

1 Haley.

2 THE COURT: You may proceed.

3 MS. LARSEN: Thank you, Judge.

4 **LINDA HALEY,**

5 having been first duly sworn, testified as follows:

6 **DIRECT EXAMINATION**

7 **BY MS. LARSEN:**

8 Q. Good morning, Deputy Haley.

9 A. Good morning.

10 Q. Could you introduce yourself to the ladies and  
11 gentlemen of the jury.

12 A. My name is Linda Haley.

13 Q. What is it that you do, ma'am?

14 A. I'm a deputy with the Harris County Sheriff's  
15 Defendant. I'm assigned to the Crime Scene Unit, the  
16 latent section.

17 Q. Okay. What does it mean to be assigned to the  
18 latent section of the Crime Scene Unit?

19 A. What we do there is comparisons of unknown  
20 prints to known prints for identification purposes.

21 Q. Okay. What type of training do you have to  
22 make those comparisons?

23 A. Over and above the normal training that I do  
24 for a police officer, I also have 400 hours -- over 400  
25 hours now of specialized training in the filed of

1 fingerprints for identification, for taking of prints,  
2 and like AFIS, Automated Fingerprint Identification  
3 Services -- or Systems. And those are taught by the  
4 FBI, D.P.S., and professionals in the field.

5 Q. How long have you been doing fingerprint  
6 analysis and comparison?

7 A. Approximately 20 years. I have been doing  
8 latents for about 15 of them.

9 Q. Okay. Let's talk about just fingerprints in  
10 general. Can you briefly describe what a fingerprint is  
11 for the ladies and gentlemen?

12 A. On your hands, you have hand -- and your feet,  
13 actually, you have what's call friction ridge skin,  
14 which is raised ridges on your fingers. When we talk  
15 about fingerprints, most of the time we're talking about  
16 ink prints like this. And what you are doing -- we take  
17 and put ink on the finger and we apply it like this. It  
18 gives us like a map, it gives us the details of the  
19 print.

20 Q. And when you don't have ink, can we still make  
21 a fingerprint?

22 A. Yes. Usually, when you don't have ink like  
23 that and you touch a surface, you are leaving the  
24 moisture and oils from your skin onto a surface. And  
25 that's what we call the latent print, which is a hidden

1 or unseen print, and we have to develop it with some  
2 chemicals or powder, black powder.

3 Q. Deputy Haley, do you have experience in  
4 comparing and analyzing both a latent print, something  
5 that could be made by the moisture on your skin, as well  
6 as prints that are made through ink?

7 A. Yes, ma'am.

8 Q. And have you ever testified as an expert in  
9 this area before?

10 A. Yes, ma'am.

11 Q. On how many or few occasions?

12 A. Many occasions.

13 Q. Have you testified here in Harris County?

14 A. Yes, ma'am.

15 Q. And do you have any specific experience  
16 testifying about prints that are made with ink?

17 A. Yes. I have taken inked prints for many years  
18 and I also have worked on the AFIS side. When I started  
19 with fingerprints, that's what I did, was the inked  
20 prints and did the AFIS searches back then.

21 Q. So, Deputy Haley, is it possible to take an  
22 inked print that you have, that you already have in  
23 front of you, and then find another inked print from a  
24 different individual or different location and take  
25 those two different inked prints and make an

1 identification?

2 A. Yes, ma'am. We compare those on a daily basis.  
3 I do.

4 Q. That's something you have done before?

5 A. Yes, ma'am. Many, many times; thousands and  
6 thousands of prints.

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

8 THE COURT: Yes, ma'am.

9 Q. (By Ms. Larsen) Deputy Haley, what you have in  
10 front of you has been marked for identification purpose  
11 as State's Exhibit 79. Have you seen this before  
12 (indicating)?

13 A. I have.

14 Q. Can you tell us what this is?

15 A. These are the inked prints that I took from the  
16 defendant today.

17 Q. Okay. And at what point in time did you take  
18 those prints?

19 A. About 9:00, I guess.

20 Q. This morning?

21 A. This morning.

22 Q. Okay. And the individual that you took those  
23 prints from this morning, do you see that individual in  
24 the courtroom here today?

25 A. I do.

1 Q. And could you please identify that person by an  
2 article of clothing that he is wearing and point to him  
3 with your hands?

4 A. The male who is sitting at the table with the  
5 gray suit and yellow striped tie.

6 MS. LARSEN: Your Honor, may the record  
7 reflect the witness has identified the defendant?

8 THE COURT: Yes.

9 Q. (By Ms. Larsen) Deputy Haley, you were saying  
10 that the defendant is the person that made these prints  
11 that are seen here in State's Exhibit 79?

12 A. Yes, ma'am. I took them myself. I inked his  
13 fingers and rolled them myself.

14 Q. Can you briefly describe that process  
15 specifically? How do you make sure you're getting a  
16 good print when you make something like we see in  
17 State's Exhibit 79?

