

1 call them. Okay?

2 MS. BAILY: Okay.

3 (Open court, defendant and jury present)

4 THE COURT: Okay. Ten-minute break.

5 (Recess)

6 (Open court, defendant and jury present)

7 THE COURT: All right. Be seated.

8 Call your next witness.

9 MS. DEVINE: State calls Jill Dupre.

10 THE COURT: Go ahead.

11 MS. DEVINE: Thank you, Judge.

12 **JILL DUPRE,**

13 having been first duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MS. DEVINE:**

16 Q. Good afternoon, Ms. Dupre.

17 A. Good afternoon.

18 Q. Am I pronouncing that correctly?

19 A. Yes, you are.

20 Q. Ms. Dupre, could you please introduce yourself  
21 to the ladies and gentlemen of the jury?

22 A. Certainly. Good afternoon. My name is Jill  
23 Dupre.

24 Q. And who do you work for?

25 A. I work for the Harris County Sheriff's Office

1 Firearms Laboratory.

2 Q. And what is your assignment?

3 A. My assignment is to analyze submitted evidence  
4 that is related to firearms, whether it's a firearm  
5 itself to analyze it, in addition to any fired  
6 ammunition components that may be submitted for  
7 analysis.

8 Q. And, typically, where does that evidence, be it  
9 firearms or other firearms evidence, come from?

10 A. It comes from various law enforcement agencies.

11 Q. And how long have you been doing firearms  
12 examination?

13 A. I've been a firearms examiner for approximately  
14 13 years now.

15 Q. All with the Harris County Institute of  
16 Forensic Sciences?

17 A. No. Part of my tenure was with the City of  
18 Houston and then the majority of my time has been with  
19 the Harris County Sheriff's Office.

20 Q. What training do you have that qualifies you to  
21 be a firearms examiner?

22 A. My formal education includes a bachelor's  
23 degree in microbiology. In addition to that, I've had  
24 extensive on-the-job training. I was also selected as  
25 one of ten students from across the country to

1 participate in the Bureau of Alcohol, Tobacco and  
2 Firearms National Firearms Examiner Academy. And that's  
3 essentially a one-year training course with the Bureau  
4 of Alcohol, Tobacco and Firearms. It's very intensive.  
5 You do a one-year intensive training with them. It  
6 includes any kind of research, background information,  
7 tours of various ammunition manufacturers, tours of  
8 ammunition manufacturers -- excuse me -- firearms  
9 manufacturers and ammunition manufacturers.

10                   You have experts in the field that come and  
11 do different training courses. You also do a segment  
12 that includes a research project and then you have to  
13 present that research project in front of a panel of  
14 experts.

15           Q.    Have you attended training regarding your  
16 specialized field of firearms examination on few or many  
17 occasions?

18           A.    Many.

19           Q.    And is that over the course of your career as a  
20 firearms examiner?

21           A.    Yes, it is.

22           Q.    Do you belong to any professional  
23 organizations?

24           A.    Yes, I do.

25           Q.    And are those related to your work as a

1 firearms examiner?

2 A. Yes.

3 Q. Have you presented on firearms examinations  
4 before?

5 A. Yes, I have.

6 Q. On few or many occasions?

7 A. Several occasions, yes.

8 Q. Have you done any teaching with respect to  
9 firearms examination?

10 A. Yes, I have.

11 Q. On few or many occasions?

12 A. Several times.

13 Q. Is that just here in Houston or is that  
14 elsewhere?

15 A. That has been both here in Houston and  
16 elsewhere.

17 Q. Are you published?

18 A. I have a couple of articles that are pending  
19 publication.

20 Q. And have you testified regarding firearms  
21 examination and your work in particular on few or many  
22 occasions?

23 A. Yes, I have, many.

24 Q. And where have you done that?

25 A. It's been in Harris County, of course.

1 Brazoria County, Fort Bend County, Montgomery County,  
2 and a couple of other counties that escape me off the  
3 top of my head.

4 Q. Have you testified in federal court before?

5 A. I have, but not in firearms.

6 Q. Okay. Did you bring something with you today  
7 that would help demonstrate to the jury or help to show  
8 the jury more clearly some of the things you're about to  
9 talk about?

10 A. Yes, I did.

11 MS. DEVINE: May I approach the witness,  
12 Your Honor?

13 THE COURT: Yes.

14 Q. (By Ms. Devine) Do you have that with you?

15 A. I do.

16 Q. And do you feel this would help the jury  
17 understand more clearly your testimony with respect to  
18 firearms examination and what you're about to testify  
19 to?

20 A. Yes, I do.

21 Q. Ms. Dupre, can you tell us how firearms create  
22 useable evidence in the context of a criminal  
23 investigation?

24 A. Yes. Think of a firearm as a very specialized  
25 tool, kind of like a leatherman's tool. A firearm is a

1 very specific type of tool and it's composed of other  
2 parts that are also tools. So, those various components  
3 on a firearm have a potential to leave marks for  
4 identification. Also, during the firing process, there  
5 are marks that can be left on the fired ammunition  
6 components that also can be used to make a positive  
7 association of having been fired in or from a particular  
8 firearm.

9 Q. Those markings that are left on the cartridges  
10 and the casings, the bullets and the jackets, and the  
11 casings of a firearm, are those akin to fingerprints  
12 that are left by that particular firearm?

