, as we review this diagram, we should
18 remember then there was an additional fired bullet found
19 underneath the body that's not marked on the diagram?

20 A. That's correct, yes.

21 Q. Let's now look at State's Exhibit No. 302.
22 This is very similar to 301; is that right (indicating)?

23 A. Yes.

24 Q. What is different about 302, what have you
25 added?

1 A. I talked earlier about using the laser to try
2 to match up the bullet holes. This is what it
3 signifies. See these arrows coming down, that's going
4 to signify the -- the laser or the -- see the bullet,
5 the initial impact of that small car, it goes down and
6 it goes this way. And that's that back wall where it
7 had No. 8 on that. So, that's all this is.

8 The other -- the other bullet that struck
9 that VCR and it went down through the chair and then
10 struck that back wall.

11 Q. All right. So, starting up here with the
12 letter A, this represents the track or trajectory of one
13 fired bullet; is that right (indicating)?

14 A. Yes.

15 Q. Starting here -- what would this be
16 (indicating)?

17 A. D.

18 Q. D. This represents an additional trajectory;
19 is that right?

20 A. Yes.

21 Q. Down here at the bottom, have you done that for
22 a couple more bullets (indicating)?

23 A. Yes. I've done the same thing. There was --
24 over where it started with the initial impact and it
25 goes down the line. For M and N, it's going to be the

1 same way (indicating).

2 Q. Okay. Now, you found 16 spent casings. Did
3 you find 16 spent bullets or not?

4 A. No.

5 Q. So, were you able to recover all of the spent
6 bullets or not?

7 A. No.

8 Q. Okay. Do you know whether any bullets were
9 recovered during the autopsy of the man who was killed
10 in this crime?

11 A. I do not know.

12 Q. What would it have taken, if it was even
13 possible, to recover all of those spent bullets?

14 MR. GAISER: Objection to the speculation,
15 Your Honor.

16 Q. (By Mr. Ramirez) If you know.

17 THE COURT: Sustained.

18 Q. (By Mr. Ramirez) As a crime scene officer,
19 could you have spent additional time and effort
20 recovering other fired bullets?

21 A. Well, we would need to track if it went out --

22 MR. GAISER: Object as nonresponsive, Your
23 Honor.

24 THE COURT: Sustained.

25 Q. (By Mr. Ramirez) Let me ask the question.

1 Could you have done that or not?

2 A. No.

3 Q. All right. And why couldn't you?

4 A. We would need to destroy property. A lot of
5 times, it breaks into pieces, small pieces, which you
6 can't recover.

7 Q. Would you essentially have had to destroy the
8 business?

9 A. Yes.

10 Q. Again, these bottom two trajectories here, do
11 they end at the freezer that we saw in the photograph
12 (indicating)?

13 A. Yes.

14 Q. All right, sir. You can have your seat now.
15 Thank you.

16 A. (Witness complies).

17 THE COURT: Approach the Bench for just a
18 minutes.

19 (At the Bench, on the record)

20 THE COURT: I take it you've got quite a
21 bit to go.

22 MR. RAMIREZ: Probably more than halfway
23 through.

24 MR. GAISER: I'm sorry?

25 MR. RAMIREZ: He's asking did I have quite

1 a bit more to go and I said I'm more than halfway
2 through.

3 THE COURT: I'll break right now.

4 MR. RAMIREZ: All right.

5 (Open court, defendant and jury present)

6 THE COURT: You need to go visit the indoor
7 plumbing, don't you? If you don't, I do. You may go
8 back.

9 (Recess)

10 (Open court, defendant present, no jury)

11 THE COURT: Get the jury out here.

12 (Open Court, jury and defendant present)

13 THE COURT: You may proceed.

14 MR. RAMIREZ: Thank you, Your Honor.

15 Q. (By Mr. Ramirez) Officer Aguilera, when we left
16 we had finished describing the diagrams. Is that
17 correct?

18 A. Yes, that's correct.

19 Q. You mentioned you took a scene video while you
20 were there, right?

21 A. Yes, I did.

22 Q. Let me show you what's been marked for
23 identification purposes as State's Exhibit No. 303.
24 Have you previously watched that (indicating)?