18 A. I have an ink pad that I have with me and I  
19 simply roll the finger onto the pad and then you're  
20 actually -- we roll it from nail to nail so that we get  
21 all the ridge detail. And then we do it from up on the  
22 tips so we get all the print. And then I take all four  
23 prints on the back. So, I have all the prints that I  
24 need for comparison purposes.

25 Q. Are those types of prints the type of print

1 that you would be able to use to make a comparison to  
2 another set of inked prints?

3 A. Yes, ma'am.

4 MS. LARSEN: Your Honor, may I approach the  
5 witness again?

6 THE COURT: Yes, ma'am.

7 Q. (By Ms. Larsen) Now, Deputy Haley, I'm now  
8 showing you what has been marked for identification  
9 purposes as State's Exhibit 70, State's Exhibit 68, and  
10 State's Exhibit 69. Have you seen these documents  
11 before (indicating)?

12 A. I'm checking. When I look at a packet, I put  
13 my initials and the date on it so that I'm aware of the  
14 packet that I'm currently checking for. I have seen all  
15 three of those packets.

16 Q. Can you please tell us what these packets are?

17 A. These are pen packets from the Department of  
18 Corrections.

19 Q. Okay. When you say "pen packet," is that what  
20 we use as an abbreviation for a penitentiary packet?

21 A. Yes.

22 Q. And what is contained within a penitentiary  
23 packet?

24 A. There is information of what someone is  
25 convicted of and the time they were received. It also

1 has a photograph and it has fingerprints in there.

2 Q. And those fingerprints, are those still inked  
3 fingerprints?

4 A. They are. They are taken at the time when they  
5 go into jail.

6 Q. Are those prints that are taken when they go  
7 into jail or into the penitentiary?

8 A. Correction. You are correct. I'm so used to  
9 dealing with the jail, so I said jail, but it is when  
10 they go into the penitentiary.

11 Q. And specifically looking at State's Exhibit 68,  
12 we'll start with that.

13 A. Okay.

14 Q. On the fourth page of State's Exhibit 68, do  
15 you see at the top what we would call a cause number?

16 A. I do.

17 Q. And can you tell what that cause number is?

18 A. 7523 --

19 MR. DAVIS: Your Honor, I object to the  
20 witness testifying from a document that's not in  
21 evidence.

22 THE COURT: That's sustained.

23 MS. LARSEN: Your Honor, tendering to  
24 opposing counsel, the State would offer State's Exhibits  
25 68, 69, 70 into evidence as certified government

1 records.

2 (State's Exhibit No. 68 through 70 Offered)

3 MR. DAVIS: Your Honor, I object to  
4 relevance at this time. They have not been proven up to  
5 be relevant in this particular situation.

6 THE COURT: Approach the bench, please.

7 (At the bench, on the record)

8 MS. LARSEN: Your Honor, I can lay the  
9 proper foundation.

10 THE COURT: Okay. Sustained.

11 (Open court, defendant and jury present)

12 Q. (By Ms. Larsen) Deputy Haley, it appears I got  
13 a little ahead of myself.

14 Were you able -- after reviewing these  
15 documents, were you able to make a determination as to  
16 whether or not those inked prints that you just said  
17 were taken when they go into the penitentiary match the  
18 inked prints that we see that are in State's Exhibit 79?

19 A. I was.

20 Q. And what was your conclusion as an expert in  
21 fingerprint identification? What conclusion did you  
22 make regarding the prints that are contained within  
23 State's Exhibits 68, 69, and 70?

24 A. The fingerprints that are in State's Exhibits  
25 68, 69, and 70 were made by the defendant.



1 MS. LARSEN: Your Honor, at this time  
2 tendering to opposing counsel, the State would offer  
3 State's Exhibits 68, 69, and 70 into evidence as  
4 certified government records.

5 MR. DAVIS: Your Honor, no objection.

6 THE COURT: State's 68, 69, and 70 are  
7 admitted without objection.

8 **(State's Exhibit No. 68 through 70**  
9 **Admitted)**

10 Q. (By Ms. Larsen) Now, going back to State's 68,  
11 which has now been admitted into evidence, looking at  
12 the top of Page 4, do you see a cause number?

13 A. I do.

14 Q. And can you please tell us what that cause  
15 number is?

16 A. Cause No. 7523.

17 Q. And do you also see where there would be a  
18 defendant's name?

19 A. I do.

20 Q. And what is that defendant's name?

21 A. Antone Richie. And there is a second name.

22 Q. Okay.

23 A. James Rebector.

24 Q. Additionally, do you see contained within the  
25 body of -- and is this what you know to be a judgment

1 (indicating)?

2 A. Yes.

3 Q. Contained within the body of that judgment, do  
4 you see where it would indicate the actual offense?

5 A. Yes, it's here. Burglary.

6 Q. One last thing. Do you see where it would  
7 indicate the date of this conviction in the judgment?

8 A. It looks like October 30th, 1975.

9 Q. Moving to State's Exhibit 69, again, on the  
10 fourth page of this document, do you see a cause number  
11 indicated at the top of that judgment (indicating)?

