

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF  
THE STATE FLORIDA, IN AND FOR PASCO COUNTY  
CASE NO. CRC14-0216CFAES

STATE OF FLORIDA,

Plaintiff,

vs.

VOLUME XI

CURTIS J. REEVES,

Defendant.

\_\_\_\_\_ /

PROCEEDINGS: Stand Your Ground Motion

DATE: February 27, 2017

BEFORE: The Honorable Susan Barthle  
Circuit Court Judge

PLACE: Robert D. Sumner Judicial Center  
38053 Live Oak Avenue  
Dade City, Florida 33523

REPORTED BY: Charlene M. Eannel, RPR  
Court Reporter  
PAGES 1243 - 1371

VERBATIM PROFESSIONAL REPORTERS, INC.  
601 Cleveland Street, Suite 380  
Clearwater, Florida 33765  
(727) 442-7288

1 A-P-P-E-A-R-A-N-C-E-S

2  
3 APPEARING ON BEHALF OF  
4 THE STATE OF FLORIDA:

5 Glenn Martin, Assistant State Attorney  
6 Office of Bernie McCabe, State Attorney  
7 Pinellas County Judicial Center  
14250-49th Street North  
Clearwater, Florida 33762

8 Manny Garcia, Assistant State Attorney  
9 Stacy Sumner, Assistant State Attorney  
Robert D. Sumner Judicial Center  
38053 Live Oak Avenue  
10 Dade City, Florida 33523

11  
12 APPEARING ON BEHALF OF  
13 THE DEFENDANT: CURTIS REEVES  
Richard Escobar, Esquire  
Dino Michaels, Esquire  
14 Rupak Shah, Esquire  
ESCOBAR & ASSOCIATES  
15 2917 W. Kennedy Blvd.  
Suite 100  
16 Tampa, Florida

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DEFENSE WITNESS

AARON SMITH

Direct Examination by Mr. Escobar

Cross-Examination by Mr. Martin

Redirect Examination by Mr. Escobar

1 P-R-O-C-E-E-D-I-N-G-S

2 THE COURT: Good morning, everybody.

3 MR. ESCOBAR: Good morning, Your Honor.

4 MR. MARTIN: Good morning.

5 THE COURT: Do we have any matters we need to  
6 address before we get started?

7 MR. ESCOBAR: Not from the Defense, Your Honor.

8 THE COURT: Mr. Martin?

9 MR. MARTIN: Judge, I'm in the process of  
10 confirming witnesses for Wednesday, and hopefully by  
11 this afternoon, but the latest by first thing in the  
12 morning. If we can know if I'm starting Wednesday,  
13 I have seven people lined up, but as things  
14 progress -- and I know we're getting a late start at  
15 10:00, but hopefully seven people on Wednesday --

16 THE COURT: Okay.

17 MR. MARTIN: -- two on Thursday, which will be  
18 the FBI expert, which is going to take a long  
19 time --

20 THE COURT: Okay.

21 MR. MARTIN: -- along with Detective Smith, and  
22 then we'll finish up with some civilians on Friday.

23 THE COURT: Very good.

24 MR. ESCOBAR: Your Honor, just so the Court  
25 knows, we have three witnesses that are going to be

1       testifying today --

2               THE COURT:   Uh-hum.

3               MR. ESCOBAR:  -- then we will put Mr. Reeves on  
4       tomorrow morning.

5               Depending upon how long their cross is going to  
6       be, they may be able to get to a witness, if they  
7       would like, tomorrow afternoon.

8               THE COURT:   Okay.

9               MR. ESCOBAR:  I'm just giving the Court that  
10       idea so that -- you know, I know the three witnesses  
11       today, you know, we're going to be hopefully getting  
12       through with them, and I would ask the Court if for  
13       some reason we are not yet finished at 5:00 with my  
14       third and last witness, that we maybe run a little  
15       bit later so that we can finish that third witness  
16       so that tomorrow all we have is Mr. Reeves tomorrow  
17       in the morning.  They can cross him, and they may be  
18       able --

19              THE COURT:   Is everybody okay with that, Madam  
20       Court Reporter?

21              THE REPORTER:  Yes.

22              THE COURT:   Is everybody okay to stay late, if  
23       we need to?

24              All right.

25              MR. MARTIN:  I think I might be able to

1 accommodate the Court with a little bit of out of  
2 order. Probably with Sue Miller, she's local.  
3 Ms. Oulsen is here. She's local, and then maybe --  
4 that's all that I'd be able to do.

5 I lined up everybody for Wednesday, Thursday  
6 and Friday --

7 THE COURT: Okay.

8 MR. MARTIN: -- but I'll try to accommodate the  
9 Court, but quite frankly, if we do have a two or  
10 three-hour break, I think I can get it done in three  
11 days.

12 I've pared it down to 15 witnesses.

13 THE COURT: Okay.

14 MR. MARTIN: We might -- and I pared down the  
15 testimony of some of those witnesses. We're going  
16 for the bang for our buck and we want to move on.

17 THE COURT: Very good.

18 MR. MARTIN: So I think if there's a break -- I  
19 would like a break to get all my equipment down here  
20 and set up, because I'm not using Defense  
21 Exhibits --

22 THE COURT: Okay.

23 MR. MARTIN: -- so maybe that would be nice  
24 Wednesday early in the afternoon to logistically get  
25 all the stuff that I need down here so we're ready.

1 MR. ESCOBAR: You mean Tuesday?

2 THE COURT: Tuesday. It will be Tuesday.

3 MR. MARTIN: Yes, ma'am. Tuesday. I'm sorry.

4 THE COURT: That's fine.

5 MR. MARTIN: The days are running into each  
6 other. I thought Wednesday was March 29th, so there  
7 you go.

8 THE COURT: I know. I know. I know.

9 MR. MARTIN: But I think that would be great.  
10 That way we won't waste any time because we're  
11 getting a late start on Wednesday, right? 10:00  
12 o'clock? Because I asked my witnesses to be here by  
13 9:00.

14 THE COURT: Right. I have a calendar call that  
15 I have to address starting at 9:00, and I can get  
16 that done within an hour.

17 MR. MARTIN: That would make it a lot less  
18 stressful on us to get all our equipment down here.

19 THE COURT: That's fine.

20 MR. MARTIN: I think we can move it along  
21 Wednesday, Thursday, Friday.

22 THE COURT: Okay. I have no doubt we'll  
23 manage. Any time after Wednesday morning I'll know  
24 what trials I've got for the following week.

25 MS. SUMNER: Judge, I'll bring that down on a

1 break. I left it on my desk.

2 THE COURT: All right. Good.

3 MR. MARTIN: I really don't want to go into the  
4 next week.

5 THE COURT: I don't either.

6 MR. MARTIN: So we're moving it along, then.  
7 The State is moving it along. Okay?

8 THE COURT: That's -- I figured the second half  
9 would be littler quicker, as it typically is in any  
10 proceeding. Who's your first witness today?

11 MR. ESCOBAR: Your Honor, the Defense would  
12 call Detective Aaron Smith.

13 MR. MARTIN: Could I have a moment with  
14 Counsel, Judge?

15 THE COURT: Okay.

16 THE BAILIFF: Step this way, stand right here.  
17 Face the clerk, raise your right hand to be sworn.  
18 (Thereupon, the witness was duly sworn on oath.)

19 THE BAILIFF: Come have a seat up here. Adjust  
20 the mic. Speak in a loud and clear voice for the  
21 Court.

22 THE COURT: You may proceed, Counselor.

23 MR. ESCOBAR: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. ESCOBAR:

1 Q. Good morning, Detective Smith.

2 A. Good morning, sir.

3 Q. Detective, would you please state your full  
4 name for the record and please spell your first name?

5 A. That's Aaron Wayne Smith. First name is  
6 A-A-R-O-N.

7 Q. And how are you employed?

8 A. I'm employed as a major crimes detective with  
9 the Pasco Sheriff's Office.

10 Q. Okay. Before we get to that position that you  
11 hold with the Sheriff's Office, it's my understanding,  
12 Detective, that you spent four years in the U.S. Army.

13 A. Yes, sir.

14 Q. And that you started your law enforcement  
15 career in 1999 initially as a part-time police officer in  
16 a little town called -- correct me -- Hillsborough, New  
17 Hampshire; is that correct?

18 A. Yes, sir. That's correct.

19 Q. Is that a relatively small town?

20 A. Yes, sir. I think the population was somewhere  
21 around 8,000 people.

22 Q. Okay. And why is it that you started as a  
23 part-time police officer there?

24 A. Once I had gotten out of the service, I applied  
25 to get the police officer job while I was working, like,

1 general construction jobs.

2 MR. ESCOBAR: Excuse me, Your Honor. Do you  
3 need something?

4 THE COURT: No.

5 BY MR. ESCOBAR:

6 Q. Go ahead.

7 A. Yes, sir. So I applied to the Hillsborough  
8 Police Department and they had both full-time and  
9 part-time positions. And the first position I was  
10 offered was as a part-time officer, but then I was hired  
11 as a full-time officer shortly after that.

12 Q. I would imagine you'd have had to go into the  
13 academy before becoming part time?

14 A. Yes, sir. In the state of New Hampshire, part  
15 time is a little different from reserve. Down here,  
16 you're actually, like, a fully certified,  
17 working-on-your-own officer. You just want the hours.  
18 When you go to the part-time police academy, that's,  
19 like, nights and weekends.

20 Q. So I would imagine you did that nights and  
21 weekends part-time academy before 1999?

22 A. Well, my actual hire date is 1999. There you  
23 have to be hired before you could get into the academy.  
24 Unlike here, you have to actually have the job first, so  
25 you actually are hired and they send you as part of your

1 field training while you're going through the academy, so  
2 it was simultaneous.

3 Q. Okay. Now, you graduated from, I guess, the  
4 academy in, actually, the year 2000?

5 A. There were two different academies that I  
6 actually went to. I completed that part-time academy,  
7 which I think was over the span of -- it was either three  
8 or four months.

9 Shortly after that -- by the time I was  
10 completing my field training, I did get hired as a  
11 full-time officer. So then I had to start the full-time  
12 academy, which went through, like, the Christmas holidays  
13 and it went into 2000, so...

14 Q. Is the part-time academy and the full-time  
15 academy different?

16 A. Yes, they are. They're held in two different  
17 places.

18 Q. Okay. So how many officers did you have in  
19 this town at the time?

20 A. I think there are probably about 15 or so  
21 officers.

22 Q. Two detectives?

23 A. Two detectives, yes.

24 Q. And it's my understanding that in this town  
25 while you were working there, the Attorney General's

1 office is the one that actually handles the homicide  
2 investigations; is that correct?

3 A. Yes, sir. For pretty much the entire state  
4 they take the lead for any homicide case.

5 Q. Okay. Now, you worked as a police officer  
6 there for Hillsborough for about 11 years; is that  
7 correct?

8 A. Yes, sir.

9 Q. Hillsborough is not a particularly violent town  
10 correct?

11 A. No, sir.

12 Q. In fact, you only participated in assisting  
13 with the investigation -- I guess the Attorney  
14 General's -- in only two homicides in the 11 years that  
15 you were there?

16 A. Yes, sir.

17 Q. Now, you have never investigated a homicide --  
18 is that correct -- where the issue of self-defense was an  
19 issue?

20 A. That is not correct, sir.

21 Q. Okay. Well, tell me which ones -- we're  
22 talking about Hillsborough right now.

23 A. Oh, Hillsborough, that's correct. Not in  
24 Hillsborough.

25 Q. Okay. Now, you came to Florida in late 2009?

1           A.    Yes, sir.  I believe it was October.

2           Q.    Of 2009?

3           A.    I think so.

4           Q.    And you came because you were hired by the  
5 Pasco Sheriff's Office as a patrol deputy?

6           A.    Yes, sir.

7           Q.    And did you have to go through another academy  
8 training, or did your academy training from Hillsborough  
9 suffice?

10          A.    I went through what they call comparative  
11 compliance, which is -- you go through high-liability  
12 trainings here, but then they also take into account your  
13 certifications from out of state, so it's kind of an  
14 abbreviated academy, I would call it.

15          Q.    Now, between 2009 and 2011, you were in patrol?

16          A.    Yes, sir.  I think it was between 2011 and 2012  
17 that I became a detective.

18          Q.    And when you started in patrol, where did you  
19 start working in patrol?

20          A.    Originally, I worked in District 2 in the Land  
21 O' Lakes/Wesley Chapel area.

22          Q.    Did you move to some small community at some  
23 point, this time on a contractual basis?

24          A.    Yes, sir.  We have a couple of what we call  
25 contract deputies, and I worked for the Meadow Point

1 area. You're still a functioning deputy; you're just  
2 assigned to that specific area.

3 Q. That small community?

4 A. Yes, sir.

5 Q. And you did that for, you believe, a  
6 year-and-a-half?

7 A. Approximately, yes, sir.

8 Q. While you were working in that Meadow Point,  
9 you didn't investigate any homicides there in that  
10 location, correct?

11 A. Not that I can recall, sir.

12 Q. And so somewhere in October of 2013, you get  
13 promoted to the detective division; is that correct?

14 A. I believe it was 2012, sir, when I started as a  
15 missing person detective.

16 Q. Do you know what month in 2012?

17 A. I believe it was around October or November,  
18 but I am not positive about what.

19 Q. Okay. And that unit of missing persons, what  
20 unit is that comprised of?

21 A. At the time I was in, it was two detectives,  
22 and we were assigned to the major crimes squad in  
23 District 2. So we're still part of that squad and we  
24 answer to the same sergeant, but we are independent  
25 detectives working mainly on missing person cases.

1 Q. What sort of training did you get before going  
2 into that particular unit?

3 A. Before going into the unit?

4 Q. As a missing persons detective.

5 A. Nothing specific to missing persons. I guess  
6 I've had several trainings just over the course of my  
7 career in general investigations. Once I became a  
8 missing persons detective, I did some specific human  
9 trafficking investigation courses, things like that.

10 Q. Okay. So throughout your period of time there  
11 with the Sheriff's Office in patrol and now as a missing  
12 persons detective, I would imagine that there's some  
13 in-house training that takes place for officer safety,  
14 correct?

15 A. Yes, sir. We also have our detective field  
16 training program.

17 Q. And some of those courses, in fact, those  
18 yearly courses deal with assessing escalating patterns of  
19 violence?