13 A. It's akin to that. It's the unique signature  
14 of that particular firearm, yes.

15 Q. Now, when manufacturers make firearms, are  
16 those characteristics or are those markings different  
17 for each firearm?

18 A. Yes. As a matter of fact, they are. I have  
19 participated in several validation studies that have  
20 proven that fact up, yes.

21 Q. So, like fingerprints, no firearm -- no two  
22 firearms leave the same markings?

23 A. So far, that has been -- that theory has held  
24 true, yes.

25 Q. Now, can you explain to the jury how -- using

1 your demonstrative aid, how when a bullet is fired out  
2 of a gun -- and is this any type of gun, really?

3 A. Essentially the principles will be the same,  
4 yes.

5 Q. Regardless of whether it's a handgun, a rifle,  
6 a shotgun, whatever?

7 A. Correct, yes.

8 Q. Can you show the jury how a gun leaves these --  
9 a firearm leaves these unique markings on the  
10 projectiles and associated components?

11 A. Certainly. First of all, for clarification  
12 purposes, this complete unit of ammunition is called a  
13 cartridge. It's composed of a bullet or projectile that  
14 will travel through the barrel of the firearm picking up  
15 markings from the interior of the barrel. The cartridge  
16 case is another component. During the firing process,  
17 the cartridge case can pick up the marks from the back  
18 of the breach end of the firearm, the firing pin  
19 impression. And during the actual process where a  
20 bullet goes through the barrel of a firearm, it will  
21 pick up the interior markings of the barrel.

22 Q. And on the bullet itself -- and you can see on  
23 your demonstrative aid there are grooves in the bullet.  
24 What do you call those in your line of work?

25 A. In my line of work, what we refer to as the

1 rifling and the interior of the barrel, you have these  
2 channels and then you have raised areas. These are  
3 called the lands. Well, when a bullet goes down the  
4 barrel of a firearm, the raised -- you look at the  
5 negatives. So, the raised portion of the interior of  
6 the barrel is actually going to cut and depress an area  
7 on the bullet. And the channel or groove part of the  
8 interior of the barrel is then going to relate to the  
9 raised portion of a fired bullet.

10           So, referring to the interior of the  
11 barrel, the grooves or the channels, the lands. On the  
12 bullet, the raised portion is called the groove  
13 impressed area. The recessed area on the bullet is  
14 called the land impressed area.

15           Q. With respect to the cartridge casing, what  
16 types of evidence are left on a cartridge casing when a  
17 firearm fires a cartridge?

18           A. There are several different marks. During the  
19 actual loading process, you can have the feed marks as a  
20 cartridge is loaded from a magazine which is under  
21 spring tension, it will ride up the channel, and then  
22 feed into the chambers. So, you can have marks from  
23 that process.

24           You have, again, marks from the firing  
25 process, which is going to be the firing pin impression.



1 The marks on the back of the breach end of the firearm.  
2 So when it's closed, it's the breach end. You will have  
3 a -- a firearm has what's called extractor and ejectors.  
4 The extractor is a little hook that will pull the fired  
5 cartridge case out of the chamber after firing. The  
6 ejector is kind of like a little pivot point. So, as  
7 it's being pulled out of the chamber, it's going to pull  
8 it out and then the little -- like a little kickstand  
9 and it's going to throw it clear of the firearm. So,  
10 those various components of a firearm have a potential  
11 to leave marks on the fired cartridge case.

12 Q. And are all these marks things that you can  
13 use, if you have a firearm in your possession, in order  
14 to determine if those pieces of evidence were fired by  
15 that particular firearm?

16 A. Yes.

17 Q. When you receive a firearm at your lab for  
18 purposes of comparison to firearms evidence -- which is  
19 what the term I will use to refer to the projectile, the  
20 casing, and the cartridge casing -- how do you generate  
21 what you need to use for comparison?

22 A. If a firearm is submitted to the laboratory,  
23 first of all, we're going to spend some time examining  
24 the physical characteristics of the firearm because we  
25 want to make sure it's safe to fire the firearm. If

1 there's any potential for trace evidence, we want to  
2 preserve any potential trace evidence. We will then  
3 examine the firearm to see if all the markings that are  
4 present on the firearm are there.

5           After we've deemed that all the markings  
6 for the manufacturer, the make, model, serial number,  
7 et cetera, and the firearm is safe to fire, the safeties  
8 are safe and operational, then we will proceed through  
9 another test that's called test-firing. Essentially,  
10 we're going to take the firearm that's submitted, we're  
11 going to take stock ammunition very similar to the  
12 ammunition that was recovered for comparison purposes,  
13 and then we're going to actually shoot the firearm.  
14 When we shoot the firearm, we shoot into a water tank.

15           We take, again, known cartridges from our  
16 laboratory stock that don't have any marks from previous  
17 loading or unloading in a particular firearm. So,  
18 there's no previous marks from being -- potential for  
19 being loaded in another firearm because we want to see  
20 exactly how this particular firearm marks.

21           So, then we will do, as I said earlier, a  
22 series of test-fires. And we're going to collect a  
23 series of fired cartridge cases that came from the  
24 firearm as well as a series of fired bullets that have  
25 come from the submitted firearm. And --

1 Q. Why -- sorry. Go ahead.

2 A. And then from there, we're -- those are our  
3 knowns. We know they came from that particular firearm.

4 Q. Why is it important to use ammunitions similar  
5 to the evidence that's been recovered that you've been  
6 asked to compare?