12 A. I do.

13 Q. And what is that cause number?

14 A. No. 456423.

15 Q. And do you, again, see where it lists the  
16 defendant's name?

17 A. I do. Antone Richie.

18 Q. And does it indicate what type of offense this  
19 conviction is for?

20 A. It does.

21 Q. And what is that conviction?

22 A. Unlawfully, intentionally, and knowingly  
23 possess a controlled substance, namely -- it goes into a  
24 lot -- cocaine -- I can't read some of this. Oh,  
25 weighing less than 28 grams, and the aggregate weight,

1 and that the defendant is the same person once  
2 previously convicted of a felony offense.

3 Q. And then --

4 A. It's handwritten. It's a little hard to read  
5 it. It's been copied and shrunk down.

6 Q. Deputy Haley, do you see a date indicated on  
7 this judgment as well?

8 A. It looks like January 13th of 1987.

9 Q. Now, moving to State's Exhibit 70. These are a  
10 little newer, so it should be a little easier to read.

11 A. Larger.

12 Q. Do you see at the top of State's 70 a cause  
13 number (indicating)?

14 A. I do.

15 Q. And what is that cause number?

16 A. Cause No. 857643.

17 Q. And do you see a defendant's name indicated?

18 A. Antone Richie.

19 Q. Do you also see an offense indicated as the  
20 type of conviction?

21 A. I do. Indictment delivery of cocaine, less  
22 than 1 gram.

23 Q. And, additionally, contained within State's  
24 Exhibit 70 there is an additional judgment. Do you see  
25 the cause number indicated in that judgment

1 (indicating)?

2 A. I do. Cause No. 857644.

3 Q. And do you still see the same defendant's name?

4 A. I do. Antone Richie.

5 Q. And what is this type of offense?

6 A. Possession of cocaine, less than 1 gram.

7 Q. And do you see indicated what the actual  
8 sentence is for this offense?

9 A. It appears to be nine years.

10 Q. I'm sorry, Deputy Haley. There is actually a  
11 third judgment contained within State's Exhibit 70. Do  
12 you see the cause number listed at the top of that?

13 A. I do. Cause No. 945233.

14 Q. And, again, does it reference the defendant's  
15 name, Antone Richie?

16 A. It does.

17 Q. And does this judgment also indicate what type  
18 of offense this judgment is for?

19 A. Yes, ma'am, it does. Assault of a public  
20 servant.

21 Q. Is that sentence the same as the last?

22 A. Two years for this.

23 Q. Now, Deputy Haley, I'm now showing you what's  
24 been pre-marked for identification purposes as State's  
25 Exhibits 71, 72, 73, 74, 75, 76, 77, and 78. Have you

1 seen these documents before (indicating)?

2 A. Sorry. It's a lot of documents. I'm checking  
3 to make sure these are the documents I examined. Yes, I  
4 have seen these.

5 Q. And for some of these documents -- and we'll go  
6 through them.

7 Specifically, State's Exhibit 72, were you  
8 able to form an opinion based off of the prints  
9 contained within this document as to whether or not it  
10 contains the same prints as that of the defendant?

11 A. I was.

12 Q. And what was your conclusion?

13 A. The prints on the document from State's Exhibit  
14 72 is made by the defendant.

15 Q. And what type of documents are we looking at  
16 here?

17 A. These are judgments and sentences.

18 Q. Okay. And so, this is similar to the judgments  
19 that we were just reading from the penitentiary packets?

20 A. Yes.

21 MR. DAVIS: Object to leading, Your Honor.

22 THE COURT: Don't lead your witness.

23 That's sustained.

24 MS. LARSEN: Yes, Judge.

25 Q. (By Ms. Larsen) So, in State's 72, your

1 conclusion is that the prints do belong to the  
2 defendant?

3 A. Yes.

4 Q. And can you please tell us what the cause  
5 number for State's Exhibit 72 is?

6 MR. DAVIS: Again, Your Honor. I object to  
7 the witness reading from a document that's not evidence.

8 THE COURT: That's sustained.

9 MS. LARSEN: Yes, Your Honor.

10 Q. (By Ms. Larsen) Looking at State's 73, were you  
11 make to make a comparison to this print -- excuse me --  
12 to the prints contained within State's Exhibit 73  
13 (indicating)?

14 A. I was.

15 Q. And what conclusion did you make?

16 A. That it was made by the defendant.

17 Q. Again, regarding State's Exhibit 74, were you  
18 able to review the prints contained within this judgment  
19 (indicating)?

20 A. I did.

21 Q. And what conclusion did you make regarding the  
22 prints contained within that judgment?

23 A. State's 74 was made by the defendant.

24 Q. And in State's Exhibit 75 (indicating)?

25 A. I examined that print and it was made by the

1 defendant.