20 A. Yes, sir.

21 Q. And that is important because of your safety as  
22 a police officer?

23 A. Yes, sir.

24 Q. And you're taught to -- you're actually put  
25 into real-life situations, correct?

1           A.    Yes, sir.

2           Q.    Where you're having to observe certain cues  
3 that you have to react to?

4           A.    Yes, sir.

5           Q.    And if you don't react properly to those  
6 particular cues, it could cost you your life?

7           A.    That's true.

8           Q.    And one of the reasons that the Pasco County  
9 Sheriff's Office is so intent on doing this is because  
10 things can happen in a moment's notice?

11          A.    Yes, sir.

12          Q.    And the process of reacting to the cue and then  
13 acting appropriately takes time?

14          A.    Yes, sir.

15          Q.    And time is against a police officer when that  
16 process is taking place?

17          A.    Yes, sir. I would agree with that. Excuse me.

18          Q.    And the cues that you are looking for are all  
19 sorts of cues, somebody bowing up?

20          A.    Yes, sir.

21          Q.    Someone in a fighting stance?

22          A.    Yes, sir.

23          Q.    Facial expressions?

24          A.    Yes, sir.

25          Q.    Clenched fist?

1           A.    Yes.

2           Q.    Acting out of control based on the environment  
3   that that person is in?

4           A.    Yes, sir.

5           Q.    Those are all things that you're taught day in  
6   and day out in your profession to look for and to react  
7   appropriately?

8           A.    Yes.

9           Q.    You've also been trained in all these courses  
10   that hands can kill?

11          A.    Yes, sir.

12          Q.    Fists can kill?

13          A.    Correct.

14          Q.    Hands can cause serious bodily injury?

15          A.    Yes, sir.

16          Q.    Great bodily injury?

17          A.    Yes, sir.

18          Q.    Hands and fists can do that?

19          A.    Yes.

20          Q.    Objects can do that?

21          A.    Yes, sir.

22          Q.    In fact, your position is that hands are  
23   particularly dangerous because they're the most  
24   coordinative parts of your body?

25          A.    Yes, sir. I think that's true.

1           Q.    And you'd certainly agree that a person does  
2 not have to have a weapon to injure you seriously or  
3 greatly?

4           A.    That is true, an unarmed can definitely cause  
5 injury to somebody.

6           Q.    Your surroundings are important; you've been  
7 taught on a yearly basis you've got to take into  
8 consideration your surroundings when you're faced with  
9 that situation, correct?

10          A.    Correct.

11          Q.    Because if you're in a darkened area, you're at  
12 a disadvantage?

13          A.    You can be.  Yes, sir.

14          Q.    If you're in close proximity to the person  
15 that's attacking you, it creates a greater danger?

16          A.    That gives you less time to react to things,  
17 sir.  Yes, I agree.

18          Q.    That's why you're taught to create distance --

19          A.    Yes, sir.

20          Q.    -- from the person that's attacking you?

21          A.    Yes.

22          Q.    It's not an easy process, is it, Detective?

23          A.    No, it's complicated, sir.

24          Q.    And in those exercises that you engage in  
25 yearly, many times you fail?

1           A.    It has happened, sir, yes.

2           Q.    It's not a good feeling.

3           A.    It would be a very scary feeling, even in  
4 training.

5           Q.    Tell the Court, even though you're in training,  
6 what happens to you -- physiologically to your body, as  
7 you're trying to make those decisions in a split-second?

8           A.    I guess the most common thing we refer to is  
9 you get tunnel vision, just meaning you focus maybe on  
10 what's directly in front of you and you lose peripherally  
11 what's going on around you, and also increased heart  
12 rate, just general stress.

13          Q.    The blood flow in your body changes?

14          A.    Yes, sir.

15          Q.    Your anxiety level is elevated?

16          A.    Correct.

17          Q.    And you would agree that you get most of your  
18 information from your sight, your vision in a situation?

19          A.    That's probably split between -- sight and  
20 hearing are probably the two most important senses.

21          Q.    And so if it's darker and if it's louder, now  
22 you've got a combination of disadvantages?

23          A.    I could have some distractions there. Yes,  
24 sir.

25          Q.    Certainly your focus on the attacker is of

1 primary importance?

2 A. That's probably your main focus, but like we  
3 say, we train against tunnel vision so that you don't  
4 lose the possibility of other dangers going on around you  
5 at the same time.

6 Q. Even though you've trained against tunnel  
7 vision, sometimes you can't help it?

8 A. It always happens to some extent.

9 Q. Detective, how do you determine if you're going  
10 to be seriously injured, greatly injured?

11 MR. MARTIN: Your Honor, I'm going to object to  
12 that. That's so open-ended and broad. I object to  
13 the form of the question and, if answered, it would  
14 call for speculation just as to what the question  
15 means in light of the answer.

16 MR. ESCOBAR: I expect his answer is going to  
17 be it's impossible to tell.

18 MR. MARTIN: It doesn't matter what he expects  
19 it to be. It's the way he asked the question.

20 THE COURT: Narrow the question a little bit.  
21 BY MR. ESCOBAR:

22 Q. You recognize that a person's head is a very  
23 sensitive area, correct?

24 A. Yes, sir.

25 Q. And why is it a sensitive area?

1           A.    Mainly because it contains your -- obviously  
2   your brain or what we call your computer, but also your  
3   senses that you use most of your eyesight and your  
4   hearing.

5           Q.    Obviously if you lose your sight, you're at a  
6   greater disadvantage to defend yourself?

7           A.    Yes, sir.

8           Q.    It's my understanding that you've taken some  
9   training courses concerning these particular issues also  
10   with the FBI?

11          A.    I guess -- what specific issue?

12          Q.    Use of force, self-defense, officer safety.

13          A.    Yes, sir.  There's always ongoing training for  
14   that type of thing, yes.

15          Q.    Was that before -- with the FBI before Mr.  
16   Reeves' case or after?

17          A.    My position with the FBI didn't start until, I  
18   think, shortly after this case, so it would have been, I  
19   think, probably three or four months later before I  
20   started any training with them.

21          Q.    Now, you've investigated enough cases to  
22   understand the importance of video surveillance evidence  
23   in a crime?

24          A.    Yes, sir.

25          Q.    Why is that so important?

1           A.    It can give us kind of an independent view,  
2 possibly, of the events, and it records them in a  
3 specific time period so that we can go back and review.

4           Q.    Okay. And a goal of your investigation is,  
5 obviously, to try to retrieve and preserve that sort of  
6 evidence?

7           A.    Yes, sir.

8           Q.    You've also dealt with video surveillance  
9 equipment that has motion-activated recording as well as  
10 infrared capability --

11          A.    Yes, sir. I have.

12          Q.    -- is that correct?

13          A.    That's correct.

14          Q.    And, likewise, there was a great value in that?

15          A.    In the evidence from it, yes, sir.

16          Q.    So you started a new division in December of  
17 2013?

18          A.    In -- as a major crimes detective, yes, sir.  
19 But like I said, I was still in that unit in missing  
20 persons. I believe that was 2012 I started.

21          Q.    Tell this Court how you were promoted in  
22 December of 2013 from a missing persons detective.

23          A.    Around that time frame, I was selected to fill  
24 an open position in major crimes in the same squad that I  
25 was working on, so essentially it was -- it's not

1 necessarily a promotion. We don't consider it a  
2 promotion. You're still a detective, but it's a lateral  
3 change of unit.

4 Q. Now, could you tell the Court when in December?

5 A. As far as what day? That, I'm not sure.

6 Q. Yeah. What part of the month?

7 A. I believe that was earlier in the month, but  
8 off the top of my head, I don't recall the date.

9 Q. So when you get placed in this division, you  
10 are now a major crimes homicide detective?

11 A. We don't have a separate homicide division, per  
12 se, so major crimes handles any crimes against people  
13 which involves sex crimes, robbery up to and including  
14 homicide. But as a general rule in the unit, you're not  
15 assigned to be a primary or case detective in a homicide  
16 until you've had at least one advanced homicide school  
17 and the amount of experience that your supervisor decides  
18 is appropriate, I guess.

19 Q. So being placed now in this particular  
20 position, you're having various tasks. One of them is  
21 also to assist in the investigation of homicide?

22 A. Yes, sir. Even starting in missing persons,  
23 we're included in that, but you'll never be assigned to  
24 be what we call "the case detective."

25 Q. You're kind of interviewing witnesses, helping

1 out at the scene, doing all those other things?

2 A. Yes, sir.

3 Q. Okay. Now, tell me what in-house training you  
4 took from the Pasco County Sheriff's Office when you  
5 first went into this new position in December of 2013.  
6 So that's about a month prior to this incident?

7 A. Approximately. Yes, sir.

8 Q. Okay.

9 A. There was no specific classes that I took  
10 within the Sheriff's Office. When you're reassigned,  
11 even though you're still a detective from one unit to the  
12 next, you go through another abbreviated field training  
13 program.

14 So you're assigned a training detective to --  
15 it's not a full FTO because you've done that as an  
16 assigned detective, but I guess more specific to your job  
17 functions in your new job.

18 Q. So who were you assigned to?

19 A. Detective Proctor.

20 Q. Now, when you're assigned to investigate  
21 homicides, one of the things that you're required to take  
22 in the form of a course is the -- to go to the homicide  
23 investigator school?

24 A. Yes, sir. It's -- before you're assigned as  
25 primary or lead investigator, supervision has deemed --

1     there's nothing written in stone necessarily, but that's  
2     our policy and procedures.

3           Q.     And you took that homicide investigator course  
4     after the investigation of the Curtis Reeves shooting  
5     incident?

6           A.     Yes, sir.

7           Q.     Why did you take it before?

8           A.     Just for opportunity of time to take the class.  
9     And, generally speaking, when you first get into the  
10    unit, you're sent to other classes, sex crimes  
11    investigation that I've taken, things like that, to build  
12    up to, eventually, the advanced homicide.

13          Q.     Well, I realize that, but since you got placed  
14    in this position in December and this shooting incident  
15    happened in January, why didn't you take this course in  
16    December when you were first placed in this position?

17          A.     The requirement is not to participate -- or to  
18    take the class to participate in a homicide  
19    investigation. It's to be the lead investigator, which I  
20    was not.

21          Q.     Okay. So before the Curtis Reeves shooting  
22    investigation, you were never assigned as the lead  
23    detective in a homicide; that's correct?

24          A.     Correct.

25          Q.     You assumed a role or you were given a role --

1     pardon my introduction there. You were given a role in  
2     the Curtis Reeves shooting investigation as the lead  
3     crime scene detective?

4             A. Yes, sir. We have kind of a procedure on scene  
5     when our -- anytime there's a homicide investigation, we  
6     respond to it as a squad, so the sergeant or whoever is  
7     in charge will dole out specific jobs. The two main  
8     ones, I guess, that will happen every time would be the  
9     lead investigator and the crime scene detective.

10            Then depending on the need, there will be other  
11     detectives assigned for interviews, for possibly  
12     responding to a hospital, different things like that.

13            Q. Now, you had never been assigned as the lead  
14     crime scene detective in any homicide?

15            A. No, sir. I had been assigned it one other time  
16     before this case.

17            Q. As a --

18            A. As a crime scene detective.

19            Q. As a lead?

20            A. Well, not as the lead investigator, sir. We  
21     don't determine a lead crime scene, I guess. It's  
22     typically just one person assigned to that job.

23            Q. Well, would you agree that you had very little  
24     experience in being a crime scene detective?

25            A. That was -- like I said, there was one other

1 time I had been assigned that job, yes.

2 Q. Page 94. Did you know what case that was?

3 A. I don't remember the case number. I know  
4 Mr. Ortega was the subject who had fired the shots in the  
5 case, sir. I can't recall the victim's name off the top  
6 of my head.

7 Q. Okay. Now, when you were first called out to  
8 this particular case, you were actually working with  
9 Detective Moyer on a missing persons case --

10 A. Yes, sir.

11 Q. -- is that correct?

12 A. Yes, sir.

13 Q. And that's where you heard the call come out,  
14 and as a result of that, you went to the Cobb Theater?

15 A. Yes, sir.

16 Q. When you arrived at the Cobb Theater, was it  
17 Detective Harris that assigned you to first start  
18 interviewing some witnesses?

19 A. Yes, sir.

20 Q. Now, you would agree that you've been trained  
21 as a law enforcement officer that it is very important  
22 when you're going to be interviewing witnesses that you  
23 first go into the crime scene and get a visual  
24 perspective of what you have so that you're equipped with  
25 some knowledge to ask appropriate questions?

1           A.    It does depend on the situation, sir. A lot of  
2 times you definitely do want to do that, but there are  
3 other considerations for contamination of the scene that  
4 we do. Even though detectives limit the amount of  
5 people, if it's appropriate for someone to maybe give you  
6 an oral synopsis of what's going on, that's not uncommon  
7 for us to do.

8           Q.    Are you telling this Court that you were  
9 concerned that by going into the scene of the theater,  
10 that you somehow were going to contaminate that scene?

11          A.    Not necessarily, but you want to keep as tight  
12 of controls, that you can just to make sure that somebody  
13 doesn't pick up an item that they didn't realize was part  
14 of the scene. You know, if you don't have a good  
15 understanding -- we're very, very cautious as detectives  
16 just where we walk, even if we have an understanding of  
17 what occurred where, because there will be obvious places  
18 that there are no evidence and places that there are, so  
19 we try to keep traffic down to a minimum.

20          Q.    Well, you're aware that there were officers  
21 inside the theater at the time that you arrived?

22          A.    Yes, sir.

23          Q.    Do they have some exception that you don't?

24          A.    Well, the original responding officers  
25 obviously, sir. Once something is still an active

1 incident, there could be any number of people or officers  
2 involved.

3 Once the situation is kind of gained control of  
4 and we start to remove people out of it, that's kind of  
5 when we establish that more secure crime scene.

6 Q. Well, you would agree that sometimes  
7 information that you're getting from a witness may not  
8 make much sense unless you know what the layout of the  
9 scene is?

10 A. That can be the case sometimes. Yes, sir.

11 Q. And as you've indicated before, there might be  
12 a whole myriad of questions that you may be able to  
13 develop just by going into the scene while you're asking  
14 that witness that list of questions?

15 A. There can be, sir, from both sides. You might  
16 develop questions in your mind from a statement a witness  
17 gives you that when you see it, you either have follow-up  
18 questions or it appears to be something different from  
19 what they've told you.

20 Q. Now, when you first started your interview  
21 process, the first person that you interviewed was  
22 Mrs. Reeves?

23 A. Yes, sir.

24 Q. And since you were assigned to do some  
25 interviews, I'm sure that you had a recorder nearby.

1           A.    At that time, I did not.  No, sir.

2           Q.    Where was your recorder?

3           A.    Honestly, I'm not sure.  The assignment that  
4 we'd been on previously, the missing person  
5 investigation, I didn't need it, so I am not 100 percent  
6 sure where it was at that point.