7 A. The reason why we do that is so there  
8 potentially are no differences in the markings.  
9 Sometimes the brass cartridge case may mark a little bit  
10 differently than a nickled cartridge case. That doesn't  
11 preclude that you can't make an identification, but it's  
12 much easier if you do -- if everything is the same.  
13 You're eliminating any potential variables.

14 Q. Are there occasions where you receive firearms  
15 that are not functional at the time that you receive  
16 them?

17 A. Yes.

18 Q. And what do you do in a situation like that?

19 A. In a situation like that, we will evaluate the  
20 firearm to see if it's -- if there is a potential that  
21 we can make the firearm operational for test-firing  
22 purposes.

23 Q. Ms. Dupre, I'd like to direct your attention to  
24 Firearms Laboratory No. 09-2016. Are you familiar with  
25 this lab analysis?

1           A.    Yes, I am.

2           Q.    And, in fact, did you conduct this lab  
3 analysis?

4           A.    Yes, I did.

5           Q.    Were several items of evidence -- firearms  
6 evidence and firearms submitted to your lab for purposes  
7 of comparison?

8           A.    Yes, they were.

9           Q.    And I'd like to walk through each of those  
10 individually, if I may.

11                   MS. DEVINE:  Judge, may I approach the  
12 witness?

13                   THE COURT:  Yes.

14           Q.    (By Ms. Devine) Ms. Dupre, I'd like to show you  
15 what's been marked -- entered into evidence as State's  
16 Exhibits No. 17, 18, and 19.  Do you recognize these  
17 items (indicating)?

18           A.    Yes, I do.

19           Q.    Okay.  And, in fact, when you collect these  
20 items after they've been submitted, you mark the items  
21 themselves with your case number and your initials,  
22 correct?

23           A.    Yes, that is correct.  For reference purposes,  
24 on State's Exhibit No. 17 is the laboratory number and  
25 all these items will have the laboratory number on them,

1 09-2016; the unique individual item number identifier is  
2 No. 25, my initials are on the barrel and the slide.

3 Q. And now, the number on there, in this case  
4 No. 25, that will correspond to how you document in your  
5 report, correct?

6 A. That is correct, yes.

7 Q. What is State's Exhibit No. 17 and its  
8 associated 18 and 19?

9 A. State's Exhibit No. 17 is a Glock semiautomatic  
10 pistol.

11 Q. What caliber?

12 A. It is a .45 auto.

13 What has been marked State's Exhibit  
14 No. 18, the unique identifying laboratory item number is  
15 26, it's a Glock .45 magazine.

16 The contents of what has been marked  
17 State's Exhibit No. 19 are -- one, two, three, four,  
18 five -- six unfired cartridges.

19 Q. What caliber?

20 A. These are .45.

21 Q. Now, when you received State's Exhibit No. 17,  
22 what did you notice about it as you're assessing whether  
23 or not it's operational?

24 A. When I received State's Exhibit No. 17, I  
25 noticed that there was a problem with the trigger

1 guard -- that's this little portion down here, your  
2 finger would fit in this area (indicating) -- as well as  
3 the safety -- you can see through this portion here and  
4 that's where the magazine release would be (indicating)  
5 -- as well as the trigger with the safety is missing and  
6 it was loose.

7 Q. For purposes of the record, there is no trigger  
8 in this gun at this time, correct?

9 A. That is correct, yes.

10 Q. Did -- were you able to make this gun  
11 functional in order to test-fire the gun for use for a  
12 later comparison?

13 A. Yes, I was.

14 Q. Does it appear that this gun was struck by  
15 something?

16 A. There appears to be damage to the trigger guard  
17 itself as well as there was some damage to the trigger  
18 itself.

19 Q. But you don't know how that happened?

20 A. That is correct, I do not.

21 Q. And were you also submitted what's been entered  
22 into evidence as State's Exhibits No. 21 -- 121 through  
23 126. Do you recognize those items (indicating)?

24 A. Yes, I do.

25 Q. And do they also contain the unique lab number,

1 your initials, and the item number to which you assigned  
2 for purposes of your report?

3 A. Yes, that is correct. That's on each and every  
4 package.

5 Q. And for the most part, your item number  
6 corresponds with the evidence marker number assigned by  
7 the Crime Scene Unit that collected these items?

8 A. Yes, we try and follow their numbers.

9 Q. That's just for less confusion, right?

10 A. Correct.

11 Q. And after examining the test-fires you made  
12 from State's Exhibit No. 17 and the -- what are State's  
13 121 through 126?

14 A. They are fired cartridge cases.

15 Q. And did you have an opportunity to compare  
16 those with the test-fires from State's 17?

17 A. Yes, I did.

18 Q. And did you form an opinion regarding whether  
19 or not those cartridge casings were fired by State's 17?

20 A. Yes, I did.

21 Q. And what is that opinion?

22 A. My opinion was that at one time they were fired  
23 from State's Exhibits No. 123 through 1 -- I'm sorry --  
24 121 through 126 were at one time fired in what has been  
25 marked State's Exhibit No. 17.

1 Q. Okay. Showing you what's been marked as  
2 State's Exhibits No. 186, 187 and 188. Do you recognize  
3 these items as well (indicating)?