2 Q. And in State's Exhibit 76 (indicating)?

3 A. Again, I examined State's Exhibit 76, the  
4 fingerprint, and it was made by the defendant.

5 Q. And, Deputy Haley, in State's Exhibit 77, were  
6 you able to make a comparison with that judgment?

7 A. I was. And it was made by the defendant.

8 Q. Deputy Haley, now in State's Exhibits 78 and  
9 71, did you review those documents (indicating)?

10 A. I did reviews these document, yes.

11 Q. And were you able to make a comparison with  
12 these documents?

13 A. I was not. The prints are not of quality to do  
14 a comparison.

15 Q. Okay. And when you say the prints were not of  
16 quality, you mean the prints --

17 MR. DAVIS: Objection. Relevance, Your  
18 Honor.

19 THE COURT: Overruled as to relevance.

20 Q. (By Ms. Larsen) When you say the prints were  
21 not of quality, are you referring to the prints taken in  
22 the judgment, or are we still talking about State's 79?

23 A. No. State's Exhibit 79 are the ones I took. I  
24 can read those with no problem at all. Two prints that  
25 are on State's Exhibit -- what are these?

1 Q. 71 and 78.

2 A. -- 71 and 78 --

3 MR. DAVIS: Objection. May we approach?

4 THE COURT: Yes, sir.

5 (At the bench, on the record)

6 MR. DAVIS: I object to, one, relevance.

7 If those judgments weren't able to be shown to be  
8 Mr. Richie from the fingerprints, offering -- they're  
9 suggesting in front of the jury that these are other  
10 judgments out there that they can't get a good print  
11 from them. Now the jury is left to think there are  
12 other convictions out there that weren't admitted. That  
13 this fingerprint has been looked at and couldn't do  
14 anything as far as a fingerprint comparison on. She's  
15 testifying that they weren't of a quality to do a  
16 comparison.

17 THE COURT: I understand what she's  
18 testified to is that she couldn't make a print  
19 comparison.

20 MR. DAVIS: But the jury knows --

21 THE COURT: Hold on. So, now she's  
22 explaining why she could not. So, if it was -- the fact  
23 she said that there is a document that she couldn't make  
24 a --

25 MR. DAVIS: But the jury knows the



1 existence of the document and she couldn't make the  
2 comparison. Once she did that, I object to relevance  
3 after that.

4 THE COURT: So, the documents that are  
5 being shown, she didn't --

6 MR. DAVIS: The inquiry should end there.

7 MS. LARSEN: These two documents were  
8 discussed that she wasn't able to make a comparison.

9 THE COURT: They don't need to hear  
10 anything more.

11 MS. LARSEN: The only thing I was trying to  
12 have her do was explain the reason why sometimes you  
13 can't make a comparison.

14 MR. DAVIS: The fact that --

15 THE COURT: Hold on. You can talk about  
16 the reason you can't make a comparison, but if you can  
17 show in the document --

18 MS. LARSEN: I understand.

19 MR. DAVIS: And now she knows -- at least  
20 the jury knows there is some documents that are out  
21 there and they don't know what those convictions might  
22 be. The fact there are documents out there but no print  
23 comparison is prejudice to Mr. Richie. I would move for  
24 a mistrial on those grounds. Now Mr. Richie can't get a  
25 fair punishment hearing. He's being denied due process

1 at this point based on those documents being shown to  
2 the jury. If the State knew beforehand that she wasn't  
3 able to make a comparison, they should have ended it.  
4 There shouldn't have been an inquiry at all.

5 THE COURT: You questioned her --

6 MR. DAVIS: I'D ask the Court to give a  
7 limiting instruction to the jury, asking them to  
8 disregard these documents, not to consider these  
9 documents, or any of that at all.

10 THE COURT: To disregard the last --

11 MR. DAVIS: The last testimony, all of  
12 that, Judge.

13 THE COURT: Okay.

14 MR. DAVIS: After that, I'll move for a  
15 mistrial again.

16 (Open court, defendant and jury present)

17 THE COURT: Ladies and gentlemen of the  
18 jury, you will disregard the last statement of this  
19 witness relative to the examination of prints that were  
20 not able to be used.

21 (At the bench, on the record)

22 MR. DAVIS: I respectfully move for a  
23 mistrial.

24 THE COURT: Denied.

25 (Open court, defendant and jury present)

1 Q. (By Ms. Larsen) Deputy Haley, I'm now showing  
2 you what's been marked for identification as State's  
3 Exhibit 67-A. Have you seen this document before  
4 (indicating)?

5 A. No, ma'am, I have not.

6 Q. Okay. And would you take a few minutes to  
7 review it?

8 A. I have seen these types of documents.

9 THE COURT: Ma'am, just answer the question  
10 that you are asked, please.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Deputy, let's retire the jury,  
13 please.

14 THE BAILIFF: All rise.

15 (Open court, defendant present, no jury)

16 THE COURT: Be seated, please.

17 These documents that she says she's never  
18 seen before, are these documents that defense is aware  
19 of and has seen and --

20 MS. LARSEN: Yes, Your Honor. It's just  
21 State's Exhibit 67-A, which is the document that we just  
22 used with the jail card expert.