7           Q.    Well, by that time there were quite a few  
8 officers out there, right?

9           A.    By the time we got there, yes.

10          Q.    And having a recorder is not an odd thing for  
11 detectives and officers to have?

12          A.    No, sir.

13          Q.    So did you go and ask an officer to allow you  
14 to borrow a digital recorder so that you could record  
15 this interview with Mrs. Reeves?

16          A.    I did not.

17          Q.    Why not?

18          A.    At the time, sir, I guess I made the decision  
19 just to conduct the initial interviews.  Detective  
20 Harries had said we knew at that point that Vivian and  
21 her son were present at the time, and I don't think  
22 anyone had gotten a thorough statement from them, so it  
23 was to get the information as quickly as I could.

24          Q.    What was the hurry?

25          A.    At that point, sir, we really didn't know what

1 had gone on, to my understanding.

2 Q. So you got all day. You've got all night.  
3 You've got the next day. You've got three days  
4 thereafter. What was so -- why were you in such a hurry  
5 to conduct an interview of such an important witness  
6 without a recording?

7 A. At that point, sir, it was to get the other  
8 information to other people on the squad as quickly as I  
9 could.

10 Q. You would agree that capturing not only what  
11 the witness is saying, but certainly the emotional state  
12 of the witness while you're questioning her is crucial?

13 A. Yes, sir.

14 Q. And so if you have the recorder on, not only  
15 are you grasping what the witness is saying, but just as  
16 important, you're grasping the emotional side of that  
17 person as they're explaining what took place.

18 A. Yes, sir. It's a combination of that and  
19 annotating it in your report. Because sometimes the  
20 facial expressions and stuff like that isn't something  
21 that's going to be captured on an audio recording, so you  
22 try to describe that when you do your interviews.

23 Q. So you would expect, certainly, that from the  
24 very beginning of an interview, in order to capture that  
25 emotion, that if a detective has a digital recorder, you

1 turn that recorder on immediately when the questioning is  
2 going to be taking place?

3 A. Generally speaking, we will turn it on before  
4 we even walk in the room most of the time.

5 Q. So you can capture it all?

6 A. Yes, sir.

7 Q. Certainly, you would have expected the same  
8 from all of the detectives that were interviewing  
9 eyewitnesses there at the Cobb Theater?

10 A. I guess I don't understand the --

11 Q. Well, you weren't the only detective  
12 interviewing witnesses, right?

13 A. Correct.

14 Q. And so you expected the same procedure, "Hey,  
15 if you're a detective interviewing an eyewitness of this  
16 incident," would you expect that detective to have a  
17 digital recorder and go through the process as you would  
18 have? Meaning, I'm going to turn on that recorder before  
19 I even go into this room with this witness, and I'm going  
20 to record that witness from beginning to end so that I  
21 can capture everything.

22 A. We do commonly record, but we don't record  
23 every interview that we do. So I wouldn't necessarily  
24 expect that on an investigation of this size that every  
25 interview was recorded, no, sir.

1           Q.   Well, I'm not talking about an interview of the  
2 cook that was up in the kitchen, but I'm talking about an  
3 interview --

4           MR. MARTIN:  This is becoming argumentative.  I  
5 object to the argumentative nature of the  
6 questioning even though it is, quote, an adverse  
7 witness, hostile.  He just simply doesn't like the  
8 answer.

9           MR. ESCOBAR:  Judge, I don't believe he's  
10 hostile, just adverse.  But Detective Smith and I  
11 have had a professional relationship.  I think he  
12 can tell you that I've treated him with courtesy and  
13 he has with me.

14           I'm not being ugly with him.  I'm just asking  
15 him this particular question.

16           MR. MARTIN:  And I didn't say he was being  
17 ugly.  I just said it is argumentative, at this  
18 point.

19           THE COURT:  All right.  You're getting there.  
20 I'll cover a little different aspect, so I'll allow  
21 it, but we're getting into asked and answered as  
22 well.

23           MR. ESCOBAR:  I understand, Your Honor.

24 BY MR. ESCOBAR:

25           Q.   What I'm talking about is eyewitnesses.  You

1 don't have to, obviously, record someone that has no  
2 information because they weren't in there. But for  
3 eyewitnesses, you want to employ the same procedure that  
4 you've just discussed, and that is, whatever the  
5 detective may be, you go into the room with a recorder in  
6 hand. And before you even go into that room, you turn on  
7 that recorder so that you can ask the questions so that  
8 you can capture it all; emotion, uncertainty, certainty,  
9 description, everything. Right?

10 A. I guess the best way for me to answer that is,  
11 yes. I expect that the -- it's -- it's preferred to have  
12 the recording, honestly, anytime you have an important  
13 witness, so...

14 Q. And the reason that it's so important is that  
15 in these situations, we can't make mistakes?

16 A. Well, I would have to disagree with you there,  
17 sir. Everybody makes mistakes, but yes, we try to be as  
18 absolutely thorough as we can and try not to miss  
19 anything.

20 Q. Sir, could you tell the Court whether all the  
21 eyewitnesses in this particular case were interviewed  
22 with a recorder present?

23 A. I guess I can't tell you that for certain.  
24 I've not reviewed all of the audio, but I would say most  
25 likely not.

1           Q.    Now, Mrs. Reeves you remember vividly was  
2   upset, crying, pale, and physically shaking?

3           A.    Yes, sir.

4           Q.    You believe she was in her 70s?

5           A.    If I wrote that in my notes, possibly, sir.  I  
6   honestly don't remember if I --

7           Q.    Very thin woman?

8           A.    Yes.

9           Q.    There was another detective there with you.  It  
10   wasn't just you, correct?

11          A.    That's correct, sir.  Detective Moyer.

12          Q.    Did you ask Detective Moyer whether he had his  
13   recorder?

14          A.    I honestly don't recall if I asked him or not,  
15   sir.  I would say I probably would have once we were  
16   inside the theater, but I can't say for sure.

17          Q.    Now, you had your recorder in the car; did you  
18   not?

19          A.    Most likely it would have been either in the  
20   car or my office.  I'm not certain.

21          Q.    That would have been a short walk?

22          A.    Yes, sir.

23          Q.    Now, during your interviews where you're not  
24   using a recorder, you take notes sporadically, meaning  
25   you're not jotting down every word, you're not -- you

1 wait until the end of the interview to do that?

2 A. Yes, sir. You take some notes and then you go  
3 and usually write follow-up notes of things that you  
4 remember.

5 Q. Now, in interviewing Mrs. Reeves, did you ask  
6 her any questions about the lighting conditions that were  
7 present in the theater on January 13th of 2013, when she  
8 was seated by her husband?

9 A. I don't think I asked any specific questions  
10 about the lighting. I think I probably asked about what  
11 time in the movie it was, like, during the previews, to  
12 understand that it was darker, but I don't think I asked  
13 specifically what lights may or may not have been on.

14 Q. I think you, earlier in direct examination,  
15 indicated how important it is in assessing whether  
16 perception is reasonable, the lighting condition, because  
17 it affects your perception, right?

18 A. Yes, sir. Lighting does affect perception.

19 Q. So why wouldn't you ask her specifically about  
20 the lighting condition and how it affected, if it did,  
21 her perception?

22 A. Honestly, sir, I think I assumed, knowing that  
23 a movie theater is generally dark -- I kind of had that  
24 predisposed knowledge that I knew it would be dark.

25 Q. Did you know how dark?

1           A.    As far as a specific light level I could give  
2   you, no, sir.

3           Q.    Did you ask her whether there was any  
4   silhouetting effect that she experienced when Mr. Oulson  
5   was standing in front of them?

6           A.    I don't remember asking a question like that,  
7   sir, no.

8           Q.    Do you know what we're talking about when we're  
9   saying ambient light from a --

10          A.    As far as being acclimated by something?

11          Q.    Uh-huh.

12          A.    No, sir. I don't remember asking that  
13   question.

14          Q.    But you realize what happens when that takes  
15   place, correct? It diminishes the light on the  
16   individual that may be seated in looking at this  
17   individual standing up and creates a silhouetting effect?

18               MR. MARTIN: Your Honor, I'm going to object.  
19   It calls for speculation. It's just way too general  
20   a question. We have theater lighting with numerous  
21   ambient lights. That's way too general to try to  
22   equate in this case. It calls for speculation.

23               MR. ESCOBAR: I think he's familiar with the  
24   silhouetting effect of a light -- on the ambient  
25   light on the back of an individual.

1           THE COURT: To the extent that he knows without  
2 pure speculation.

3 BY MR. ESCOBAR:

4           Q. You're familiar with that process, right?

5           A. If I understand you correctly, you're talking  
6 about a backlight being behind somebody? Yes, sir.

7           Q. Uh-hum. That creates a silhouetting effect.

8           A. Meaning the light could be brighter around the  
9 person rather than in front of the person? Yes, sir. I  
10 understand that.

11          Q. And that it reduces, obviously, the light that  
12 is visible on the person that is taking a look at that  
13 silhouette?

14          A. Depending on where other sources of the light  
15 were coming from, then, yes, sir.

16          Q. Okay. You, likewise, never asked Mrs. Reeves  
17 anything about the noise level within the theater?

18          A. Not specifically that I recall. No, sir.

19          Q. Did you even know at the time of this  
20 particular incident -- when you were interviewing Mrs.  
21 Reeves this incident occurred while the previews were  
22 playing?

23          A. I'm sorry. I guess I don't understand what  
24 you're asking.

25          Q. Were you aware that this shooting incident had

1 occurred during the previews playing even before you went  
2 to go and interview Mrs. Reeves? That's my question.

3 A. I believe I did, sir. I guess I can't tell you  
4 exactly when I came about that, but I think most likely  
5 when I got my initial briefing showing up that that came  
6 up, yes, sir.

7 Q. And you're aware that previews are generally  
8 played louder in the theater than even the motion picture  
9 that you're able to see?

10 MR. MARTIN: Your Honor, I object to that.  
11 That calls for speculation.

12 MR. ESCOBAR: If he knows. It's not -- Judge,  
13 that's a very common understanding of any human  
14 being that's gone to a theater.

15 MR. MARTIN: No, it's not, and Mr. Escobar was  
16 in the sound booth just like I was at Cobb Theater,  
17 and he has no basis whatsoever to ask that question.

18 Now, I'm not going to stand here and testify,  
19 but I know he has no basis to ask that question,  
20 none.

21 MR. ESCOBAR: Do you know how many movies I've  
22 been to? I have a very good basis.

23 MR. MARTIN: What did I just say? I said I was  
24 in the sound booth. I saw him set the sound. I  
25 know he has no basis to ask that question. I don't

1           care what his life experience is.

2           MR. ESCOBAR: Judge, this is the issue. The  
3           issue is whether a common individual that's gone to  
4           the movies on many occasions -- whether they  
5           recognize that the previews are played at a louder  
6           noise level than even the general movie. That's my  
7           question.

8           THE COURT: Well, I guess you can ask him does  
9           he know.

10          MR. ESCOBAR: Yeah, that's what I've asked him.

11          THE COURT: Other than that, you know.

12   BY MR. ESCOBAR:

13          Q. Do you know?

14          A. I guess, honestly, I'd have to say not  
15          necessarily, sir, because I guess it would depend. If  
16          it's an action movie and a love story preview, then, no.  
17          Could it be? I would assume so, yes, sir.

18          Q. Okay. So did you ask Ms. Reeves, based upon  
19          that limited knowledge that you had, what the noise level  
20          of the previews were at the time that she was perceiving  
21          the threat?

22          A. Not that I recall, sir. I don't recall a  
23          specific question about the noise.

24          Q. And certainly before interviewing Mrs. Reeves,  
25          you yourself had not reviewed the previews that were

1 playing that day?

2 A. No, sir.

3 Q. In fact, you didn't even know what previews  
4 were playing?

5 A. No, sir.

6 Q. And you would agree that noise and light, as  
7 you've testified earlier, is an important aspect of  
8 perception?

9 A. Yes, sir.

10 Q. So when you're questioning someone concerning  
11 their perception of the event, you want to take into  
12 consideration those types of things that would affect  
13 that person's perception?

14 A. I guess in a preliminary interview that I'm  
15 conducting with someone like that, I'm probably not going  
16 to ask as pointed a question to find out their  
17 explanation of what happened, if she had --

18 Q. "In a preliminary interview."

19 A. Yes, sir.

20 Q. What does that mean?

21 A. Generally speaking, in any major case you  
22 conduct multiple interviews by the time you're done  
23 and --

24 Q. So you would have expected, then, Detective  
25 Proctor to reinterview every eyewitness in this

1 particular case because, I guess, all the eyewitnesses  
2 were just preliminarily interviewed?

3 A. Not necessarily, sir, no. Generally speaking,  
4 we -- when we train, I guess we call it interview or  
5 interrogation, and during an interview it's more of a,  
6 "Please tell me your side of the story, what you saw."

7 You may have some general follow-up questions,  
8 but more pointed questions come during the interrogation  
9 after you learn more information possibly, from other  
10 witnesses, and you don't always go back and interrogate a  
11 witness or even follow up with more interviews. It  
12 depends on the situation.

13 Q. Even if you have those two issues, low  
14 lighting, noise, and you want to know how that affects  
15 perception, you just don't do it?

16 A. No, sir. If it had come up as an issue during  
17 the investigation and the investigator determined -- I  
18 want to try to determine that, I'm sure they would ask  
19 more specific questions about it, but I did not during my  
20 interview with Mrs. Reeves.

21 Q. Now, you, at some point in time, finished this  
22 interview, correct?

23 A. Yes, sir.

24 Q. And you then started an interview with Matt  
25 Reeves; is that correct?

1           A.    Yes, sir.

2           Q.    And Matt Reeves, same situation:  You didn't  
3 record him?

4           A.    Correct.

5           Q.    You did not go back to your car in between  
6 interviews and go get your recorder?

7           A.    No, sir.  It was conducted in the same place,  
8 just like --

9           Q.    And you didn't ask Detective Moyer or any other  
10 officers for their report?

11          A.    No, sir.

12          Q.    Now, you knew that Mr. Reeves, Matt Reeves, was  
13 a police officer?

14          A.    I don't think I knew at the time.  Obviously  
15 once I started conversing with him, I believe he told me,  
16 yes.

17          Q.    And, in fact, you indicated to him, "Mr.  
18 Reeves, because you're a police officer, I want to you  
19 draw me a diagram of where you were and how you were able  
20 to see what you saw," in this particular case?