4 A. Again, yes, I do.

5 Q. And do they also contain your unique  
6 identifiers that we've discussed before?

7 A. Yes. The laboratory number is on each of these  
8 items, State's Exhibit No. 186, 87, and 188, and my  
9 initials, as well as the individual item numbers are  
10 also on each piece of evidence.

11 Q. What type of gun is that?

12 A. State's Exhibit No. 186 is a Tec-9.

13 Q. And what sort of ammunition does it fire?

14 A. This fires 9-millimeter Luger ammunition.

15 Q. And is that what was recovered from the firearm  
16 in State's 188?

17 A. Yes.

18 Q. Were you also submitted State's Exhibit  
19 No. 127?

20 A. Yes.

21 Q. And, again, it has your unique identifiers on  
22 it, correct?

23 A. Yes, that is correct. It's on the outside of  
24 the packaging.

25 Q. And did you have an opportunity to compare



1 State's Exhibit No. 127, which is a 9-millimeter  
2 cartridge casing -- correct?

3 A. That is correct.

4 Q. -- with the test-fires from State's Exhibit  
5 No. 186?

6 A. Yes, I did.

7 Q. And did you reach -- did you reach a conclusion  
8 as to whether or not State's 127 was fired by State's  
9 186?

10 A. Yes, I reached a conclusion that State's  
11 Exhibit No. 127 was not fired from State's Exhibit  
12 No. 186.

13 Q. And, in fact, was 1 -- State's 127 linked to  
14 any of the firearms that were submitted in this case?

15 A. No, they were not.

16 Q. Showing you what's been marked -- entered into  
17 evidence as State's Exhibits 191 and 192. Do you  
18 recognize these items (indicating)?

19 A. State's Exhibit 1 -- sorry -- 191, yes, I do.  
20 Again, the unique laboratory number and the unique  
21 identifier assigned to it as well as my initials.

22 Q. And what type of gun is that?

23 A. R-1 is a Remington, 870 model, 12-gauge  
24 shotgun.

25 Q. And State's 192 are what?

1           A.    And the contents of what are inside what has  
2 been marked State's Exhibit 192 are -- one, two, three,  
3 four -- five unfired shot shells and one fired shot  
4 shell.

5           Q.    Did you have an occasion -- do you recognize  
6 State's 151?

7           A.    Yes.

8           Q.    And was that a piece of firearms evidence that  
9 was submitted for comparison?

10          A.    Yes, it was.

11          Q.    Did you have an opportunity to compare the  
12 test-fires from State's 191 to both State's 151 and the  
13 spent shell that's contained in State's 192  
14 (indicating)?

15          A.    Yes, I did.

16          Q.    And did you form an opinion as to what --  
17 whether or not those items were fired from State's 191?

18          A.    Yes, I did.

19          Q.    And what is that opinion?

20          A.    That the fired shot shell, which is marked  
21 State's Exhibit No. 151, my Exhibit No. 24, and the  
22 fired shot shell which is contained within State's  
23 Exhibit No. 192, was, in fact, one time fired in State's  
24 Exhibit No. 191, which is my Exhibit No. R-1.

25          Q.    Now, when you say "at one time was fired,"

1 that's simply because you don't know when those -- this  
2 evidence was created, right?

3 A. That is correct.

4 Q. Now, the Tec-9 and the -- we commonly call this  
5 a pistol-grip shotgun, right?

6 A. That is correct.

7 Q. Those functioned -- those were operational when  
8 you test-fired them, correct?

9 A. That is correct.

10 Q. Showing you State's 189 and 190. Do you  
11 recognize those items (indicating)?

12 A. Again, I do by the unique laboratory number  
13 that's assigned to this case. For reference, 09-2016.  
14 The contents of State's Exhibit No. 190, my Item No. 29,  
15 State's Exhibit No. 189 is my Exhibit No. 28. Again,  
16 that information is written on the firearm.

17 Q. And what kind of gun is this?

18 A. And this is -- this is a Mossberg, model 88,  
19 12-gauge shotgun.

20 Q. Did it fire -- did it operate functionally when  
21 you test-fired it?

22 A. Yes, it did.

23 Q. And did you have an opportunity to compare the  
24 spent shell that's contained in State's 190 to the  
25 test-fires from State's 189?

1 A. Yes, I did.

2 Q. Did you form an opinion as to whether or not  
3 that shell was fired by that gun?

4 A. Yes, I did.

5 Q. And what is that opinion?

6 A. And that opinion was at one time the one fired  
7 shot shell inside State's Exhibit No. 190 was, in fact,  
8 fired in State's Exhibit No. 189.

9 Q. Ms. Dupre, I'm showing you what's been marked  
10 as State's Exhibit No. 193. Do you recognize this  
11 firearm (indicating)?

12 A. I do.

13 Q. And do you recognize some of the handwriting  
14 that's contained on the packaging of this firearm?

15 A. I do.

16 Q. And whose handwriting is that?

17 A. That is my laboratory supervisor, Robert  
18 Baldwin.

19 Q. And did you have an occasion to -- was this gun  
20 test-fired at your lab?

21 A. Yes, it was.

22 Q. By whom?

23 A. It was test-fired by the laboratory director,  
24 Robert Baldwin.

25 Q. Okay. And how do you know this is, in fact,

1 the same gun that was test-fired by Mr. Baldwin?