25 A. Yes, I have.

1 Q. Does it contain a video recording of the way
2 the scene looked?

3 A. Yes, it does.

4 Q. Does it fairly and accurately show how the
5 scene looked?

6 A. Yes.

7 Q. And you made it?

8 A. Yes.

9 Q. So, you know the device you were using, the
10 video camera, was working properly?

11 A. Yes, it was.

12 Q. There is no voices or anything like that on
13 this recording, is there?

14 A. There shouldn't be, no, sir.

15 MR. RAMIREZ: Move to introduce State's
16 Exhibit 203.

17 **(State's Exhibit No. 303 Offered)**

18 MR. GAISER: No objection.

19 THE COURT: Admitted without objection.

20 **(State's Exhibit No. 303 Admitted)**

21 MR. RAMIREZ: Your Honor, may I publish it
22 at a later time?

23 THE COURT: You may.

24 Q. (By Mr. Ramirez) You mentioned that one
25 important thing you did while you were there was you

1 recovered the casings and the bullets that we've seen in
2 the photographs that you've described. Is that right?

3 A. Yes.

4 Q. Let me show you a manila bag and ask you if you
5 recognize it (indicating)?

6 A. Yes, I do recognize it.

7 Q. How do you recognize it?

8 A. It has a seal on the back and it has my
9 initials across the tape and it has my name and case
10 number.

11 Q. Is this an evidence bag?

12 A. This is the packaging, the evidence bag that
13 goes in the packaging.

14 Q. All right. Now, we have here items marked
15 State's Exhibit No. 279 through 294 inclusively. Would
16 you look at these for me (indicating).

17 A. (Witness complies).

18 Q. Do you recognize all of these items, 279
19 through 294?

20 A. Yes, I do.

21 Q. What are they?

22 A. Those are the spent shell casings that I
23 recovered from the scene.

24 Q. These are the 16 casings that we've seen in the
25 photographs earlier?

1 A. Yes.

2 Q. How do you recognize these as items you
3 recovered from the scene?

4 A. For example, State's Exhibit No. 279 has the
5 case information, my name, it has the evidence marker
6 placard here, the number. And also the -- I was looking
7 at my report and the information that I put on my
8 report, it matches to the information in the back of the
9 casing.

10 Q. Now, each one of these smaller plastic bags has
11 a unique case number; is that right?

12 A. Yes.

13 Q. Is every case that you work assigned a
14 different number --

15 A. Yes.

16 Q. -- so that you're able to keep them all
17 separate?

18 A. Yes.

19 Q. Does it have printed on here the location that
20 this took place?

21 A. Yes.

22 Q. And the date that you recovered the items?

23 A. Yes.

24 Q. Your name?

25 A. Yes.

1 Q. And your unique payroll number --

2 A. Yes.

3 Q. -- within the department?

4 A. Yes.

5 Q. Now, these items, 279 through 294, inclusive,
6 were they at one time within this manilla evidence bag
7 (indicating)?

8 A. Yes.

9 Q. Okay. Does it appear there has since been work
10 done on them?

11 A. Yes.

12 Q. Okay. Is that why there are additional
13 writings and additional evidence tape on this bag?

14 A. Yes.

15 Q. When you recovered these items from the Black
16 Widow Tattoo Parlor, what did you do with them?

17 A. Once they have been documented, they've been
18 recovered, then I go back to the office to record the
19 stamping, the information in the bag, and then I go and
20 submit it to the property room and it stays there until
21 it goes to another lab.

22 Q. So, from the time you got the items at the
23 Black Widow until the time you put them in the property
24 room, did anybody else handle them or did you keep them
25 in your exclusive care, custody, and control?

1 A. No. I kept them in my control until they were
2 in the property room.

3 Q. And then once you deposit them in the property
4 room under this case number and the evidence bags, do
5 you ever see them again until you come back to trial, to
6 court?

7 A. No.

8 MR. RAMIREZ: Move to introduce State's
9 Exhibits No. 279 through 294, Your Honor, and tender to
10 defense counsel.

11 **(State's Exhibit No. 279 through 294**
12 **Offered)**

13 MR. GAISER: I have no objection, Your
14 Honor.

15 THE COURT: Admitted without objection.

16 **(State's Exhibit No. 279 through 294**
17 **Admitted)**

18 Q. (By Mr. Ramirez) Officer Aguilera, you
19 recovered the fired bullets as well. Is that right?

20 A. Yes, I did.

21 Q. Let me show you another manilla bag and some
22 items marked for identification purposes as State's
23 Exhibit No. 296 through 299, inclusive. Would you look
24 at these items for me (indicating)?