21          A.    I do remember during my interview with him  
22 there -- I had him draw some notes.  I think I drew some  
23 notes as well just to get an idea of where in the theater  
24 we were talking about, yes.

25          Q.    You lost that diagram that Mr. Reeves drafted?

1           A.    I didn't lose it, sir. I used that as part of  
2 my notes throughout the day. I continued to write my  
3 crime scene notes on it, and after completing my reports  
4 on it the notes were destroyed, most likely along with  
5 some of my other case notes.

6           Q.    But wait a minute. He was the one that drew  
7 the diagram, not you. Why were you destroying something  
8 that he wrote?

9           A.    It is not -- it wasn't something, sir, that I  
10 considered that -- for him to have authored. It was my  
11 notes.

12                   Yes, I do believe he did draw some things on  
13 there as well, but I was using them as, like I said, my  
14 general guidelines throughout that day as to where things  
15 were.

16           Q.    You didn't think that someday he may want to  
17 present that in a court of law?

18           A.    Not at that time, sir. If I thought it would  
19 be more of an item of evidence, I probably would have  
20 secured it as such, but again, it was for my purposes of  
21 notes during the day.

22           Q.    Did you tell him you were going to destroy it?

23           A.    No, sir, I would not have necessarily told  
24 anybody that I was talking to.

25           Q.    Now, both of these interviews were relatively

1 short?

2 A. Yes, sir.

3 Q. Now, by that time did you know Mr. Reeves to  
4 have been a former police officer?

5 A. I believe so, sir. I guess, again, I can't  
6 tell you exactly when I came up with the information, but  
7 most likely.

8 Q. And you recognized that he was a retired  
9 captain?

10 A. Yes, sir. I think I probably did know that at  
11 that time.

12 Q. And you certainly felt as a retired captain  
13 that he had had quite a bit of training over the years  
14 and that you were going to bring that up to Detective  
15 Proctor?

16 A. I guess I don't specifically recall bringing  
17 that up --

18 Q. No, no, that you were going to. In other  
19 words, you recognized he was a captain. He had, in your  
20 opinion, a lot of training through the years and that you  
21 were going to -- your intent was to bring that up to  
22 Detective Proctor?

23 A. I guess I don't believe so. I mean, I knew  
24 Detective Proctor was questioning him, so I guess I don't  
25 recall an instance where I remembered thinking about

1     doing that or doing that because I probably thought he  
2     had the same information that I did.

3           Q.     It's the bottom of page 174, lines 21 through  
4     25; the top of page 175, lines 1 through 5, do you  
5     remember me taking your deposition? I believe that was  
6     June --

7           MR. MARTIN: Your Honor, I'm going to object to  
8     the use of the deposition at this time. It is an  
9     improper method of which to use the deposition. It  
10    isn't substantive evidence.

11          MR. ESCOBAR: Judge, it is proper impeachment  
12    of a witness. Totally proper.

13          THE COURT: It may be if you're getting on, if  
14    it's substantially different.

15          MR. ESCOBAR: Yes.

16          THE COURT: Is it?

17          MR. ESCOBAR: It is. If you want to see it, I  
18    can show it to you before I even --

19          MR. MARTIN: No. The proper method is to show  
20    it to the witness. You ask the witness --

21          THE COURT: He didn't say he didn't remember.

22          MR. ESCOBAR: Right.

23          THE COURT: We're on a different -- you know,  
24    the actual impeachment part.

25          MR. ESCOBAR: Judge, I'll be more than glad to

1 show it to you so that the Court has no doubt that  
2 it certainly -- in my professional opinion, I  
3 believe it's different.

4 THE COURT: All right. As I said before, often  
5 what lawyers think is substantially different is  
6 often not what I think is substantially different in  
7 accordance with the case law and the rules, but --

8 MR. ESCOBAR: The beauty of this is you're  
9 going to hear it and you're either going to --

10 THE COURT: Right. So you can either show it  
11 to Counsel and show it to --

12 MR. MARTIN: If you're going to hear it, you're  
13 going to hear it. Let's not waste anymore time.  
14 This is the Monday of the second week.

15 BY MR. ESCOBAR:

16 Q. Do you remember me taking your depo on  
17 March 30th, 2015?

18 A. Yes, sir.

19 THE COURT: And I will reserve those rulings  
20 until I hear it.

21 MR. MARTIN: Yes.

22 BY MR. ESCOBAR:

23 Q. Do you remember me asking you the following  
24 questions:

25 Okay. And so tell me, what did you do with

1     that information -- meaning, the information of Captain  
2     Reeves having that training.

3             So, what did you do with that information, the  
4     fact that, you know, Curtis was a police officer? Tell  
5     me how you used that information immediately upon Mrs.  
6     Reeves giving it to you?

7             Again, I recognize the fact that he would have  
8     some training in use of force. Obviously, if you're a  
9     retired captain, you've had lots of training over the  
10    years, things like that. He kept that, you know, to  
11    bring up to Detective Proctor and other people who are  
12    obviously by that time I talked to them were already  
13    aware of all of that, because Curtis had identified  
14    himself.

15            So you were going to do that -- all of that  
16    information that you believed that Mr. Reeves had in the  
17    use of force, his expertise, you wanted to share that  
18    with Detective Proctor.

19            THE COURT: I'll overrule. That's basically  
20            what he said.

21    BY MR. ESCOBAR:

22            Q.    Correct? You wanted to share that with  
23    Detective Proctor?

24            A.    I wanted to share all of the information that I  
25    got in my interviews with Detective Proctor.

1           Q.     Including that information, the fact that  
2     Curtis Reeves was a captain for many years in the Tampa  
3     Police Department and, like you, would have received tons  
4     of training in use of force, correct?

5           A.     As I said before, sir, I don't specifically  
6     remember that topic. But yes, any of the investigation  
7     that -- information that I would have gotten from my  
8     interview, and that was part of it, I would have  
9     obviously relayed to everybody involved in my chain of  
10    command.

11          Q.     Well, but that information is critically  
12    important in a self-defense case, correct? Because it's  
13    his perception that's important, correct?

14          MR. MARTIN: Your Honor, I'm going to object.  
15    First, it calls for speculation, and it's almost  
16    like we're going into a legal aspect of it and no  
17    predicate has been laid.

18          MR. ESCOBAR: This is investigative, Judge.  
19    This is not legal aspect. This individual  
20    understands use of force. He's testified about use  
21    of force.

22          He's now been given the information that Curtis  
23    Reeves has many years of experience in use of force,  
24    and the question of whether that particular  
25    information was critical in his assessment whether

1       Mr. Reeves' perception was reasonable at that time  
2       is critical.

3             It's a piece of evidence that he has to give to  
4       every other detective out there so that they can use  
5       that information in their analysis. Because  
6       otherwise, what are we going to do? How are we  
7       going to do it?

8             We need to have that information being carried  
9       over to other officers so that they can properly  
10       evaluate the circumstances.

11            MR. MARTIN: Your Honor, I'm going to rely on  
12       the objections that I've made over the last couple  
13       of days. I think that argument speaks for itself,  
14       that we're looking at making a determination of  
15       whether or not their initial determination that Mr.  
16       Reeves was not entitled to any type of immunity for  
17       the shooting.

18            That's not the case. This is not an arrest  
19       where we're trying suppress evidence. This is not a  
20       motion to suppress. That is water under the bridge.  
21       Now we're looking at you have to make an independent  
22       determination based on the facts.

23            So whether or not -- what they thought is not  
24       relevant. They already -- we already know what they  
25       thought. He was not entitled to it. So now you get

1 to make your own independent determination, and  
2 that's what we'll live by from this point forward,  
3 so it's not relevant.

4 MR. ESCOBAR: So let's listen to this and see  
5 how it really sounds here. We don't have to worry  
6 about how they came to that conclusion. We don't  
7 have to worry about the information that was given  
8 to them in order to make that conclusion.

9 Let's just assume, Your Honor, that their  
10 decisions are right, and now you all just go ahead  
11 and put your decisions on and let the Court decide.  
12 That's what he's saying which is -- Your Honor, with  
13 all due respect, this is preposterous.

14 This individual had certain information that  
15 was given to him that he had to use in that  
16 analysis. Because if this case is about perspective  
17 and if, in fact, he's got knowledge of use of force  
18 for 27 years as a decorated officer with the TPD and  
19 he's been given that information, not only does he  
20 have to use that information for his own  
21 assessment --

22 MR. MARTIN: Is this a closing argument or are  
23 we talking about --

24 MR. ESCOBAR: -- but he has to use that  
25 information for every aspect of the investigation

1           and he has to use that information for every aspect  
2           of his opinions. Because the issue here, whether  
3           it's an arrest or whether it's this Court's  
4           decision, and, that is, whether or not -- at the  
5           time of the shooting incident, whether or not Mr.  
6           Reeves reasonably perceived in his shoes, 27 years  
7           as a decorated TPD officer, with his particular  
8           physical condition, all of those conditions, it's in  
9           his shoes.

10           It's not in his shoes. It's not in anybody's  
11           shoes. He has to evaluate it in his shoes. That's  
12           what the law says.

13           So how can we now say that the information that  
14           I am cross-examining and directing by leading  
15           questions of this particular officer are not  
16           relevant on that particular issue? It's the focal  
17           issue of this case.

18           MR. MARTIN: The reason it's not relevant is  
19           because you're not making your decision on their  
20           decision. Yours is independent. It's not relevant.

21           MR. ESCOBAR: Your decision, Your Honor, has to  
22           be based on part of what they gathered. How could  
23           the Court make an independent decision without the  
24           information that they've gathered?

25           Is the Court now -- somehow do we presume that

1 the Court has this --

2 THE COURT: What exactly are you seeking from  
3 this witness?

4 MR. ESCOBAR: Very simply, at this point in  
5 time, what I'm seeking from this witness is for him  
6 to acknowledge that, in fact, he was aware of the  
7 experience in dealing with use of force that the  
8 detective had and that he was going to share that  
9 experience -- because I've got it here -- that he  
10 was -- his intent was to share that experience with  
11 not only Detective Proctor, but also the other  
12 detectives that were having a vital role in this  
13 case.

14 THE COURT: Okay. I think we've covered that  
15 already.

16 MR. ESCOBAR: Well, there was an objection when  
17 that question was asked.

18 THE COURT: All right. I kind of lost track of  
19 the question about 10 minutes ago in the interim,  
20 but if that's the question, go ahead, but let's  
21 stick to that. I don't need -- you know, just stick  
22 to that.

23 Go ahead. Overruled.

24 BY MR. ESCOBAR:

25 Q. You knew that Mr. Reeves -- when you were

1 interviewing both of these witnesses, you knew that  
2 Mr. Reeves was armed in that theater?

3 A. Yes, sir.

4 Q. You did not find it unusual that he would be  
5 armed?

6 A. I guess not necessarily, no, knowing that he  
7 was a prior law enforcement officer, you know, frequently  
8 carry off duty or when you're retired.

9 Q. And you are aware that there's actually a  
10 federal statute that encourages law enforcement to --  
11 retired law enforcement to carry a firearm?

12 MR. MARTIN: Your Honor, I object, because the  
13 word "encourages it" gives him the authority.  
14 That's all -- that "encourage" is not in the federal  
15 statute.

16 THE COURT: If it's not, rephrase, then.

17 BY MR. ESCOBAR:

18 Q. Authorizes?

19 A. Authorizes, yes, sir. I would agree with that.

20 Q. Do you know why they authorize it, the federal  
21 statutes, that is?

22 A. Do I know specifically, like, the reasons for  
23 the statute?

24 Q. Sure. Yeah, the statutory intent, that's what  
25 they call it.

1           A.    My -- I guess my general understanding when the  
2 bill came out was just to give officers -- because  
3 generally speaking, the state you were certified in you  
4 could always carry, but it just gives the officers the  
5 ability to carry from state to state with a single common  
6 statute over it.

7           Q.    And you have to qualify for that?

8           A.    Yes, sir.

9           Q.    You want to make sure that those officers that  
10 do have that license are competent?

11          A.    Correct.

12          Q.    So your interview of both of these witnesses  
13 were very general, and you just met them, tell their  
14 story, very few questions on your part?

15          A.    Yes, sir. It was more of a preliminary  
16 interview to find out what they'd seen.

17          Q.    Now, when you finished -- when you finish these  
18 interviews, do you report back to a supervisor concerning  
19 the information that you're finding?

20          A.    Generally, yes, sir. When you're given a  
21 specific task like that, you would go back to the  
22 sergeant and report back to him what information you  
23 gathered.

24          Q.    And would that be Sergeant Harris?

25          A.    Yes, sir. At the time our sergeant was out of

1 town.

2 Q. Did you indicate to Sergeant Harris you had  
3 determined that at the time of this incident, the theater  
4 was dark or darker and that the noise level was up pretty  
5 high?

6 A. I don't specifically remember speaking about  
7 that. I think I relayed to him that both witnesses  
8 reported it was during the previews. And I know some of  
9 the testimony that Matt had given me was that it was dark  
10 when he had walked in, so I think, generally speaking,  
11 that was it, but I don't remember a direct conversation  
12 with Detective Harris about that.

13 Q. Certainly at that point in time, you gave no  
14 opinions to Detective Harris, correct?

15 A. I honestly don't recall. If you could ask  
16 about a specific opinion, maybe.

17 Q. Any opinion. You interviewed two people. Did  
18 you give anybody an opinion by that time?

19 A. I probably spoke to my opinion of their level  
20 of truthfulness, things like that. As far as what had  
21 happened in the case at that point, no, sir, because I  
22 don't believe I had enough information.

23 Q. And you told Harris, "Hey, I think these two  
24 people are being truthful"?

25 A. I had no reason to believe that they were lying

1 to me. No, sir.

2 Q. Now, it's at this point in time that you get  
3 assigned as the lead crime scene detective, correct?

4 A. Yes, sir, very shortly after completing the  
5 interviews.

6 Q. And you never saw Mr. Proctor or Detective  
7 Proctor come to the crime scene until much later,  
8 correct?

9 A. I know when I first arrived, he was not there.  
10 I believe he was conducting an interview with Mr. Reeves,  
11 so I didn't see him specifically when he came in. I'm  
12 not sure.

13 Q. And, again, this was your first time as a -- as  
14 the lead crime scene detective?

15 A. Second time, sir.

16 Q. The second time?

17 A. Yes, sir.

18 Q. What courses had you taken in crime scene  
19 detective analyzation?

20 A. I guess there's not -- there are some courses  
21 for forensic processing that I had taken as far as  
22 dealing mainly with fingerprints, with castings. I think  
23 we covered very basic collection of DNA and things like  
24 what.