2 A. By the serial number that is assigned to this  
3 case. And I will read that serial number to you. It is  
4 RBM4313.

5 Q. And does that correspond with the documents  
6 that you've reviewed?

7 A. Yes, it does.

8 MS. DEVINE: Your Honor, after tendering to  
9 defense counsel, I'm going to offer State's 193 into  
10 evidence.

11 **(State's Exhibit No. 193 Offered)**

12 MR. GRABER: No objection, Judge.

13 THE COURT: State's 193 is admitted.

14 **(State's Exhibit No. 193 Admitted)**

15 Q. (By Ms. Devine) Now, Ms. Dupre -- Dupre -- I'm  
16 sorry -- this gun is not in real great condition at the  
17 moment, right (indicating)?

18 A. That is correct.

19 Q. In fact, it's in a couple of pieces?

20 A. That is correct, also.

21 Q. However, based on your review of Mr. Baldwin's  
22 report, he was able to -- it was functional at the time  
23 he test-fired it, correct?

24 A. When it came in, it wasn't functional. He was  
25 able to make it functional in order to create some

1 test-fires, yes.

2 Q. What do we notice about the condition of this  
3 gun other than the fact that it's in pieces?

4 A. It's rusty, dirty, gritty.

5 Q. And how would this get rusty like that?

6 MR. GRABER: I'm going to object to that as  
7 speculation, Judge.

8 THE COURT: Sustained.

9 Q. (By Ms. Devine) Were you able to observe the --  
10 examine the test-fires that were made by Mr. Baldwin of  
11 State's Exhibit No. 193?

12 A. Yes, I was.

13 Q. And did you compare those with State's Exhibits  
14 149 and 150?

15 A. Yes, I did.

16 Q. And, in fact, you recognize those items from  
17 your unique documentation, correct?

18 A. That is correct.

19 Q. Do you have an opinion as to whether or not  
20 State's 149 and 150 were fired by State's 193?

21 A. Yes, I do.

22 Q. And what is that opinion?

23 A. That the contents of State's Exhibit No. 149  
24 and 150, laboratory reference Item No. 20 and 23, were  
25 at one time fired from State's Exhibit No. 193.

1 THE COURT: Ms. Devine, for purposes of the  
2 record, what is State's Exhibit 193?

3 Q. (By Ms. Devine) What is State's 193?

4 MS. DEVINE: Thank you, Judge.

5 A. Yes. State's Exhibit No. 193 is a -- the  
6 pieces of which are a Smith & Wesson Sigma, model  
7 SW40VE, a 40 S&W semiautomatic pistol.

8 Q. What caliber of handgun is that?

9 A. It's a 40 S&W.

10 Q. 40-caliber?

11 A. 40-caliber.

12 Q. Ms. Dupre, do you recognize State's 195, 196,  
13 and 197 (indicating)?

14 A. Yes, I do.

15 Q. And what is that?

16 A. State's Exhibit 195 is a Bushmaster model  
17 XM15-E2X, 223 Remington caliber. State's Exhibit  
18 No. 196 is a magazine. And the contents of what has  
19 been marked State's Exhibit No. 197 are -- let me set  
20 this down -- are unfired cartridges in the caliber 223.

21 Q. Okay. And is this what's commonly akin to an  
22 assault rifle?

23 A. That's commonly what people call it, yes.

24 Q. Can you make this gun longer?

25 A. Yes.

1 Q. How do you do that?

2 A. It has a collapsable stock to it (indicating).

3 Q. And for what purpose do guns have collapsable  
4 stocks?

5 A. Some do. Some don't. This one does.

6 Q. Would that make it easier for a bigger person  
7 to fire it or hold it, or just perhaps to be more  
8 intimidating?

9 A. I really can't answer that --

10 MR. GRABER: I'm going to object to  
11 speculation on that question.

12 THE COURT: Sustained.

13 Q. (By Ms. Devine) What did you notice about this  
14 gun when you retrieved it for purposes of test-firing  
15 it?

16 A. That it was a functional firearm.

17 Q. So, it functioned as expected?

18 A. Correct.

19 Q. Did you notice anything about the condition of  
20 the firearm at the time that you examined it?

21 A. At the time that I received it, it was  
22 covered -- there was some mud on the exterior of the  
23 firearm itself. When I received it, the stock was  
24 collapsed or shortened, I should say.

25 Q. What's the capacity of the magazine?



1           A.    This magazine capacity was 30 rounds.

2           Q.    And what is the total capacity of the firearm  
3 itself when fully loaded?

4           A.    The capacity of the firearm is one and then  
5 with this magazine associated with it, then the total  
6 combination of the magazine and the firearm would be 31.

7           Q.    Does this firearm have a safety?

8           A.    Yes, it does.

9           Q.    Tell the jury what that is.

10          A.    A safety -- in this particular firearm, it has  
11 what's called a manual safety. And that means the  
12 operator has to turn the safety on and off. It's a  
13 little rotational safety on this segment of the firearm.  
14 It has like a little lever switch from safe to fire.

15          Q.    And that's located just above the trigger grip,  
16 correct?

17          A.    That is correct.

18          Q.    Can you explain to the jury the difference  
19 between a semiautomatic and an automatic firearm?

20          A.    A semiautomatic firearm is essentially one pull  
21 of the trigger will cause the firing sequence and then  
22 you take your finger off the trigger. Of course, it  
23 will stop. You pull the trigger again, it will sequence  
24 again.