23 THE COURT: All right. Let's make sure  
24 that whatever is being shown are documents that the  
25 defense had an opportunity to review, any negative

1 identifications, or any inability to make  
2 identifications. Let's make sure that's been conveyed.

3 MS. LARSEN: Yes, Judge.

4 MS. FALK: Judge, can we have a short  
5 recess?

6 THE COURT: For what purposes?

7 MS. FALK: So that the witness can compare  
8 the fingerprints contained in 67 and 67-A, which is the  
9 redacted copy of the jail cards in order to link this  
10 defendant to the two prior judgments where there are not  
11 identifications.

12 THE COURT: Was that not done when we sat  
13 here this morning while these comparisons were being  
14 made?

15 MS. FALK: It was not, Judge.

16 THE COURT: All right. We'll take a few  
17 minutes to get that done.

18 (Pause)

19 MS. FALK: I don't think we arraigned the  
20 defendant on the enhancement paragraphs.

21 THE COURT: You are right, we did not.  
22 Let's do that while the jury is out.

23 Mr. Richie, stand please.

24 (Defendant complies)

25 THE COURT: You may proceed.

1 MS. FALK: Before the commission of the  
2 offense alleged above, hereafter styled the primary  
3 offense, on January 13, 1987, in Cause No. 0456423, in  
4 the 208th District Court of Harris County, Texas, the  
5 defendant was convicted of the felony of possession of a  
6 controlled substance.

7 Before the commission of the primary  
8 offense and after the conviction in Cause No. 0456423  
9 was final, the defendant committed the felony of assault  
10 on a public servant and was finally convicted of that  
11 offense on January 7, 2004, in Cause No. 0945233, in the  
12 180th District Court of Harris County, Texas.

13 THE COURT: And, Mr. Richie, to these  
14 enhancement paragraphs, how do you plead, sir, true or  
15 not true?

16 MR. DAVIS: Your Honor, for purposes of  
17 appeal, we would object to the untimely arraignment.

18 THE COURT: Yes, sir.

19 THE DEFENDANT: Not true.

20 THE COURT: I'm sorry?

21 THE DEFENDANT: Not true as to the dates.

22 THE COURT: Thank you, sir.

23 You may be seated.

24 Before we bring the jury back in -- and I  
25 know you would object to having him arraigned in front

1 of the jury. Additionally, anything Mr. Richie wishes  
2 to tell you? Has that been accomplished?

3 MR. DAVIS: Mr. Richie -- there is  
4 something he wants to tell me, Judge. It's kind of  
5 complicated, but if I could simplify it. I think that  
6 the dates in the judgment are incorrect. So, he wanted  
7 to formally object to the judgments and sentences for  
8 one of the convictions as being an incorrect date. The  
9 sentence was imposed on a different date than what's  
10 listed in the judgment. That's the way I could simplify  
11 it. And I will list it and make his objections for the  
12 record.

13 And as to State's Exhibit 69, Mr. Richie  
14 contends that the judgment contains false information  
15 and that he was actually convicted in the case on  
16 January 13th and not January 12th as listed in the  
17 judgment.

18 MS. TERRY: That he was convicted on  
19 January 12th of 1987 and punished on January 13th, 1987.  
20 That's Mr. Ritchie's contention.

21 THE COURT: And so, it's Mr. Richie's  
22 contention that his conviction date is actually January  
23 13th, 1987. Is that correct?

24 MR. DAVIS: Yes.

25 MS. TERRY: The conviction on the 12th,

1 punishment on the 13th.

2 THE COURT: Right. Not actually sentenced  
3 until the 13th.

4 MS. TERRY: Right.

5 THE COURT: All right.

6 MS. FALK: Judge, if you look at State's  
7 69 -- if I may be heard for purposes of the appellate  
8 record -- it reflects both dates. It says the date the  
9 sentence was imposed, it says date to commence. The  
10 first page on that does have January 1st {sic}, 1987;  
11 the second page where the judge signs it is  
12 January 13th. So, it combines Mr. Richie's objection.

13 THE COURT: Okay. That's as to 69. Is  
14 that correct, Mr. Davis?

15 MR. DAVIS: Yes, Your Honor.

16 THE COURT: And that was previously  
17 admitted without objection, but now 69 is admitted over  
18 objection.

19 All right. Let's bring the jury back in.

20 (Open court, defendant and jury present)

21 THE COURT: Be seated, please.

22 Mr. Richie, remain standing.

23 Ms. Falk.

24 MS. FALK: Before the commission of the  
25 offense alleged above, hereafter styled the primary

1 offense, on January 13, 1987, in Cause No. 0456423, in  
2 the 208th District Court of Harris County, Texas, the  
3 defendant was convicted of the felony of possession of a  
4 controlled substance.

5           Before the commission of the primary  
6 offense and after the conviction in Cause No. 0456423  
7 was final, the defendant committed the felony of assault  
8 on a public servant and was finally convicted of that  
9 offense on January 7, 2004, in Cause No. 0945233, in the  
10 180th District Court of Harris County, Texas.