25 My previous law enforcement experience in New

1 Hampshire, because we were such a small department, we  
2 did all of our forensic processing ourselves. There was  
3 no forensic department, if you will. So I've had some up  
4 there.

5 A large part of my training, as far as  
6 reconstructing a scene, came from my accident  
7 reconstruction experience up there.

8 We treat -- even though it's an outside venue  
9 and larger, we do measurements, photographs, things like  
10 that, so I would say that's probably the bulk of my  
11 training in any type of evidence collection of crime  
12 scene type things.

13 Q. So you probably had some human factors  
14 training?

15 A. I don't understand what you're --

16 Q. Accident reconstruction, you probably had some  
17 training in what we call human factors?

18 A. As far as a person's influence on how things  
19 occur, that type? Is that what you're referring to?

20 Q. Reaction time?

21 A. Yes, sir.

22 Q. Tell the Court what human factors are.

23 A. Well, you always have to -- when  
24 reconstructing, say, a crash scene, you have to take into  
25 account people's possible level of distraction; a perfect

1 reaction time if they had seen an object to try to avoid  
2 before they could react, improper correction, say, to  
3 swerve or lock up their brakes, different things like  
4 that.

5 Q. All of that takes time because you have to  
6 perceive it, you've got to go through a mental process,  
7 right? That takes time as well?

8 A. Yes, sir.

9 Q. Then you have to make a plan, a decision of  
10 what you're going to do, right? That takes time as well?

11 A. Yes, sir.

12 Q. Then you've got to actually carry out the plan,  
13 correct?

14 A. Yes.

15 Q. That takes time as well?

16 A. Yes.

17 Q. So at least you'd had some factors back then.

18 A. Yes, sir.

19 Q. Now, when you walk into the scene, your first  
20 process was to walk the scene and see what you had,  
21 right?

22 A. Yes, sir.

23 Q. One of the things that you noticed --

24 MR. ESCOBAR: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MR. ESCOBAR:

2 Q. Detective, I'm going to hand you what's been  
3 marked as Defendant's Exhibit No. 33 that has been  
4 introduced into evidence.

5 I want you to take a look at that exhibit and  
6 tell me if you recognize that exhibit.

7 A. Yes, sir. My initials are on the bag. This  
8 appears to be the cell phone that we collected from the  
9 floor of the theater.

10 Q. If you would be so kind to remove that phone  
11 from that bag for us, if you can.

12 A. (Witness complies.)

13 Q. Now, when you first walked into that scene, you  
14 were able to see that particular phone on the ground,  
15 correct?

16 A. Yes, sir.

17 Q. And you were able to see that phone on the  
18 ground in the very top row, middle section of that  
19 theater?

20 A. Yes, sir.

21 Q. On the floor?

22 A. Yes, sir.

23 Q. And do you remember the positioning of the  
24 phone, whether it was face-up or face-down when you first  
25 saw it?

1           A.    It was face-up.

2           Q.    Okay.  Now, did you recognize at that point in  
3 time that that particular item was a piece of evidence?

4           A.    We treated it as a piece of evidence as that  
5 was everything in the immediate vicinity of that row,  
6 because we knew that, generally, was where the Defendant  
7 had been seated and the victim had been seated.  I did  
8 not know specifically where that item had come from at  
9 that time.

10          Q.    And you didn't know specifically what seat Mr.  
11 Reeves had been seated in at the time of the shooting  
12 incident, correct?

13                  When you walked in there, when you got whatever  
14 information you got from your sergeant, you had no idea  
15 when you went into that scene what seat Mr. Reeves was  
16 seated in at the time of the shooting?

17          A.    Correct.  We determined that there were no seat  
18 numbers and we didn't have any kind of verification as  
19 to -- we knew within, I believe, probably three or four  
20 seats what area we were talking about, but not  
21 specifically the specific seat.

22          Q.    You didn't know either what seat Mrs. Reeves  
23 was seated in?

24          A.    I believe in relation to Mr. Reeves, I knew she  
25 was to his right side, but again, specifically which seat

1     that was, no, sir.

2           Q.     So you just had access to Mrs. Reeves, right?

3           A.     Yes, sir.

4           Q.     And did you ask Ms. Reeves to come with you  
5     into the scene so, at the very least, early on in your  
6     investigation, she could point out the actual seat that  
7     she was seated in?

8           A.     No, sir. She did not come into the theater.

9           Q.     And you didn't ask her to?

10          A.     No, sir.

11          Q.     Well, did you ask Matt Reeves -- who is a  
12     police officer in the Tampa Police Department, correct --

13          A.     Correct.

14          Q.     -- who you believe was very truthful to you  
15     during your interview. Did ask him to --

16                 MR. MARTIN: Your Honor, I'm going to object to  
17     the last gratuitous comment.

18                 MR. ESCOBAR: Just -- he testified that he  
19     believed he was truthful.

20                 MR. MARTIN: I haven't heard that testimony.

21                 MR. ESCOBAR: Well, let me ask him.

22     BY MR. ESCOBAR:

23           Q.     Let me ask you, Detective, did you indicate  
24     that you believed Matthew Reeves was truthful to you?

25           A.     Yes, sir. I said I didn't have any reason to

1 believe that he had been lying to me.

2 Q. If you can, I'm going to put that a little bit  
3 closer to you, because part of problem may be that  
4 Mr. Martin is --

5 MR. MARTIN: No. Part of the problem, the  
6 question wasn't asked before, that's what the  
7 problem was.

8 THE COURT: All right.

9 MR. ESCOBAR: Detective --

10 THE COURT: It's been asked.

11 MR. ESCOBAR: It has, Your Honor. If we want  
12 to get this court reporter, she will pull it right  
13 away.

14 THE COURT: If not before, it was asked just  
15 now. I recall hearing the question previously,  
16 though, about: Did you believe these witnesses were  
17 truthful? I don't remember specifically hearing Mr.  
18 Reeves, Matt Reeves --

19 MR. ESCOBAR: He said both at the time. He  
20 said both of those individuals were truthful to him.

21 THE COURT: All right.

22 BY MR. ESCOBAR:

23 Q. Now, you didn't ask Mr. Reeves to come in and  
24 point out the seats, correct?

25 A. No, sir.

1           Q.    I'm going to show you, first of all, what's  
2   been marked as -- introduced into evidence Defendant's  
3   Exhibit No. 26.

4                   I'm going to ask you to take a look -- I'm  
5   going to ask you to take a look at that particular  
6   exhibit, and do you recognize that exhibit?

7           A.    Yes, sir.  It appears to be one of the crime  
8   scene photographs from that day.

9           Q.    Is that the condition of the cell phone as you  
10  saw it when you first went into that crime scene?

11          A.    Yes, sir.

12          Q.    Is that correct?

13          A.    Yes, sir.

14                   MR. ESCOBAR:  Can you zoom that in?

15  BY MR. ESCOBAR:

16          Q.    Did you also see in that particular same  
17  general area the bag that appears within that photo?

18          A.    Yes, sir.  Everything -- the position of the  
19  things that are in the photo is as I remember seeing them  
20  when I got there.

21          Q.    So, Detective, your feelings were that when you  
22  first went into this theater, you felt you were kind of  
23  blind because you really didn't know where the  
24  participants in the shooting incident were situated?

25          A.    I wouldn't say that, sir.  I did have an

1 understanding of the general overall events in that one  
2 of the items, that being the popcorn, was thrown during  
3 it, so seeing the popcorn and the phone there, I was -- I  
4 felt within a reasonable certainty those were the seats.  
5 I just can't commit to you to say for sure I knew which  
6 one was which.

7 Q. Now, do you know if by the time that you walked  
8 into the theater -- did you know if Mr. Reeves had been  
9 interviewed yet by Detective Proctor?

10 A. Upon entering into the crime scene, I believe  
11 the interview was either in progress or it may have been  
12 finished. I'm not sure.

13 Q. And tell me or tell the Court -- more  
14 importantly, tell us the communication that you had with  
15 Detective Proctor in the sharing of information. Was  
16 that a direct communication between yourself and  
17 Detective Proctor?

18 A. At some point, yes, but upon my first arrival,  
19 like I said, Detective Proctor wasn't there. I believe  
20 he was involved in the interview with Mr. Reeves, so most  
21 of the information sharing I'd done I guess would have  
22 been through Detective Harris.

23 Q. Detective Harris?

24 A. Yes, sir.

25 Q. By that time, had Detective Harris indicated to

1     you that Mr. Reeves had indicated to Proctor that he  
2     believed that he had been possibly hit with Mr. Oulson's  
3     phone?

4             A.     At the time that I arrived and first started  
5     processing, no, I was not aware of that.

6             Q.     That would have been important information for  
7     you?

8             A.     At some point during the investigation, I did  
9     become aware of it, yes, sir. It obviously is an  
10    important statement.

11            Q.     Now, one of the first things that you wanted to  
12    do there at the scene is that you wanted to try to  
13    capture evidence, secure evidence and certainly focus on  
14    what the perception of Mr. Reeves was as he was seated in  
15    the theater chair?

16            A.     I guess at this time, my specific duties were  
17    more towards the capturing of the evidence in place, not  
18    necessarily to come up with an opinion on the perception.  
19    I guess that would be more for Detective Proctor and the  
20    chain of command to decide.

21            Q.     Well, how are you going to know what to  
22    properly capture unless you understand that there's a  
23    self-defense issue here in this case?

24            A.     The understanding of events is obviously  
25    important to knowing that, but I guess the perception

1 part, I guess, is just where -- I don't think I  
2 necessarily would have to understand that as far as the  
3 physical processing.

4 Q. Well, depending upon where you're seated, you  
5 may have a different perception of what's taking place,  
6 correct?

7 A. Yes, sir.

8 Q. And you knew that there were cameras in the  
9 theater, correct?

10 A. Yes.

11 Q. And do you think that a camera 36 feet up on a  
12 theater wall is going to give you the same perspective as  
13 an individual seated in a seat while someone is  
14 confronting him and attacking him?

15 A. No, sir. It would definitely be different.

16 Q. Well, tell the Court why it would be different.

17 A. I guess the general rule of thumb when you're  
18 analyzing video evidence, there's factors that you can't  
19 see. You're looking at a very specific angle. Things  
20 may be blocked from view, and only whatever is visually  
21 captured right there gives you some sort of reference,  
22 but you don't necessarily understand the interaction  
23 between anything in the video so you have to understand a  
24 little bit of both, I guess.

25 Q. It's almost like going to a football game. If

1     you sit down low, you get a different perspective of a  
2     football game, correct?

3             A.     Yes, sir.

4             Q.     Then when you sit real high in a football  
5     stadium, you actually are able to see the plays develop?

6             A.     I guess you'd see a broader view, like. Yes,  
7     sir.

8             Q.     Now, one of the things that you want to do  
9     before you even start securing anything in a crime scene  
10    is you want to make sure that it either has or has not  
11    been disturbed prior to your arrival?

12            A.     I guess I don't understand your question, sir.

13            Q.     Yeah. You were out interviewing two witnesses,  
14    right?

15            A.     Yes, sir.

16            Q.     Before you even went into the crime scene?

17            A.     Correct.

18            Q.     And what time did you arrive to the location to  
19    the Cobb Theater?

20            A.     I think if I could refer to my note --

21            Q.     Anytime you need to. I'm one of those, we want  
22    you to get to the truth, not --

23            A.     It looks like at approximately 2:25 in the  
24    afternoon.

25            Q.     Somewhere around an hour, approximately, after

1 the incident?

2 A. Probably, sir, because I know I was in New Port  
3 Richey at the time that it occurred.

4 Q. And so you certainly want to know when you had  
5 the interviews, so we're maybe an hour-and-a-half after  
6 the incident you're going into the crime scene. I know  
7 there's a log so we'll have a precise time.

8 Do you have your log there?

9 A. That, I don't. I'm sorry.

10 Q. Okay. So you are now going into the crime  
11 scene, and one of the most important things that you want  
12 to know is: Okay. Who's been in here? What have they  
13 done? You know, what do I have to look for? Right?

14 A. Yes, sir.

15 Q. So tell me how you do that. Tell me what you  
16 did. More importantly, what did you do in this case in  
17 order to find out that information?

18 A. Well, in this particular case, like I said, I  
19 was kind of late arriving, so by the time I arrived the  
20 crime scene tape was secured. It had already been set  
21 up.

22 We called a couple layers of security. There  
23 was general crime scene tape at the front doors, but then  
24 we had additional tape at the actual entrance to Theater  
25 number 10. I remember there were a couple of deputies

1     there providing security. We had some forensics  
2     supplies, so things had been set up already.

3             So when I first came in, our forensics  
4     investigators were already in the process of taking some  
5     of the photographs, documenting, so my first step would  
6     have been asking them, obviously, because they've been in  
7     there processing for --

8             Q.     You mean to tell me when you got there, your  
9     forensic techs were already doing things without your  
10    instruction?

11            A.     Our forensic techs operate independently. They  
12    are investigators as well, and they have specific  
13    policies and procedures they follow that are not  
14    necessarily at my direction. It's more of a team effort,  
15    if you will, where we might converse back and forth, but  
16    they have certain expertise in doing things that I don't.

17            Q.     Well, can you tell me which forensic techs that  
18    were there before you arrived?

19            A.     I remember Investigator Parish was there. I  
20    believe Investigator Garrison was there. I can't  
21    remember specifically, because there was a total of, I  
22    think, either four or five techs that arrived at some  
23    point, but I just can't tell you for sure who might have  
24    come after me. I know there were at least one or two  
25    that arrived after I did.

1           Q.    Do you know what information either one of  
2 those two techs had before you arrived at the scene?

3           A.    Off the top of my head, no.  At the time did I  
4 speak with them about what they had done and generally  
5 just get the overview and have them point things out to  
6 me?  Yes.

7           Q.    So what had they done?

8           A.    Again, specifically what tasks that they  
9 accomplished before I had showed up I'm not certain of.  
10 I know --

11          Q.    Well, didn't you memorialize that conversation?  
12 Didn't you say, "Wait a minute.  I just arrived.  I want  
13 to know what information you have, what you've done, if  
14 you've moved anything, if you've photographed anything?"

15                You're the crime scene detective, right?  
16 That's what you want to happen?

17          A.    Not at that point, sir, because it's still a  
18 work in progress, if you will, and they, again, write  
19 their own independent supplements.  So if, say, one of  
20 the techs is tasked with doing specific measurements, I'm  
21 not going to be noting their measurements.  They are  
22 responsible to do that and do that themselves.