25                         With a fully automatic firearm, as long as

1 your finger is on the trigger, the gun will continue to  
2 fire until either you take your finger off the trigger  
3 or you run out of ammunition, but a semiautomatic, one  
4 pull of the trigger, one fire.

5 Q. What kind of firearm is State's Exhibit 195?

6 A. That is a semiautomatic.

7 Q. So, in order for a person to fire a shot, they  
8 have to pull the trigger each time?

9 A. That is correct.

10 Q. Do you measure trigger pull when you're  
11 examining firearms?

12 A. Yes, we do. That's a normal course of our  
13 examination process.

14 Q. And can you explain what that is to the jury?

15 A. Essentially, the trigger pull is the amount of  
16 pressure, when your finger is on the trigger, to pull  
17 the trigger in order for the firing sequence to occur or  
18 the firing mechanism to fire.

19 Q. What is the trigger pull for State's Exhibit  
20 195?

21 A. That is 7 to 7-and-a-half pounds.

22 Q. And can you put that in maybe more regular  
23 people terms for the jury? Does it take a lot of  
24 pressure to pull the trigger or not so much pressure?

25 A. That's a typical weight for this -- trigger

1 pull for this particular firearm. When you think in  
2 terms of 7 pounds, 7-and-a-half pounds, if you go to the  
3 grocery store and you take 7 pounds of sugar or produce,  
4 7 to 7-and-a-half, 7. Of course, it's a little heavier  
5 than, say, 5 or 3. So, it's relative.

6 Q. Are the live 223 rounds that you've described  
7 in State's 197, are they of two different  
8 manufacturers --

9 A. Yes, they are.

10 Q. -- or distributors?

11 We have a -- I'm going to refer to them as  
12 the lighter-colored ones and the darker-colored ones.

13 A. Certainly.

14 Q. With respect to the lighter-colored ones, what  
15 is the manufacturer of those?

16 A. Those are what's called Prvi Partisan or  
17 Monarch brand.

18 Q. If I can get you to look to your left. Is that  
19 consistent with this packaging, a copy of which is shown  
20 in State's Exhibit 200 (indicating)?

21 A. Monarch is the manufacturer for the  
22 lighter-colored cartridges, yes.

23 Q. And the darker-colored cartridges are another  
24 manufacturer?

25 A. That's correct.

1 Q. Showing you what's been marked and entered into  
2 evidence as State's Exhibits 140 through 148 and 181  
3 through 184. Do you recognize all of these items  
4 (indicating)?

5 A. I'll start with the group 140 through inclusive  
6 148. Yes, I do. Again, the laboratory number, 09-2016,  
7 and then each individual packet has an individual item  
8 identifier, 13, 14, 15, 16, 17, 18, 19, 21, and 22.  
9 Then in reference to State's Exhibits 181 through 184,  
10 inclusive, laboratory item numbers 35, 36, 37, and 38.  
11 Again, same laboratory number.

12 Q. And what are all those -- the items in each of  
13 those packages?

14 A. Those are all fired cartridge cases.

15 Q. Of what manufacturer?

16 A. Of the Prvi Partisan Monarch brand.

17 Q. And were you able to compare those with the  
18 test-fires from State's 195?

19 A. Yes, I was.

20 Q. Do you have an opinion as to whether or not the  
21 casings, 140 through 148 and 181 through 184, were fired  
22 from State's 195?

23 A. Yes, I do.

24 Q. And what is that opinion?

25 A. That at one time those item numbers, State's

1 Exhibits 140 through 148 and 181 through 184 inclusive,  
2 were at one time fired from State's Exhibit No. 195.

3 Q. Was there other evidence that was -- firearms  
4 evidence that was submitted to you for comparison in  
5 this case?

6 A. Yes.

7 Q. And where did that evidence come from?

8 A. Again, that was submitted to our laboratory.

9 Q. Okay. What agency did that come from?

10 A. That evidence came from the medical examiner's  
11 office.

12 Q. And is that common?

13 A. Yes.

14 Q. Now, when you're looking at evidence that comes  
15 from the medical examiner's office, are you looking for  
16 the same sort of characteristics or markings on that  
17 evidence in order to compare it with a known firearm?

18 A. We are.

19 Q. And do you always get pristine, intact evidence  
20 from the medical examiner's office?

21 A. Typically, no.

22 Q. Okay. So, is it less -- it's more common to  
23 get what is commonly known as fragments?

24 A. Yes.

25 Q. And what is the difference between an intact

1 bullet and a fragment?

2 A. An intact bullet would be a bullet that's  
3 fairly pristine condition. Fragments would be little  
4 pieces of an intact bullet.

5 Q. Does whether or not it's an intact bullet or a  
6 fragment impact your ability to make a comparison?

7 A. It depends on the evidence and the condition  
8 that it is in. Sometimes we are able to make an  
9 identification on just fragments. Sometimes the part of  
10 the fragment, if it doesn't have any rifling on it, no.

11 Q. Ms. Dupre, I'm showing you what's been marked  
12 as State's Exhibits No. 165, 166, 106, 216, and 271. Do  
13 you recognize all of those items (indicating)?

14 A. I do.

15 Q. And do they contain the unique case number,  
16 your initials, and the item number to which you assigned  
17 to them in the course of your analysis?