11           THE COURT: And, Mr. Richie, to these two  
12 allegations, how do you plead, sir, true or not true?

13           THE DEFENDANT: One of them is false.

14           MR. DAVIS: Your Honor, on behalf of the  
15 defendant, I enter a plea for legal purposes of not  
16 true.

17           THE COURT: Thank you.

18           You may be seated, Mr. Richie.

19           Ms. Larsen, you may proceed.

20           MS. LARSEN: May I approach the witness?

21           THE COURT: Yes.

22           Q. (By Ms. Larsen) Deputy Haley, when we left off,  
23 we were discussing a couple of State's exhibits. And I  
24 want to now focus your attention to State's Exhibit  
25 67-A. I previously asked if you had a chance to review



1 it and at that point you had said no. Have you now had  
2 a chance to review this document, ma'am (indicating)?

3 A. I have.

4 Q. And can you tell us what this document is?

5 A. These are jail cards from the Harris County  
6 Sheriff's Department.

7 Q. And specifically looking at Page 7 and Page 10  
8 of State's 67-A, do you recognize those two pages of  
9 this document (indicating)?

10 A. I do, ma'am.

11 Q. Have you had a chance to review those two pages  
12 of the document?

13 A. I reviewed the fingerprints and did a  
14 comparison of the fingerprints on these documents, yes.

15 Q. And are these inked fingerprints that we see on  
16 State's Exhibit 67-A?

17 A. Yes, ma'am.

18 Q. And so, you were able to make an inked  
19 fingerprint comparison?

20 A. I was.

21 Q. And regarding the inked fingerprints that we  
22 see reflected on State's Exhibit 67-A, Page 7, what was  
23 your conclusion as to the comparison between those  
24 prints?

25 A. The fingerprints on these documents were made

1 by the defendant.

2 Q. Okay. And still looking at Page 67 {sic}, are  
3 you familiar with what's contained within a jail card,  
4 ma'am?

5 A. I am.

6 Q. And can you tell us if there is a conviction  
7 listed in this jail card?

8 A. There is.

9 Q. And what type of conviction is that?

10 A. Evading arrest in a motor vehicle.

11 Q. And is there a cause number associated with  
12 that conviction?

13 A. There is.

14 Q. Focusing now on State's Exhibit 78. If you  
15 look at the cause number -- and I don't want to get too  
16 confused here. On 67-A, you said there is a cause  
17 number associated with the conviction for evading  
18 arrest?

19 A. There is.

20 Q. What is that cause number?

21 A. 9722607.

22 Q. Do you see a cause number indicated in State's  
23 Exhibit 78?

24 A. I do.

25 Q. And what is that cause number?

1 MR. DAVIS: Again, Your Honor, I object to  
2 the witness reading from a document that's not in  
3 evidence.

4 THE COURT: Sustained.

5 Q. (By Ms. Larsen) Based off your review of both  
6 of these documents, can you tell us whether or not the  
7 cause number reflected in State's Exhibit 67-A would  
8 match the cause number reflected in State's 78?

9 MR. DAVIS: Again, Your Honor, objection.  
10 That calls for an answer that would require a hearsay  
11 answer. I object to hearsay, as well as I object to it  
12 still requires the witness to read or obtain information  
13 from documents that are not in evidence.

14 THE COURT: That objection is overruled.

15 Q. (By Ms. Larsen) Deputy Haley, did you make a  
16 comparison between those documents' cause numbers?

17 A. I did.

18 Q. And what conclusion did you make?

19 A. They are the same.

20 Q. And turning now to Page 10 of State's Exhibit  
21 67-A -- it should be the last page of that document --  
22 do you see prints on that page, ma'am (indicating)?

23 A. I do.

24 Q. Were you able to make a comparison between the  
25 prints on the last page of this document, 67-A, and the

1 prints taken from the defendant?

2 A. I was.

3 Q. And what was your conclusion?

4 A. The fingerprints on 67-A were made by the  
5 defendant.

6 Q. Okay. And, again, that's on Page 10?

7 A. Yes.

8 Q. And on Page 10, is this another jail card  
9 (indicating)?

10 A. It is.

11 Q. Is there a conviction listed on that jail card?

12 A. There is.

13 Q. And what is that conviction for?

14 A. Theft of --

15 MR. DAVIS: Objection, Your Honor. May we  
16 approach?

17 THE COURT: Is this the same objection?

18 MR. DAVIS: It is.

19 THE COURT: Sustained.

20 MS. LARSEN: Yes, Your Honor. My  
21 apologies.

22 Q. (By Ms. Larsen) Do you see a cause number  
23 reflected on this jail card for an offense?

24 A. I do.

25 Q. And looking at State's Exhibit 71, do you see a

1 cause number reflected in that judgment?

2 A. I do.

3 Q. And are those, based off your review of the  
4 documents, the same cause number?

5 A. They are.

6 MS. LARSEN: Your Honor, tendering to  
7 opposing counsel, State offers State's Exhibit 67-A and  
8 State's Exhibits 71 through 78.