23                I will probably be aware of it and possibly  
24 give you my opinion in order to point out some things  
25 that may have been missed, but...

1           Q.   Well, since you're the crime scene detective  
2           and you know that there's a self-defense issue here,  
3           aren't you going to want to be talking to them about the  
4           measurements that you want?

5           A.   Again, I guess the best way to answer that,  
6           it's a team effort, because I'm also not going to trust  
7           just based on what I've seen because I may have missed  
8           something that one of the other investigators saw. So  
9           there was ongoing discussion throughout the entire time  
10          we were at the scene as to what items might be where,  
11          what significance they could have, and if we were going  
12          to collect them.

13          Q.   Well, you certainly, at that point in time,  
14          couldn't be giving them any requests to take measurements  
15          from seat to seat, meaning where the Oulsons were seated  
16          and where the Reeves were seated, because you had no idea  
17          where they were seated?

18          A.   Correct. At that point, I think, probably upon  
19          my arrival, the only thing that had been done would have  
20          been some of the photographing.

21          Q.   Okay. And so how did you go about trying to  
22          devise or formulate a plan for what you wanted to  
23          preserve in the form of measurements that were going to  
24          be relevant in a self-defense case?

25          A.   Generally, we looked at it as we would any

1 other crime scene. We knew we had a very large room, and  
2 we were not going to be likely taking measurements of  
3 something at the very front of the theater because we  
4 knew that it occurred in the top two rows, we knew  
5 generally in the middle.

6 So I think a determination was made we would  
7 concentrate mostly on those top three rows of seats and  
8 again surrounding middle area, and again, we did -- we  
9 could see where the cell phone was on the floor, the bag  
10 of popcorn was on the floor, and I guess we kind of  
11 picked that as the central point and moved out from that.

12 Q. You don't know what measurements were taken  
13 that day, do you?

14 A. Specific measurements, no, sir, I don't.

15 Q. You never even discussed the specific  
16 measurements that were taken with these techs that day,  
17 did you?

18 MR. MARTIN: Your Honor, I'm going to object at  
19 this time. The exact crime scene investigation at  
20 the time, again, it goes to what information they  
21 had to make, whatever determination they want to do.

22 Again, they already made it. You know, going  
23 into what seat was there, was this there, it doesn't  
24 help Your Honor to make your own independent  
25 judgment in this case. It's just not relevant.

1           This is an immunity hearing. This is not a  
2           trial where he's attempting to establish reasonable  
3           doubt. I keep saying that over and over and over  
4           again. And I'm aware of your rulings and I respect  
5           them, but I just can't let this keep going on. Now  
6           we're going to talk about measurements of seats, for  
7           crying out loud?

8           MR. ESCOBAR: Judge, they are going to testify  
9           and give you their recreation of the events based  
10          upon the work that not only this particular  
11          detective did, but also the forensic group did.

12          He doesn't want you to understand what they did  
13          and what they didn't do. He wants to just say,  
14          "Well, listen. Let's just do it all over again.  
15          Let's just do it all over again in this Court  
16          without the benefit of what happened there at the  
17          scene," and that's extremely prejudicial to the  
18          Defense.

19          This Court, in an effort to make determinations  
20          concerning competence, bias, credibility, motive,  
21          bias, are -- are important. That aspect of the  
22          investigation is crucial, and so the Court has to do  
23          that with all the evidence in this particular case,  
24          and he doesn't want you to. He wants you to just  
25          take a moment in time here.

1           During the week of February the 20th -- and  
2           let's just focus on what -- you know, what happened  
3           here in this courtroom and not what happened out  
4           there. That's extremely unfair in this case.

5           And I think, Your Honor -- with all candor, I  
6           think we're on very solid ground here because any  
7           time that witnesses take the stand, their  
8           credibility, their bias, their motive, their  
9           competency is always an issue that should be  
10          discussed, cross-examined and evaluated by the trier  
11          of fact, and that's -- that's my position.

12          MR. MARTIN: It's not a trial.

13          MR. ESCOBAR: It's a motion. It doesn't  
14          change --

15          THE COURT: All right. How is it -- everything  
16          that you just said, how does that relate to the  
17          question at hand, "Did you take measurements?"

18          What -- obviously pictures were taken. I've  
19          seen pictures. We've got pictures.

20          MR. ESCOBAR: Because measurements are  
21          critical. Let me tell you why measurements are  
22          critical:

23          When you're looking at a picture and you're  
24          seeing a picture of the row A seat -- I'll call them  
25          row A as the top row, row B as the row below -- when

1           you're looking at pictures from row A and row B,  
2           that's giving you just the actual rows.

3           The minute that you start taking pictures and  
4           you're starting to be able to put bodies in  
5           positions, that body who is six-four, now you're  
6           seated in that seat number 9, appears much more  
7           menacing. It's large. It's --

8           MR. MARTIN: Your Honor, I'm going to object to  
9           this. I don't -- I don't --

10          MR. ESCOBAR: Your Honor, he's --

11          MR. MARTIN: How in the world --

12          THE COURT: Hold on. One at a time.

13          MR. MARTIN: I don't know how in the world we  
14          can get through these micro-closing arguments. He  
15          goes off on these tangents. It's not even  
16          responsive to your question, for crying out loud.

17          MR. ESCOBAR: Judge, and that's exactly what my  
18          question was. I was responding to the Court as to  
19          why measurements, why all of that process -- the  
20          whole reason for a crime scene detective is for him  
21          to gather all of that information that's going to be  
22          used later on in order to determine whether  
23          someone's perception at that time seated in that  
24          particular seat was reasonable. It's -- it's --

25          THE COURT: All right. Enough, enough.

1           Let's try to keep the responses down to what  
2           I'm asking. I'm starting to agree with Mr. Martin.  
3           We don't need all these arguments. I just -- you  
4           know, let's just stick to the issue at hand.

5           He responded that the crime scene techs did  
6           their job. He wasn't aware of any measurements.  
7           How does that take 20 minutes of discussions?

8           MR. ESCOBAR: Your Honor -- and that's the  
9           problem with this job. What is that job? How did  
10          they do it? Did they do it accurately? What  
11          information did you get from the job?

12          THE COURT: Let's proceed. Go ahead.

13 BY MR. ESCOBAR:

14          Q. So what you are telling me, Detective -- and I  
15          don't want to put words in your mouth but what you're  
16          telling me, you let the crime scene detectives do  
17          whatever they do?

18          A. No, sir. There was definite direction by me at  
19          certain points.

20          Q. What direction did you give them at any point?

21          A. We had discussion over how to get some of the  
22          best-quality photographs in the light conditions that  
23          were there.

24                 I specifically pointed out the phone in the bag  
25          and the items in the middle and said: That's definitely

1 a physical item we want to collect to take with us.

2 Q. So let's stop there for a second.

3 "In the lighting conditions that there were,"  
4 what does that mean?

5 A. Generally speaking, the theater lights, even  
6 when it's on full lighting, is designed to be darker, so  
7 we were having issues with some of the quality of the  
8 photographs to represent what we were looking at. Things  
9 appeared dark. Seats appeared dark, so we needed some  
10 auxiliary lighting to capture it.

11 Q. So you certainly weren't telling them, "Hey,  
12 listen. Let's find out what the lighting conditions were  
13 during previews, and let's get that to Mid 1 and then 60  
14 percent off the remainder of the lights"? You didn't do  
15 that?

16 A. That was not relevant to the direction that we  
17 were going because we were getting representational  
18 photographs of where things were, and we wanted to be  
19 able to show them clearly. So if we could open the sun  
20 roof, we want the sun to shine in.

21 Q. You didn't want to get necessarily photos as to  
22 what the perspective of an individual sitting in a  
23 preview would be at that time; you just wanted to get  
24 photos of what was there at the scene at the time of  
25 whatever lighting?

1           MR. MARTIN: Your Honor, I'm going object as  
2 preassumed that a camera can capture exactly what  
3 the person's perception is in a particular lighting  
4 condition.

5           This officer hasn't been even asked about his  
6 knowledge of cameras and use of cameras and what  
7 they can and cannot capture, so he hasn't laid the  
8 proper foundation to even ask that witness the  
9 question. And there's been no indication he even  
10 has the knowledge to answer that question.

11          MR. ESCOBAR: The question was very simply,  
12 Your Honor, that was the question, did he? We've  
13 not gotten into anything else other than, Did he do  
14 that?

15          THE COURT: Overruled.

16 BY MR. ESCOBAR:

17          Q. Did you --

18          A. You'll have to repeat the question.

19          Q. Did you go to the manager and say, "Listen, I  
20 want to know what the lighting setting was for the  
21 previews"?

22          A. No, sir.

23          Q. Now, you became involved with the DVR issue and  
24 the security system, correct?

25          A. Yes, sir.

1 Q. And you knew that Detective Bossone was there?

2 A. Yes, sir.

3 Q. Competent member of cyber crimes?

4 A. Yes, sir. He's the first one that spoke to me  
5 about the video system there.

6 Q. You had Detective Lindsay there as well?

7 A. I don't believe we did. I believe Detective  
8 Lindsay went to the hospital to conduct an interview, but  
9 I'm not certain off the top of my head.

10 Q. Is there anything that would refresh your  
11 recollection?

12 A. Probably not. My only real interaction, I  
13 think, with Detective Lindsay was after that day, so I  
14 don't recall him being there.

15 Q. Did you yourself ever request to go and see the  
16 video system itself there at the Cobb Theater on  
17 January 13th of 2014?

18 A. On the 13th, no.

19 Q. Did you see that at some later point in time?

20 A. Yes.

21 Q. What room was that?

22 A. I guess I would describe it as the projector  
23 room.

24 Q. And when did you first see the projector room?

25 A. It would have been, I believe, on the morning

1 of the 15th.

2 Q. A couple days after?

3 A. Yes, sir.

4 Q. I'm going to show you what's been marked and  
5 introduced as Defense Exhibit No. 23.

6 Is that the room you're talking about?

7 A. Yes, sir. I remember there was also kind of a  
8 long room that included projectors that was off to the  
9 side.

10 Q. Now, your position is that you directed Bossone  
11 to take care of issues with surveillance equipment?

12 A. I didn't direct him, sir. He was -- he had  
13 come to me -- probably me because I was the crime scene  
14 detective at that point -- and he told me that he already  
15 made a request to the general manager to capture video  
16 there from the various cameras, and I know there was some  
17 discussion.

18 At that point, I think Detective Bossone took  
19 on another role and had passed that duty off to me to  
20 follow up to get footage.

21 Q. So your testimony today is that he passed it to  
22 you? You didn't tell him, "Hey, I'm taking over that"?  
23 That was not your --

24 A. Honestly, I mean, Detective Bossone and I --  
25 it's not, like, an issue of rank. We would have come to

1 an agreement. I can't honestly remember if he said,  
2 "I'll do it," or I said I would do it, but yes, there was  
3 an acknowledgment, yes, that I would take responsibility  
4 of collecting footage later.

5 Q. Why not Bossone? He was in the cyber crime  
6 unit.

7 A. Because he wasn't available at that time. That  
8 was part of the information that Detective Bossone gave  
9 me, that it would take several hours to back up the  
10 footage.

11 Q. So you're telling this Court today under oath  
12 that Bossone told you, "I spoke to management, and the  
13 film -- the video film is not available today"?

14 A. Well, the backup copies that we requested  
15 weren't available.

16 Q. What about the film? You want to see that film  
17 as quickly as possible.

18 A. At -- the request we had made at the time was  
19 that to capture all recorded footage of the entire  
20 theater, which is multiple, multiple cameras for -- I  
21 believe Detective Bossone told me an hour or two, because  
22 at the time we didn't know what may have been captured.  
23 We didn't know if there could have been a previous  
24 argument in a hallway, so he asked them to back up all of  
25 that footage for us to review.

1 Q. That was going to take an hour or two?

2 A. Well, no, that more than likely would have  
3 taken several hours, but I know the time --

4 Q. But, Detective, you didn't want to see what was  
5 captured in Theater 10?

6 A. Eventually, once we had the footage, yes.

7 Q. Well, why not go see it right then and there?

8 A. At the time that I was involved in the crime  
9 scene, I'm physically involved in what's going on there.  
10 Detective Bossone told me that all of the footage was  
11 being backed up, which is typical to our policies and  
12 procedures of how we collect the video, and you can't  
13 generally watch the video and back it up at the same  
14 time.

15 Q. So are you telling me you asked Detective  
16 Bossone, "Should we let somebody else do this, or can you  
17 do it yourself?"

18 A. Did I ask Detective Bossone if he could do it  
19 himself?

20 Q. Yeah. He's a member of your investigative  
21 group, Detective Bossone. "You're in the cyber crimes  
22 unit. Can you actually copy what we need here?"

23 A. I don't know if -- I had discussions with  
24 Detective Bossone and also with the manager -- general  
25 manager Tom Peck, so I'm not sure exactly who told me,

1 but I was aware that their IT director or person who ran  
2 the system was backing the stuff up off-site.

3 So with that being the case, there was not a  
4 need nor -- you could not do both at the same time and  
5 have Detective Bossone doing backup.

6 Q. Did you know who this person was who was,  
7 quote, "backing it up"?

8 A. At the time, no.

9 Q. Did you know anything about his competency?

10 A. I believe he was the IT director for the  
11 company.

12 Q. No, no. Did you know about the level of his  
13 competency?

14 A. I can only assume that being the IT director of  
15 such a large company, he's a pretty competent person, but  
16 I did not personally know him.

17 Q. Did you know what his motive was?

18 A. His motive?

19 Q. Any motive. You know, he's -- it's a  
20 corporation, right?

21 A. Yes, sir.

22 Q. Did you get on the phone and say, "Let me talk  
23 to this guy myself"?

24 A. At that point, like I said, Cobb was assisting  
25 us with things. They were being very cooperative, so I

1     took the general manager, I guess, at his word that was  
2     happening.

3           Q.     Now, you would agree that in your work there as  
4     a crime scene detective, that there was nothing of your  
5     investigative work that you did there at the crime scene  
6     that gave you any indication of what happened inside the  
7     theater, correct?

8           A.     I guess I would disagree with that, sir.

9           Q.     Well, tell me what you did there at the theater  
10    that gave you an indication of what happened.

11          A.     Some of the items of physical evidence, I guess  
12    the popcorn on the floor and knowing the overall story  
13    that the popcorn had been thrown, it appeared to be on  
14    the floor, appropriate position to where you would  
15    expect.