18 A. Yes, that is correct.

19 Q. And did you have an opportunity to examine  
20 these items for those markings to make a determination  
21 whether or not they were markings sufficient for  
22 comparison?

23 A. Yes, I did.

24 Q. What conclusions did you come to regarding  
25 these items of evidence?

1           A.    The markings -- what has been marked State's  
2 Exhibit No. 271, my exhibit number -- my item number --  
3 excuse me -- ME-1, they didn't have -- they were marks  
4 that were too limited to be of any comparative value.

5           Q.    So, you couldn't compare it with any known  
6 test-fires?

7           A.    That is correct.

8                         What has been marked State's Exhibit 216,  
9 166, 106, and 165, these items that are contained  
10 therein were lead fragments or copper fragments that had  
11 no marks of any microscopic value for comparison  
12 purposes.

13          Q.    So, again, they cannot be compared to any of  
14 your known test-fires?

15          A.    That is correct.

16          Q.    So, you're not saying they weren't fired from  
17 those guns, you're just saying you can't tell?

18          A.    They're pieces. I couldn't do anything with  
19 them.

20          Q.    Showing you State's Exhibits 221 and 240. Do  
21 you recognize those items (indicating)?

22          A.    Yes, I do.

23          Q.    And, again, they contain all of that unique  
24 identifying information, correct?

25          A.    That is correct.

1 Q. Including your identifiers ME-4 and ME-5?

2 A. That is correct also.

3 Q. And what are those items?

4 A. The items that are contained within State's  
5 Exhibit 221 and 240 are lead pellets.

6 Q. And can you tell the jury about the conclusion  
7 that you came to with respect to those pellets as far as  
8 the caliber of ammunition?

9 A. The pellets themselves are little lead circles.  
10 They're consistent with triple ought buck.

11 Q. And what kind of -- what kind of firearm fires  
12 triple ought buck?

13 A. Currently shotguns.

14 Q. Okay. In this case there were two shotguns  
15 that were submitted as evidence, correct?

16 A. That is correct.

17 Q. And did you make any determinations regarding  
18 the spent shells regarding -- that came with each of  
19 those firearms?

20 A. They were spent shells that were submitted and  
21 the markings on those, State's Exhibit -- one of the  
22 fired shot shells, which is -- I don't know which State  
23 exhibit it is, but my item identifier 29-A, the marking  
24 on that fired shot shell by the manufacturer was labeled  
25 triple ought buck.



1 Q. And do you know which firearm that was  
2 associated to?

3 A. Yes. Excuse me one moment. (Pause)

4 That was identified as having been fired  
5 in -- again, I don't recall the State's exhibit number,  
6 but Item 28. Then -- I'm sorry.

7 Q. Which was the Remington 12-gauge pistol-grip  
8 shotgun?

9 A. That is correct, yes.

10 Q. Okay. And how about the spent shell that came  
11 with the Mossberg 12-gauge shotgun?

12 A. The Mossberg was -- I'm sorry. Ask me that  
13 again.

14 Q. The spent shell that was recovered and  
15 submitted with the Mossberg 12-gauge shotgun, the  
16 regular looking shotgun --

17 A. Correct.

18 Q. -- what did you note about the spent shell on  
19 that with respect to the type of pellets that were  
20 contained inside of it?

21 A. Again, one of the shot shells, the fired shot  
22 shells, was also marked by the manufacturer as triple  
23 ought buck.

24 Q. So -- but you can't tell whether State's 221  
25 and 240 came -- which shells those items came from, can

1 you?

2 A. That is correct.

3 Q. Because the pellets themselves don't contain  
4 markings made by the firearm?

5 A. That is correct.

6 Q. Okay. Lastly, State's No. 229. Do you  
7 recognize that item (indicating)?

8 A. I do.

9 Q. And that's documented -- identified by you for  
10 your analysis as ME-3?

11 A. That is correct.

12 Q. In conjunction with all of your other unique  
13 identifying information, correct?

14 A. That is correct.

15 Q. This is also a fragment that was recovered  
16 during autopsy, correct?

17 A. Yes, that is correct.

18 Q. What were you able to observe regarding any  
19 detail or markings that were contained on that fragment?

20 A. What I was able to determine is that it had  
21 some of the class characteristics, however, it -- I  
22 couldn't -- didn't have enough detail to identify it to  
23 a particular firearm.

24 Q. When that happens, can you conduct other  
25 analyses or can you measure other things with respect to

1 these fragments to try and make a determination if it's  
2 consistent with a certain type of ammunition?

3 A. Certain type of ammunition?

4 Q. Or a certain type of cartridge or fired from a  
5 certain type of gun?

6 A. Yes.

7 Q. Okay. And did you do that with respect to  
8 ME-3, State's 229?

9 A. I did, indeed.

10 Q. Okay. What specifically did you do with  
11 respect to this fragment?

12 A. That is consistent with the test-fires that I  
13 made from Exhibit No. R-3. And my R-3 is the Bushmaster  
14 223 rifle.

15 Q. State's Exhibit 195?

16 A. Correct.

17 Q. And what about that fragment was consistent  
18 with the class characteristics of this firearm?

19 A. Can you rephrase that again, please?

20 Q. I'm sorry. It's late.

21 What about what you observed and measured  
22 with respect to State's 229 led you to the conclusion  
23 that it had class characteristics consistent with the  
24 type of ammunition that was -- is used by State's 195 or  
25 the test-fires?