9 (State's Exhibit No. 67-A, 71 through 78  
10 Offered)

11 MR. DAVIS: May we approach?

12 THE COURT: Yes, sir.

13 (At the bench, on the record)

14 MR. DAVIS: Your Honor, I make the same  
15 objections we've made all along. Most of these are from  
16 judgments -- not judgments and sentences. Most of these  
17 are judgments without judgments and sentences. And some  
18 of them are the prints that weren't able to be compared  
19 to Mr. Richie. These are the things that are -- first  
20 of all, relevance. I object they haven't been made  
21 relevant because Mr. Richie -- there hasn't been a  
22 comparison to be able to say these are Mr. Richie's  
23 prints on some of these judgments, Your Honor.

24 And second, I object to there not being  
25 sufficient proof of a conviction. They appear to be a

1 judgment and penitentiary packets and -- pen packets are  
2 missing for some of these as well.

3           And third, I object to it being  
4 unnecessarily cumulative. I think one of two are  
5 convictions, but we have already send the judgment  
6 for -- do we have the pen packet for --

7           MS. LARSEN: I'm not sure.

8           MR. DAVIS: I think they're unnecessarily  
9 cumulative and have actually seen information in  
10 evidence as to some of these convictions. But overall,  
11 Your Honor, these judgments -- some of the prints  
12 weren't able to be compared to Mr. Richie and we  
13 objected to that earlier. And some of them aren't  
14 judgments and sentences. It just looks like a clerk's  
15 record.

16           THE COURT: Which ones, Counsel, please?

17           MR. DAVIS: There's a bunch of misdemeanor  
18 ones that came from misdemeanor courts.

19           THE COURT: Which ones exhibit  
20 specifically?

21           MR. DAVIS: Exhibit -- those are two that  
22 were objected to earlier, Your Honor, because the prints  
23 were of poor quality. And we renew our objection to  
24 those. And on these. Again, misdemeanor arrest and  
25 that's the jail card. These are some that -- they

1 appear to be pen packets, so these are cumulative.

2                   For the record, 79 and 72 are cumulative.  
3 And Exhibits 75, 78, 77, 76 are all exhibits where there  
4 aren't, in the judgment, any fingerprints that can be  
5 compared to Mr. Richie or judgments without judgment and  
6 sentences, where there is a question as to being --  
7 whether or not it's a final conviction, but there were  
8 two of them that are not able to be compared.

9                   THE COURT: Which ones are the two that  
10 she's not able to make a comparison?

11                   MR. DAVIS: I want to say that's 78 -- 71  
12 and 78, Your Honor.

13                   MS. LARSEN: Your Honor, she testified she  
14 was able to do a positive print analysis and make a  
15 comparison for all of the judgments and sentences with  
16 the exception of 71 and 78, which we have now linked to  
17 the jail cards, where she was able to do a positive  
18 fingerprint analysis.

19                   THE COURT: 71 and 78.

20                   MR. DAVIS: I don't have 71 right now. Do  
21 you see it?

22                   THE COURT: You gave me 71 and --

23                   MR. DAVIS: 71 and 78.

24                   THE COURT: Okay. 71 and 78. 78 and 71,  
25 it was her testimony they were poor print quality and

1 she cannot connect these two.

2 MS. LARSEN: And she did -- she just  
3 reviewed the jail cards and she found those prints. She  
4 was able to do a positive analysis and find a match.  
5 And then I asked her to compare the cause numbers for  
6 those offense and she found those to also be a match.

7 THE COURT: What's the objection to this?

8 MR. DAVIS: To the other ones, they have no  
9 judgment and sentence contained in them because those  
10 are misdemeanor judgments and sentences. What our  
11 argument would be, those are misdemeanors and those are  
12 misdemeanor judgments and sentences. I don't have an  
13 objection to those, to the ones that are the -- these  
14 cases are the ones that are cumulative. The fact those  
15 are misdemeanor judgments and sentences, we won't have  
16 an objection, because those would be -- we won't get a  
17 pen packet from a misdemeanor, so...

18 THE COURT: Okay. Then the objection to  
19 67?

20 MR. DAVIS: Same objection to the jail  
21 cards.

22 THE COURT: All right.

23 MS. LARSEN: I have -- on 67-A, based on  
24 the testimony we heard, if we want it redacted out  
25 completely, the pages where she wasn't able to do an



1 identification so it would leave us with Pages 7 and 10,  
2 which are the two she cannot identify on the judgment,  
3 and then link it together. That way you don't have  
4 things missing and looking suspicious.