16          Q.     Popcorn.   Next?

17          A.     Yes, sir.   Other various items of blood  
18    evidence that were in the row where Mr. Oulson had kind  
19    of collapsed kind of down in there.

20          Q.     Okay.   Blood?

21          A.     I guess I don't know specifically.

22          Q.     Anything else?

23          A.     I mean, I guess that's hard to just surmise.   I  
24    mean, we took a lot of photographs of all of the seating  
25    to try to represent best for witnesses in the future to

1 point out where they were. We knew generally that there  
2 were witnesses seated around them.

3 Q. Well, that's an important question. That's  
4 where I'm getting at.

5 It's important to specifically determine where  
6 witnesses are seated, correct?

7 A. As best we could, yes, sir.

8 Q. Well, the witnesses were there?

9 A. Well, not in the crime scene. No, sir.

10 Q. No, no, but they were there in the theater,  
11 right?

12 A. At the time that I was doing the processing, I  
13 would imagine that most of them had been interviewed and  
14 had probably left, but there could have been somewhere as  
15 well.

16 Q. But did you ever try to elicit specific  
17 information from a witness so that that witness could  
18 even go into the crime scene and say, "See that chair  
19 right there? That's the one that I was sitting in"?

20 A. No, sir. Again, we limited the traffic through  
21 the crime scene, and we had taken the best representation  
22 photos that we could to try to follow up with that later.

23 Q. Because sometimes you need to try to verify  
24 whether a witness could even see or hear what the witness  
25 is purportedly telling you, right?

1           A.    Yes, sir, at some point.

2           Q.    That sometimes is very important, especially in  
3 an emotional scene, right?

4           A.    It would be equally important in any scene,  
5 sir.

6           Q.    Was this a scene that you perceived that  
7 witnesses would be emotional?

8           A.    Yes, sir. I would say a shooting event would  
9 be pretty traumatic to most people.

10          Q.    Especially in a theater?

11          A.    I don't think especially in a theater, just  
12 people who are exposed to anything like that anywhere.

13          Q.    Now, two weeks after this incident was the  
14 first time that you saw a photograph where you noticed  
15 some redness to the eyelid, in the corner of Mr. Reeves'  
16 left eye, correct?

17          A.    I do remember, at some point, seeing some scene  
18 photos that were taken of Mr. Reeves, as well as booking  
19 photos. I don't know exactly when that was, though.

20          Q.    That's what you noticed from those photos?

21          A.    I don't specifically remember, no. I know one  
22 of the photographs that I had seen was somewhat out of  
23 focus. I don't recall more specific details past that.

24          Q.    One important thing is that at no point in time  
25 did you say that you were being given information from

1 law enforcement who were conducting interviews, correct?

2 A. Generally speaking -- so like I said --

3 Q. So what does generally speaking mean?

4 A. Well, throughout the course is obviously a very  
5 long investigation that involved many, many people,  
6 because many more detectives responded to this than in a  
7 typical case because of the way the call had come in.

8 Q. But I'm talking only on January 13th. Let's  
9 not go beyond that. I'm talking about January 13th.

10 I want to know who gave you information that  
11 you were trying use or did use there in your crime scene  
12 investigation?

13 A. I spoke to many, many people that day.

14 Q. Tell me who.

15 A. I don't necessarily recall everybody, and  
16 Detective Harris would have been the person that I  
17 communicated with most often, but I had seen most of the  
18 detectives that I work with at the agency at some point.

19 Q. So what you're telling me is that, "I can't  
20 remember anyone," that you actually spoke to and gave you  
21 any information?

22 A. I remember seeing Detective Moyer. I remember  
23 seeing Investigator Garrison --

24 Q. No, no. Not seeing, talking.

25 A. And talking to --

1           Q.    These are the people that I want to know:  What  
2 information did Moyer give you?  What information did  
3 Garrison give you?

4           A.    You -- one at a time?

5           Q.    If you remember.

6           A.    Is that what you want to know?

7                   I remember speaking with Detective Moyer.  He  
8 and I were together most of the time.

9           Q.    That kind of doesn't count.

10          A.    Well, there were times obviously -- he was kind  
11 of shadowing me -- that he was going back and forth from  
12 inside the crime scene out to communicate with the  
13 bosses, so...

14          Q.    Let me shortcut this.

15          A.    Okay.

16          Q.    On January 13th, 2014, at no point in time did  
17 anyone indicate to you that they had interviewed Joanna  
18 Turner, who said that she remembered seeing Mr. Oulson  
19 with a dark object in his left hand and doing a quick  
20 motion, as I've just describe here on the record, which I  
21 would describe as a quick throwing motion, but certainly  
22 not going in the full range of motion with a hand going  
23 down?

24          A.    No, I definitely didn't speak to anyone about  
25 Mrs. Turner's statement.

1 Q. Nobody had told you that?

2 A. Not that I recall.

3 Q. In fact, on January 13th of 2014, nobody had  
4 even told you that Mr. Reeves had possibly been struck  
5 with a phone?

6 A. I believe probably by the end of the day. I  
7 was aware of that at some point. Again, it was a very  
8 prolonged investigation. I know while I was working  
9 inside the physical crime scene, I don't remember anyone  
10 bringing that to my attention.

11 Q. What's that? You don't remember anyone  
12 bringing it to your attention?

13 A. Correct, sir.

14 Q. So the answer is no?

15 A. You said any time on the 13th, sir, and I would  
16 say most likely at some point later on that day I had  
17 probably --

18 Q. You mean after you were done with the crime  
19 scene?

20 MR. MARTIN: Your Honor, would you just ask him  
21 to let the witness answer?

22 MR. ESCOBAR: I apologize. I didn't mean -- I  
23 just wanted to --

24 BY MR. ESCOBAR:

25 Q. You mean after the -- your --

1           A.    Yes, that's what I had just stated. While I  
2 was working in the crime scene, I don't remember anyone  
3 bringing that to my attention. But at some point during  
4 that day as the investigation continued -- I had probably  
5 become aware of it.

6           Q.    Now, had you heard by that time that there was  
7 an allegation that Mr. Oulson had made a statement in  
8 that theater that he was, quote, texting --

9                   MR. ESCOBAR: Apologize, Your Honor.

10          BY MR. ESCOBAR:

11          Q.    -- his fucking daughter?

12          A.    I think I remember at that time somebody saying  
13 he was texting his sick daughter, is what I recall.

14          Q.    Sick daughter, not fucking daughter? Sick  
15 daughter?

16          A.    Sick daughter is what I recall. Yes, sir.

17          Q.    Okay. And so now the issue of texting, because  
18 Mr. Oulson is a participant to the shooting incident, you  
19 want to capture whatever texting took place, right?

20          A.    At that time we were processing the scene for  
21 the physical evidence, and we had not made the  
22 determination one way or the other what we were going to  
23 do for the digital process at that point.

24          Q.    And you didn't even know whether this  
25 particular phone that was -- that was found immediately

1 after the shooting in between my client's legs -- you  
2 didn't know whether that phone belonged to Mr. Oulson?

3 A. Correct. At that time, we weren't positive as  
4 to who it had belonged to, so we collected it for --

5 Q. Well, you did a bit more than collecting,  
6 didn't you? You allowed one of your forensic techs to  
7 actually turn off that phone.

8 A. I had at some point probably instructed her  
9 that's the proper way to collect physical digital  
10 evidence. Yes, sir.

11 Q. So you think here that the proper way of  
12 preserving the evidence on that phone was to turn it off?

13 A. To preserve the digital evidence that is on the  
14 phone. Yes, sir.

15 Q. So why not have Bossone handle that, not the  
16 forensic techs? He's cyber crimes, right?

17 A. Yes. If we were going to do data extraction at  
18 the scene, then Detective Bossone would have been the  
19 most appropriate, but we collected the phone for possible  
20 future analysis at that time. I don't believe it was  
21 decided that we would do any digital analysis.

22 Q. Had you sent Detective Bossone home by that  
23 time?

24 A. I honestly -- I didn't do any decision-making  
25 as far as who was where, so I don't know what he was

1 doing at that time.

2 Q. Had you ever reached out to Detective Lindsay  
3 from cyber crimes?

4 A. At that point, no, sir.

5 Q. And so as you finished your investigation there  
6 at the scene, you had no idea who the phone belonged to?

7 A. We certainly couldn't verify, sir. No, I  
8 didn't know.

9 Q. You didn't know that there was an allegation  
10 that the phone had possibly been thrown and hit  
11 Mr. Reeves?

12 MR. MARTIN: Your Honor, I'm going object to  
13 the summing-up questions.

14 We've heard all of the testimony so it's been  
15 asked and answered, and now we're becoming  
16 cumulative.

17 MR. ESCOBAR: Judge, we're just wrapping that  
18 up. Then we're just going to go in and do one more  
19 thing. It's going to be short.

20 THE COURT: All right. There is no --  
21 obviously there's an objection as to the repetitive  
22 nature, so let's not do that.

23 BY MR. ESCOBAR:

24 Q. You didn't know whose phone it was? You didn't  
25 know that Mr. Reeves had alleged that the phone had

1     been -- he had been struck in the head with a phone,  
2     correct?

3             A.     Not while I was at the crime scene.  No, sir.

4             Q.     Okay.  Now, you were aware that the process of  
5     retrieving the phone can remove physical evidence on the  
6     phone, meaning DNA -- let's cut to the chase -- DNA?

7             A.     Anytime you have electronic evidence, it can  
8     also be physical evidence as well, just like anything  
9     else.  So you have to make a decision as to importance,  
10    what you're going to attempt to collect and how you're  
11    going to attempt to collect it.

12            So, yes.  By turning off the phone, you do have  
13    to touch it and you have to operate the buttons, but to  
14    do -- to protect the data that's on the phone to keep  
15    somebody from manipulating it off-site, that's a step  
16    that has to be taken.

17            Q.     And since you didn't know that Mr. Reeves had  
18    alleged that the phone had been thrown and possibly hit  
19    him in the head, you had no idea that there was possible  
20    DNA to be collected off the phone?

21            A.     Well, as with any evidence we're going to find  
22    on the crime scene, we don't know what we may want to  
23    process it for.  So we try to handle it as best we can to  
24    preserve any physical evidence, fingerprint evidence, DNA  
25    evidence, things like that.

1           But again, you have to weigh -- there always  
2 has to be some touching of the items to pick them up to  
3 collect, so you're just as careful as you can be with it.

4           Q.    You used gloves?

5           A.    Yes, sir.

6           Q.    But the fact that you may be picking up the  
7 phone may certainly destroy evidence that's there at the  
8 scene and on the phone?

9           A.    Well, that's what -- we obviously have to be  
10 careful and try to think about how you pick things up, to  
11 pick it up in an area maybe that's not common to touch,  
12 things like that, to try as best you can not to destroy  
13 any evidence.

14          Q.    Did you pick up this phone?

15          A.    No, I didn't.

16          Q.    Were you there when it was picked up?

17          A.    Yes.

18          Q.    We're talking about there. I'm talking about  
19 there. Were you there, watching?

20          A.    Like, standing over the phone?

21          Q.    Yeah.

22          A.    No, sir. I was at the crime scene. I would  
23 say most likely I was probably a couple of rows down,  
24 away from where the photos were being taken.

25          Q.    Well, a phone can be used to call people,

1 right?

2 A. Yes.

3 Q. And a phone can be used also as a weapon?

4 A. It could be, sir, depending on the manner it's  
5 used, yes.

6 Q. So at the very least, at some point in time  
7 when you discovered that there was a possibility that the  
8 phone had been used as a weapon, that becomes a very  
9 important point of interest for you, right?

10 A. What is an important point of interest, sir? I  
11 don't understand.

12 Q. When a phone becomes a weapon in a shooting  
13 incident.

14 A. The knowledge that that happened is important,  
15 yes, sir.

16 Q. And tell the Court if you opened that bag at  
17 some point in time shortly after this incident, and that  
18 you yourself then again grabbed this phone.

19 A. At some point after the collection, it would  
20 have been the first time that I had personally touched  
21 the phone.

22 Q. Okay. What date was that? Was it two weeks?  
23 Was it three weeks? Was it a month?

24 A. You know, I do know it was at least a couple of  
25 weeks, but -- hang on one second and I believe I can tell

1     you.

2                 I believe it was on January 22nd, sir.

3             Q.    A week, week-and-a-half, something like that?

4             A.    Yes, sir.

5             Q.    Now, nothing had been done to the phone in the  
6     form of DNA extraction, correct?

7             A.    At that point, to my knowledge, the phone had  
8     not been processed at all. It was in the same state that  
9     it had been bagged from the scene.

10            Q.    Well, let me ask you this question: Had you  
11     issued any orders to have it checked for DNA by that  
12     time? I'm talking about before you went to go and open  
13     the bag again.

14            A.    I never issued any orders for it. I believe  
15     Detective Proctor did at some point. I don't know  
16     specifically what date that was, though.

17            Q.    And the only reason that you went into that bag  
18     is because you wanted to find out who the phone belonged  
19     to?

20            A.    Yes, sir. There had been some meetings, and it  
21     was determined we wanted to try to say for certain who  
22     the owner of the phone was.

23            Q.    I'm going to go back to Exhibit 41.

24                 You had that photo available for you, didn't  
25     you?

1           A.    Yes, sir.

2           Q.    And you could have taken that photo to Mrs.  
3 Oulson and you could have said, "Mrs. Oulson, do you know  
4 whose photo that is -- whose phone that is?" You  
5 wouldn't have even had to open the bag.

6           A.    No, sir. The discussion was had because  
7 iPhones in that specific Otterbox case are so common that  
8 it was likely, at that point, we suspected that it was  
9 Chad Oulson's phone, but the decision was made to turn it  
10 on to verify if it was or not.

11          Q.    Well, you knew that Mr. Oulson had a phone  
12 inside the theater when you left during your crime scene  
13 that day, correct?

14          A.    Yes, sir.

15          Q.    You hadn't recovered any other phone there at  
16 that scene that could have been Mr. Oulson's phone,  
17 correct?

18          A.    Not that I'm aware of. No, sir.

19          Q.    And you had Mrs. Oulson, who is probably pretty  
20 familiar with a white phone inside an Otterbox, correct?

21          A.    She had already described it to us, sir, so we  
22 knew what the color and make and model of the phone were.

23          Q.    So why didn't you take that photo and say,  
24 "Mrs. Oulson, is this your husband's phone?" Rather than  
25 opening it up again and turning it on again and

1 manipulating that phone with your hand?

2 MR. MARTIN: Your Honor, I'm going to object.  
3 This is another topic, and I'm just going to make  
4 same observations that I've been making. It's just  
5 not relevant to this hearing.