25 A. (Witness complies).

1 Q. Do you recognize those items?

2 A. Yes, I do.

3 Q. How do you recognize them?

4 A. The packaging or the container here, it has my
5 initials across the tape that I sealed it and it's got
6 my information on this label here. The bags -- the
7 interior bag has my original case and information, the
8 evidence marker, or where it was located.

9 Q. Okay. Are these four fired bullets that you
10 recovered from inside the Black Widow?

11 A. Yes.

12 Q. Did you submit them to property as well?

13 A. Yes.

14 Q. Did you follow the same procedures for these
15 items that you followed for the casings? In other
16 words, did you keep them in your care, custody, and
17 control until you dropped them in the property room?

18 A. Yes, I did.

19 Q. All right. One more item I want to show you.
20 That's in a bag marked State's Exhibit 295. Do you
21 recognize this item (indicating)?

22 A. Yes, I do recognize the item.

23 Q. Does it have your initials, name, case number,
24 date, address, and so forth as well?

25 A. Yes, it does.

1 Q. Is this a bullet fragment that was recovered
2 from the Black Widow?

3 A. Yes.

4 MR. RAMIREZ: I'll move to introduce at
5 this time State's Exhibit No. 295 and 296 through 299,
6 inclusive; tender to defense counsel.

7 (State's Exhibit No. 295 through 299
8 Offered)

9 MR. GAISER: Your Honor, may I ask a
10 question on voir dire?

11 THE COURT: You may.

12 VOIR DIRE EXAMINATION

13 BY MR. GAISER:

14 Q. State's Exhibit No. 295, the bullet fragment as
15 opposed to the fired bullets, is that located on your
16 diagram somewhere?

17 A. No, it is not, sir.

18 Q. So, this was found someplace other than those
19 that are marked on your diagram; is that correct?

20 A. That was recovered from another location within
21 the -- the shop. It was from inside that VCR that was
22 struck. It was opened up and that was inside.

23 MR. GAISER: No objections.

24 THE COURT: Admitted without objection.

25 (State's Exhibit No. 295 through 299

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DIRECT EXAMINATION

CONT'D BY MR. RAMIREZ:

Q. Officer Aguilera, did you attempt to lift any fingerprints at the scene?

A. No, I did not.

Q. And can you tell the jury why -- or why not, I should say?

A. Yes. There are things we look for, things that are moved, things that are disturbed. And we didn't see any of that, things that were out of the ordinary. And people had been in and out already prior to my arrival. So, no, I did not fingerprint the location.

Q. Okay. Let me ask you: Did you have any information that any of the perpetrators might have handled any particular object in the shop?

A. No.

Q. Had you received information that the perpetrator had touched this part of the shop or this item, would you have attempted to lift fingerprints on that part of the shop or this item and such?

A. Yes, absolutely.

Q. Okay. But did you have any information to that effect in this case?

A. No, I did not.

1 Q. This location was opened to the public at the
2 time the crime occurred; is that your understanding?

3 A. Yes, it is.

4 Q. With public places and places of business, does
5 that affect whether or not you're able to get good
6 fingerprints or not?

7 A. There's a lot of factors --

8 MR. GAISER: I object to that. He
9 testified he took no latent fingerprints. It's
10 immaterial.

11 THE COURT: Sustained.

12 Q. (By Mr. Ramirez) Well, let me ask you this.
13 Public places, high traffic places such as this one,
14 does that affect whether or not you're able to locate
15 any fingerprints?

16 A. Yes.

17 Q. Okay. What's the effect?

18 A. Well, there's a lot of people touching doors,
19 you know, going in and out, people that sweat, you know,
20 they're -- the -- there may be a fingerprint that's
21 disturbed already. So, there's many factors.
22 Especially if it's a high volume of people going in and
23 out or within time.

24 Q. And did you have any information that a
25 perpetrator had touched anything near the doorway or

1 anything?

2 MR. GAISER: Objection, Your Honor. Asked
3 and answered.

4 THE COURT: Sustained.

5 Q. (By Mr. Ramirez) Let me ask you, Officer
6 Aguilera, did you attempt to see if there was any DNA
7 left or take any DNA swabs at the place?

8 A. No.

9 Q. And why not?

10 A. Same process as fingerprints. You know,
11 there's a lot of traffic going in and out, you know.
12 So, that's the contamination portion, you know, that it
13 gets mixed.