5 THE COURT: So, you're only offering 70 and  
6 67-A; is that correct?

7 MS. LARSEN: Yes, Judge.

8 THE COURT: Objection to 70?

9 MR. DAVIS: Same ones -- I don't know what  
10 it looks like after the redaction.

11 MS. LARSEN: I'm willing to take out every  
12 page in this exhibit except for Page 7 and 10.

13 MR. DAVIS: Those are the ones that the  
14 fingerprints are on.

15 THE COURT: Identify 70 for Mr. Davis.

16 MS. FALK: This State's exhibit, just those  
17 two. And we can literally remove those or put blank  
18 pages.

19 THE COURT: You're offering to take every  
20 page out?

21 MS. FALK: Yes, Judge. Because he's been  
22 referring to Pages 7 and 10, just introduce -- Page 7 is  
23 the first one with mark.

24 MR. DAVIS: Why do we need to introduce  
25 them at all? I think the jury has already seen them

1 being paraded around and -- and I think the damage may  
2 have already been done, Judge, in terms of these  
3 documents being paraded in front of the jury, they're  
4 seeing multiple different numbers. I mean, I understand  
5 if she wants to introduce those point and eliminating  
6 actually publish to them, but they have seen it, flagged  
7 and waved around in front of them and the witness  
8 talking about all of these jail cards. So, the damage  
9 may have been done. We make our same objection. I  
10 don't see any need to introduced them at all. If you  
11 let the judgment in -- if you are letting the judgments  
12 in, I don't see any need for this at all.

13 THE COURT: I'm going to allow 67 in over  
14 objection with the instruction that you either  
15 substitute Pages 7 and 10. They're actually admitted  
16 into evidence --

17 MR. DAVIS: Now, Judge, in terms of  
18 introduction, white page with just the fingerprints on  
19 it, nevertheless, 7 and 8, those two pages.

20 THE COURT: 7 and 10.

21 MR. DAVIS: 7 and 10. I'm sorry. 7 and  
22 10.

23 MS. FALK: I was just going to put a blank  
24 page. Page 1, 2, 3, 4, 5, and 6, Page 7 and then Page  
25 10 because we had referenced page numbers. I don't want

1 to confuse them.

2 MR. DAVIS: I think we do that one  
3 depending what's on these blank pages. I think  
4 introduce --

5 MS. FALK: The jury is not going remember.

6 THE COURT: 67 is admitted over objection  
7 only Pages 7 and 10. State's Exhibits 73, 75, 76, and  
8 77 are admitted without objection. The objection to 71  
9 and 78 is sustained.

10 MS. FALK: 71 and 78?

11 THE COURT: 71 and 78, the objection is  
12 sustained. And to my understanding, 72 and 74 --

13 MS. LARSEN: Sorry, Judge.

14 THE COURT: -- 72 and 74 are -- what are  
15 these?

16 MS. FALK: Those are included within the  
17 packet.

18 THE COURT: Then they're cumulative to 72  
19 and 74. Sustained.

20 MS. FALK: I'm going to make sure before I  
21 walk away. State's 67 is going to be admitted over  
22 objection with the amendment. State's 68, 69, 70,  
23 previously. 73, 75, 76, 77 --

24 THE COURT: Admitted without objection.

25 MS. FALK: Great, Judge. And then 71, 72,

1 74, and 78 are out?

2 THE COURT: Correct.

3 MS. FALK: I'll keep them separate.

4 **(State's Exhibit No. 67-A, 73, 75 through**  
5 **77 Admitted)**

6 (Open court, defendant and jury present)

7 MS. LARSEN: I pass the witness.

8 THE COURT: Mr. Davis.

9 **CROSS-EXAMINATION**

10 **BY MR. DAVIS:**

11 Q. Ma'am, you looked at a lot of documents and  
12 prints, right?

13 A. Yes, sir.

14 Q. Now, you don't know anything about what  
15 happened in any of these particular cases?

16 A. No, sir, I'm not familiar with the cases.

17 Q. You don't know what the facts were of the case?

18 A. No, sir.

19 Q. You don't know what the facts were surrounding  
20 the allegations?

21 A. No.

22 Q. All you know is the label, right?

23 A. The label?

24 Q. What it's called.

25 A. Yes, sir.

1 Q. And what was listed as punishment?

2 A. Yes, sir.

3 MR. DAVIS: One moment, Your Honor.

4 THE COURT: Yes, sir.

5 (Pause)

6 Q. (By Mr. Davis) Now, a lot of those judgments  
7 you looked at were misdemeanor judgments?

8 A. Truthfully, what I'm looking at is the  
9 fingerprints. I couldn't tell you.

10 Q. So, you really weren't looking at the  
11 judgments, you were looking at prints?

12 A. Yes, sir.

13 MR. DAVIS: No questions, Your Honor.

14 THE COURT: Ms. Larsen.

15 MS. LARSEN: May the witness be excused?

16 THE COURT: You may stand down.

17 May she be excused?

18 MR. DAVIS: Yes, Your Honor.

19 THE COURT: You may be excused.

20 THE WITNESS: Thank you, Your Honor.

21 MS. FALK: State calls Gwendolyn Lee.

22 THE BAILIFF: Your Honor, this witness has  
23 been previously sworn.

24 THE COURT: Thank you.

25 Ms. Falk.