1           A.    What I determined from the contents of what's  
2 State's Exhibit No. 229 is that the general rifling  
3 pattern and also the rifling measurements itself were  
4 consistent with the observations and measurements that I  
5 made to the Bushmaster.

6           Q.    So, even though you can't identify that this  
7 fragment, in fact, came from that gun, it's consistent  
8 with having been fired from that gun?

9           A.    It's consistent with having been fired from a  
10 similar type of firearm that has that rifling. I wasn't  
11 able to positively associate it back to that particular  
12 firearm.

13          Q.    Were you able to -- based on your observations  
14 and measurements, were you able to exclude the other  
15 known firearms that you had for purposes of your  
16 analysis?

17          A.    Yes, I was.

18          Q.    Ms. Dupre, I'm showing you what's been marked  
19 as State's Exhibits No. 243 and 244. Do you recognize  
20 these documents (indicating)?

21          A.    I do, indeed.

22          Q.    And are these true and accurate copies of your  
23 original report that you generated at the conclusion of  
24 your analysis that reflect the results of your analysis?

25          A.    That is correct, yes.

1 Q. And did you, in fact, author these reports?

2 A. Yes, I did.

3 Q. And issue them for purposes of this  
4 investigation?

5 A. Yes, I did.

6 MS. DEVINE: Your Honor, after tendering to  
7 defense counsel for inspection and objection, I'll offer  
8 State's 243 and 244 into evidence.

9 **(State's Exhibit No. 243 and 244 Offered)**

10 MR. GRABER: Judge, we would object to  
11 these as being hearsay and intended for litigation and  
12 we'd object to that.

13 THE COURT: Overruled. 243 and 244 are  
14 admitted.

15 **(State's Exhibit No. 243 and 244 Admitted)**

16 MS. DEVINE: Your Honor, I'll pass the  
17 witness.

18 THE COURT: Mr. Graber.

19 MR. GRABER: Thank you, Judge.

20 **CROSS-EXAMINATION**

21 **BY MR. GRABER:**

22 Q. Ms. Dupre, my name is Jerald Graber and I have  
23 a couple of questions for you.

24 A. Certainly. It's nice to see you, sir.

25 Q. Nice to see you. We met during the break,

1 correct?

2 A. That is correct, sir.

3 Q. All right. You spoke a little bit about  
4 State's Exhibit 229, correct? Do you have that in front  
5 of you? It's the last item that you were talking about.

6 A. There's been quite a few. Can I see 229,  
7 please?

8 Q. (Indicating).

9 A. Thank you.

10 Q. And you talked about trying to conduct an  
11 analysis in comparing the item in State's Exhibit  
12 No. 229 with -- with these weapons, correct?

13 A. Yes.

14 Q. And you indicated that there was some similar  
15 class characteristics to the test-fires from State's  
16 195, the rifle; is that correct?

17 A. That is correct, yes.

18 Q. But as a scientist, as an analyst, you cannot  
19 say that State's Exhibit No. 229 was fired from the  
20 rifle, can you?

21 A. That is correct, I cannot say that.

22 Q. And you are -- and because of that, you are not  
23 here to say that -- if you noticed on State's Exhibit  
24 No. 229, it has a reference to the medical examiner's  
25 autopsy, correct?

1 A. Are you referring to the ML-number?

2 Q. ME-3.

3 A. Yes.

4 Q. And you know that that references a wound on  
5 the complainant in the case, correct?

6 A. Yes.

7 Q. And so, you are not here to say that the wound  
8 ME-3 was caused by the rifle, State's Exhibit No. 195,  
9 are you?

10 A. That is correct.

11 Q. And you testified about the other medical  
12 examiner evidence, ME-1; you indicated has too limited  
13 markings to make a comparison; is that correct?

14 A. That is correct, yes.

15 Q. And ME-2, State's Exhibit No. 216, there were  
16 no markings for a comparison?

17 A. That is correct, yes.

18 Q. And you indicated that Medical Examiner  
19 No. 4 -- excuse me -- yes -- No. 4 and 5, referenced as  
20 State's Exhibits No. 221 and 240, were actually shotgun  
21 pellets, correct?

22 A. That is correct, they were consistent with  
23 shotgun pellets.

24 Q. And, obviously, I think we all understand that,  
25 but shotgun pellets are meant to come out of a shotgun,

1 not a rifle?

2 A. That is correct.

3 Q. Okay. And you, as a firearms examiner, would  
4 testify and have testified that those shotgun pellets  
5 were actually fired from a shotgun in this case and not  
6 a rifle?

7 A. That is correct, yes.

8 MR. GRABER: That's all I have, Judge.

9 THE COURT: Ms. Devine.

10 MS. DEVINE: I have nothing further, Your  
11 Honor. May this witness be excused?

12 THE COURT: Yes. You may step down, ma'am.

13 THE WITNESS: Thank you.

14 THE COURT: What says the State?

15 MS. BAILY: State of Texas rests, Your  
16 Honor.

17 THE COURT: Are you sure?

18 MS. BAILY: We could go a couple more.

19 THE COURT: Okay. You can't leave just  
20 yet. Please retire to the jury room right now. Go.

21 (Recess)

22 (Open court, defendant and jury present)

23 THE COURT: Be seated.

24 The State having rested, what says the  
25 defense?