14 Q. Okay. All right. And, again, if you had
15 information that a particular item had been left at the
16 scene by a perpetrator, would you have attempted to swab
17 it for DNA?

18 A. Yes.

19 Q. Did you have any information to that effect in
20 this case?

21 A. No, I did not.

22 Q. Now, the casings and the bullets you did
23 recover, were those submitted for additional testing?

24 A. Once I placed them in the property room, I
25 don't know where they go from there.

1 Q. All right. Thank you, sir.

2 MR. RAMIREZ: I'll pass the witness, Your
3 Honor.

4 THE COURT: All right.

5 MR. GAISER: May I, Judge?

6 THE COURT: You may.

7 **CROSS-EXAMINATION**

8 **BY MR. GAISER:**

9 Q. Officer Aguilera, you doing okay today?

10 A. So far so good, sir. It's been a long day.

11 Q. All right. What time did you get up?

12 A. I haven't been to sleep, sir. I haven't gone
13 to bed.

14 Q. All night long?

15 A. Yes, sir.

16 Q. I'll try to be brief.

17 The -- what information did you have about
18 the scene as you began to collect evidence and document
19 the scene? What information had you been given at that
20 point?

21 A. I was told there was a shooting scene, some
22 suspects had entered the shop, were involved in a
23 shooting, and left. That -- that was the initial
24 information that I received.

25 Q. Was there any indication of how many robbers or

1 shooters came to the tattoo parlor or entered the tattoo
2 parlor?

3 A. No particular number, no, sir.

4 Q. So, as you collected this -- the evidence, you
5 had no idea how many people had been attempting to rob
6 this establishment or how many weapons were involved; is
7 that correct?

8 A. No, I don't know how many -- how many suspects
9 had gone there, how many weapons. No, I do not know.

10 Q. The -- and all the casings that you
11 collected -- just to be on the safe side, describe what
12 you mean by casing as opposed to a bullet.

13 A. Okay. The -- if I can use one of my own that I
14 have here.

15 Q. Absolutely.

16 A. If that's okay.

17 Q. If it's okay with the Judge, it's fine with me.

18 A. Okay. This is a -- live ammunition --

19 MR. GAISER: May he step down and walk in
20 front of the jury?

21 THE COURT: You may.

22 THE WITNESS: Thank you.

23 A. This is live ammunition here. The top part is
24 commonly referred to as a bullet. Once it goes into a
25 gun and it's fired, the bullet top part goes out the

1 barrel to where it's pointed at. And at the same time,
2 the shell, what's left, is ejected. So, if this is no
3 longer there, this is just a casing. Once it's fired,
4 this casing here will eject out of the weapon
5 (indicating).

6 Q. Thank you, Officer.

7 A. (Witness resumes stand).

8 Q. You found, I believe, three different types of
9 casings at the scene; is that correct?

10 A. Three different brands.

11 Q. Three different manufacturers; is that correct?

12 A. Yes, sir.

13 Q. What were those manufacturers?

14 A. I found three -- three 9-millimeter Luger CCI,
15 seven 9-millimeter Lugers IWT, and six 9-millimeter
16 Lugers WIN.

17 Q. And the -- and you described them as Lugers.
18 What do you mean by that?

19 A. That's what the stamping is on the casing in
20 the bag.

21 Q. I take it you're relatively sure these all came
22 from some sort of semi-automatic?

23 A. Yes.

24 Q. Tell the jury why that is.

25 A. First of all, they were ejected and they were

1 on the ground. And the other side is a revolver, a
2 gun -- you've got a semiautomatic and you've got a
3 revolver. Semiautomatic will do what I described just
4 now. When I fire the gun, the bullet goes out and the
5 casing gets ejected. In a revolver, once it's fired,
6 that casing will stay in the gun until you physically go
7 in there and remove it. So, it's going to stay within
8 the gun.

9 Q. All right. So, you're fairly certain or almost
10 positive that all the casings that were found at the
11 scene were ejected from some sort of semi-automatic,
12 correct?

13 A. Yes, I'm certain.

14 Q. There were three different types?

15 A. Same caliber, but three different brands or
16 manufacturers.

17 Q. Okay. Is there a way to tell by looking at the
18 photographs that you have which particular brand of
19 casing was involved with which particular evidence
20 number placard?

21 A. Yes. I have the evidence placard number and
22 what brand it was.

23 Q. So, all of that is on the diagram that's been
24 admitted into evidence for the jury, I take it?

25 A. Yes.

1 Q. Now, orient me from this diagram, if you would,
2 please, where exactly is the television in this diagram,
3 if you could? It might be a little easier with this
4 one. If you would, I'll hold it up and if you could
5 point that out for the jury, please (indicating)?

6 A. The television that was on the wall was along
7 this wall right here (indicating).

8 Q. And where would the tattoo equipment have been
9 in the store?

10 A. There's equipment along this wall here on the
11 counter (indicating).

12 Q. Do you know what they call those things they
13 administer the tattoo ink with?

14 A. No, sir, I do not.

15 Q. One other thing. What is this right here
16 (indicating)?

17 A. That is the chair that we saw inside the
18 island.

19 Q. Right.

20 A. That signifies the chair.

21 Q. All right. I take it if anybody had been
22 firing a revolver as opposed to a semi-automatic weapon
23 at the scene, it would not have left the casings unless
24 the person emptied them out of the cylinder of the
25 weapon; is that correct?

1 A. Unless they stood there to actually remove them
2 and reload it, you know, but other than that, they're
3 going to stay within the gun.

4 Q. I noticed with reference to the bullets in this
5 case, you don't describe the caliber of the bullets. Is
6 there a reason for that?

7 A. Yeah. I don't know the caliber of the bullets.
8 I collect the bullets and I submit them into a property
9 room. At some point, they'll go to the firearms lab and
10 they will analyze the bullet for caliber, et cetera.

11 Q. In the 9-millimeter, are there -- in a
12 9-millimeter caliber, are there different types of
13 bullets? Are some bullets covered with a casing or are
14 some bullets hollowpoint? How were -- were you able to
15 determine about the type of bullets you found at the
16 scene?

17 A. No. I just describe them as bullets and I let
18 the firearms lab describe what type of bullets they
19 were.

20 Q. You didn't know whether they were
21 copper-jacketed or hollowpoint?

22 A. No, I did not.

23 Q. Okay. All right. And after you submit all of
24 the evidence that you collected to the property room,
25 you have nothing further to do with what happens to that

1 evidence, I take it. Is that correct?

2 A. That is correct. Correct, I don't know what
3 happens afterwards.

4 Q. What we see on CSI television isn't really
5 correct; is that -- I mean, you don't go conduct testing
6 on the evidence that you discover at the scene, do you?

7 A. No. Those shows, they distort the job of what
8 we do. See, they -- they portray it as a jack-of-all
9 trades. And that's not what we do. We deal with the
10 documentation, the collection, the submission of
11 evidence.

12 Q. And you have very strict training about how to
13 handle evidence, how to collect evidence, and what to do
14 with that evidence, correct?

15 A. Yes.

16 Q. The scene out here on Mangum Road, did you note
17 any of the other businesses that were there at that
18 scene?

19 A. No. That's not part of my job, sir.

20 Q. Okay. So, if most of those businesses were
21 closed, you wouldn't have noted that?

22 A. No.

23 Q. Your job is just to deal with the scene of the
24 crime, correct?

25 A. Yes, that is correct.

1 MR. GAISER: I'll pass the witness.

2 MR. RAMIREZ: Just a couple of other
3 things.

4 THE COURT: All right.

5 **REDIRECT EXAMINATION**

6 **BY MR. RAMIREZ:**

7 Q. Officer Aguilera, I want to show you a chart
8 that has been marked for identification purposes as
9 State's Exhibit No. 306. Does this chart have a column
10 for State's exhibit numbers and also for the identifiers
11 you gave to each of these items, 1 through 18 -- or 19 I
12 should say represented by the markers we saw in the
13 photographs (indicating)?

14 A. Yes.

15 Q. Okay. Have you checked over this chart to
16 ensure that what is on here at this point is accurate?
17 In other words, that the exhibit numbers correspond to
18 the numbers you gave to the items that you submitted and
19 the location where they were recovered; in other words,
20 the scene of the crime there at the Black Widow?

21 A. Yes, I have.

22 Q. There is one blank next to State's Exhibit
23 No. 297. I want to ask you about that. And I'll show
24 you 297 again. Which of the fired bullets that you
25 described earlier is 297 (indicating)?