6 MR. ESCOBAR: Judge, he was the collector of  
7 the evidence. You're going to see a stipulation on  
8 DNA. I don't want to blurt it out here, but there's  
9 a stipulation on the DNA issue.

10 MR. MARTIN: It doesn't --

11 THE COURT: I'm going to let him proceed.  
12 Overruled.

13 BY MR. ESCOBAR:

14 Q. Correct? You could have done that, and you  
15 wouldn't have had to have touched it and turned it on and  
16 do all the things that you had to do in order to, I  
17 guess -- were you just trying to see what the opening  
18 screen was? Is that what you were trying to do to make  
19 an identification of the phone?

20 A. The -- again, as I said before, the decision  
21 was made. I knew perfectly well the make and model of  
22 the phone and could tell you from that photograph that's  
23 the make and model phone that Mrs. Oulson told us he had.

24 Q. Was it that critical to absolutely have to do  
25 that process before DNA took place on that phone? Was it

1     that critical?

2           A.     I was instructed at that point by the case  
3     detective and by the State Attorney's Office that the  
4     next step we wanted to take in the investigation was to  
5     ascertain for certain whether or not that was Mr.  
6     Oulson's phone. And Mrs. Oulson gave us a description  
7     that on the lock screen would be a picture of Chad and  
8     their child, so I went to turn it on to verify that that  
9     was, in fact, the case.

10          Q.     Now, DNA was finally -- this phone was  
11     processed finally for DNA, right?

12          A.     It was at some point, yes, sir.

13          Q.     And after the phone was processed for DNA, did  
14     you weigh this phone?

15          A.     Did I? No, sir.

16          Q.     Well, by that time, you were well aware we had  
17     already finished our bond hearing, right?

18          A.     Yes, sir.

19          Q.     And you were well aware that certainly Mr.  
20     Reeves had indicated that he believed that he had been  
21     hit over the head with a phone, correct?

22          A.     I was aware of the statement he made to  
23     Detective Proctor that he thought that the phone could  
24     have hit him, yes.

25          Q.     So as a crime scene detective, you want to

1 weigh it and measure it, right?

2 A. No, sir.

3 Q. It's a weapon. You want to weigh it and you  
4 want to measure it, right?

5 A. No, sir. At that point, your duty as crime  
6 scene detective, once you're physically off the crime  
7 scene, you assist the case detective in processing things  
8 that they want to do. But you're never going to do  
9 anything substantially without the case detective making  
10 some direction, the sergeant making some direction, so...

11 Q. Do you have a pretty good relationship with  
12 both of those people?

13 A. Yes.

14 Q. You didn't feel like now that this phone was  
15 going to be the topic of a weapon, that you could go to  
16 Proctor and say, "Listen, if this was used as a weapon,  
17 we need to measure it and we need to weigh it, because if  
18 that phone was actually thrown at someone, the  
19 measurements and the weight may have some relevant  
20 information," correct?

21 A. My general understanding, at some point the  
22 phone was measured and photographed. I know I had seen  
23 the photographs and I believe weighed, but that was not  
24 one of my responsibilities specifically and I was not  
25 involved in that conversation with anyone.

1           Q.    In fact, your knowledge is that the Pasco  
2 County Sheriff's Office never even weighed or measured  
3 this phone until the Defense did?

4           A.    That, I honestly don't know who did it first.

5           Q.    And are you aware that the phone that Mr.  
6 Oulson possessed on January 13th of 2014 weighs more than  
7 a regulation baseball?

8           MR. MARTIN:  Objection.  Objection.  First, it  
9 calls for speculation on his part, and also it's  
10 facts not in evidence.

11           I realize it's cross-examination, but having  
12 that comparison, that calls for pure speculation.

13           MR. ESCOBAR:  The question was whether he  
14 knows.

15           MR. MARTIN:  It calls for pure speculation.  It  
16 doesn't matter whether he knows or not.  You can't  
17 ask a question that calls for pure speculation.

18           MR. ESCOBAR:  Your Honor, many baseball  
19 players -- and he may have played baseball -- knows  
20 what the regulation --

21           MR. MARTIN:  He needs to lay the proper  
22 predicate.

23           MR. ESCOBAR:  No, I just need to ask him  
24 whether he knows.  That it.  He hasn't answered the  
25 following question, whether you know.  That's a

1           simple question.

2           MR. MARTIN: Your Honor, just rule on my  
3           objection. It calls for speculation.

4           THE COURT: I'm going to overrule as to that  
5           question, does he know.

6 BY MR. ESCOBAR:

7           Q. Do you know whether this particular phone, when  
8           you-all weighed it, weighs more than a regulation  
9           baseball?

10          A. I do not.

11          Q. Do you know whether this phone, when you-all  
12          weighed it, weighs more than a cue ball, a billiards  
13          regulation cue ball?

14          A. I do not.

15          Q. But you certainly realized one thing, that if  
16          this phone was used as a weapon, it could cause great  
17          bodily harm, correct?

18          A. Generally speaking, any object, depending on  
19          the manner it's used, could be considered a deadly weapon  
20          and you can hurt somebody with it.

21          MR. ESCOBAR: May I have a moment?

22          THE COURT: You may.

23          MR. ESCOBAR: The Defense would pass the  
24          witness.

25          THE COURT: Thank you.

1           It's a good time for a short recess. Let's  
2           take -- oh, let's take 15 minutes. I know Madam  
3           Court Reporter is probably feeling the strain.  
4           Fifteen minutes, we'll be in recess.

5           Detective, of course, you're allowed to take a  
6           recess as well, but don't discuss your testimony  
7           with anyone. Thank you.

8           (Recess recess.)

9           THE COURT: Detective, you're still under oath.  
10          Go ahead, Mr. Martin.

11                           CROSS-EXAMINATION

12       BY MR. MARTIN:

13           Q.    Good morning, Detective.

14           A.    Good morning, sir.

15           Q.    I want to touch base on just few things that  
16           you and Mr. Escobar discussed.

17                   He went over with you your training as a police  
18           officer in those either formal, semi-formal or in-service  
19           trainings dealing with use-of-force threat assessments,  
20           those kind of topics. Do you remember that conversation  
21           with Mr. Escobar?

22           A.    Yes, sir.

23           Q.    That's what I'd like to follow up with, the  
24           first one, okay?

25           A.    Okay.

1           Q.    Now, in those -- as a police officer -- as a  
2 police officer, you are taught the parameters of use of  
3 force; are you not?

4           A.    Yes, sir.

5           Q.    And that's based on some federal case law, some  
6 state case law, right?

7           A.    Yes, sir.

8           Q.    Okay. In dealing with use of force -- and  
9 Mr. Escobar used the term, "Escalating pattern of  
10 violence." Do you remember that?

11          A.    Yes, sir.

12          Q.    You're also taught how to de-escalate a  
13 situation, right?

14          A.    Yes.

15          Q.    You're taught to not to make it any worse?

16          A.    Correct.

17          Q.    You're taught how to take it and get it under  
18 control?

19          A.    Yes, sir.

20          Q.    You're taught how to ignore certain things so  
21 that you don't make it worse?

22          A.    Correct.

23          Q.    Now, as a police officer, you're actually  
24 paid -- the public pays you a salary to stand in the line  
25 of fire for us, don't we?

1           A.    Yes, sir.

2           Q.    All right.  That's what you get paid to do?

3           A.    Yes, sir.

4           Q.    You're supposed to be in front of that person  
5 that is not acting like a normal citizen under given  
6 circumstances?

7           A.    Correct.

8           Q.    You just can't walk away from it, can you?

9           A.    No, sir.

10          Q.    You have to deal with it?

11          A.    Legal obligation to deal with it.  Yes, sir.

12          Q.    And that's what you get paid to do?

13          A.    Yes, sir.

14          Q.    You get -- you are paid to intervene in  
15 situations and put your life on the line as a police  
16 officer?

17          A.    Yes, sir.

18          Q.    That's why you are taught the threat  
19 assessment, right?

20          A.    Correct, yes, sir.

21          Q.    The public wants you, you as a paid person  
22 standing in the line of fire, to go home to your family?

23          A.    Yes.

24          Q.    Now, a civilian, whether they have a federal  
25 license to carry a firearm or a carrying concealed

1     weapon, that license does not give that individual any  
2     power of arrest, does it?

3             A.    No, sir.

4             Q.    They're not paid to stand in harm's way, are  
5     they?

6             A.    No.

7             Q.    They are not paid, the civilians, even with a  
8     carrying concealed weapon permit, are not paid to enforce  
9     the laws of the state of Florida?

10            A.    No, sir.

11            Q.    They're not paid to enforce the county  
12     ordinances of a particular locale?

13            A.    No.

14            Q.    Or a city ordinance?

15            A.    No, sir.

16            Q.    Even if they're paid to enforce whatever local  
17     policy a local business might have within the community,  
18     are they?

19            A.    Not necessarily.  No, sir.

20            Q.    They have no authority to arrest?

21            A.    No.

22            Q.    When a civilian asks another civilian to do  
23     something and the civilian doesn't respond, there's no  
24     consequences, is there?

25            A.    No, sir.  They have no duty to act, generally.

1           Q.    If the person -- if a civilian doesn't respond  
2 to another civilian's request, that other civilian  
3 doesn't go to jail, do they?

4           A.    No, sir.

5           Q.    In fact, the civilian who makes the request can  
6 say whatever they want to that other civilian with no  
7 consequences at all?

8           A.    Generally speaking, yes, sir.

9           Q.    Mr. Escobar talked a little bit about human  
10 factors, and I think he gave an example about traffic  
11 reconstruction. Do you remember that?

12          A.    Yes, sir.

13          Q.    He talked about distractions and focusing and  
14 tunnel vision, right?

15          A.    Yes, sir.

16          Q.    Now, those human factors are in all of us,  
17 right --

18          A.    Yes.

19          Q.    -- to some degree? Everybody's different.

20          A.    Yes, sir.

21          Q.    But just because those human factors come into  
22 play, that doesn't relieve someone from the  
23 responsibility of when they commit a crime, right?

24               MR. ESCOBAR: Objection, Your Honor. That  
25 calls for a legal opinion. Improper predicate for a

1           legal opinion.

2           MR. MARTIN: He was asked specifically about  
3           the traffic accidents -- not traffic accidents, but  
4           reconstruction and the investigation of those types  
5           of incidents, and he used those human factors.

6           I have a right to go into those factors and  
7           whether or not an officer, knowing those factors,  
8           still has the power to make the arrest and that  
9           person is still subject to criminal charges.  
10          Because, all we know, we do have a crime called  
11          negligence, lack of focus, lack of attention.

12          So just because human factors are in play  
13          doesn't exculpate an individual, so I have a right  
14          to ask him those questions.

15          MR. ESCOBAR: Judge, he called for a legal  
16          opinion. He can certainly ask him about human  
17          factors and how that affects perception because  
18          that's what human factors deal with, but not whether  
19          or not those human factors are going to relate at  
20          some point in time to someone being charged with a  
21          criminal law violation.

22          He is not in a position -- he has no -- he's  
23          not a lawyer. He has not studied the law to that  
24          extent. It's an improper predicate for a legal  
25          opinion.

1           THE COURT: I will sustain it as to the  
2           improper predicate and calls for a legal  
3           speculation.

4           If you can otherwise lay a foundation for that,  
5           I will allow it under those circumstances.

6 BY MR. MARTIN:

7           Q. Mr. Escobar talked about the interview process,  
8           establishing credibility of witnesses. Do you remember  
9           that conversation?

10          A. Yes, sir.

11          Q. And he's asked you numerous questions regarding  
12          and touching upon the credibility and bias, if you will,  
13          of the police officers at the scene on January 13th.

14          Do you remember that line of questioning?

15          A. Yes, sir.

16          Q. Now, Mr. Reeves was also at that scene; was he  
17          not?

18          A. Yes, he was.

19          Q. Witnesses saw Mr. Reeves shoot Mr. Oulson,  
20          right?

21          A. Yes.

22          Q. There's no question about who killed Mr.  
23          Oulson, right?

24          A. No, sir.

25          Q. The only question that day is whether or not

1 Mr. Reeves was going to go home to his family or  
2 handcuffed and taken to jail, correct?

3 A. Yes, sir.

4 Q. Mr. Escobar talked to you about the background  
5 of Mr. Reeves, that he's a police officer.

6 A. Yes, sir.

7 Q. He mentioned to you the training that you could  
8 have presumed that he had as far as use of force in a  
9 given situation. Because you received that information  
10 as law enforcement, he presumed Mr. Reeves?

11 A. Correct.

12 Q. That's a logical assumption, right?

13 A. Yes.

14 Q. That Mr. Reeves, over a 27-year period, would  
15 have, over those years, numerous opportunities to be  
16 schooled and updated in the use-of-force aspect of law  
17 enforcement?

18 A. Yes, sir.

19 Q. Both non-lethal and lethal?

20 A. Correct.

21 Q. And you would expect Mr. Reeves, with that type  
22 of training, to know exactly what factors are used to  
23 determine whether or not deadly force was warranted,  
24 either under the law or agency policy, right?

25 A. Yes, sir.

1           Q.    In all the people that were interviewed on  
2   January 13th, 2014, at the theater, other than  
3   potentially Matt Reeves and Corporal Hamilton, was there  
4   anyone else with law enforcement who potentially could  
5   have had that same knowledge?

6           MR. ESCOBAR:  I'm going to object.  It calls  
7   for a hearsay response.  It's clearly hearsay.

8           MR. MARTIN:  That doesn't call for a hearsay  
9   response.  He asked him over and over, "What were  
10   you told?  What were the witnesses?  What facts were  
11   given to you by the detectives about what the  
12   witnesses told you so that you could conduct your  
13   crime scene investigation?"

14          I have a right to go into that.

15          MR. ESCOBAR:  That's hearsay, classic hearsay,  
16   and he hasn't even laid a predicate for which  
17   witnesses he's considering.  Even if were to lay the  
18   predicate, it would be hearsay.

19          Bring the witness come in, so we can have a  
20   confrontation right for those witnesses.

21          MR. ESCOBAR:  I'm not offering it for the truth  
22   of whether or not they had that training, just  
23   whether or not he knew it.  Because what he knew at  
24   the time, Mr. Escobar touched upon as far as how he  
25   conducted the investigation, and I'm allowed to

1 follow up on that.

2 MR. ESCOBAR: Judge, it's the same objection.  
3 He can't -- he can't gather from witnesses  
4 information that he is gathering for the truth of  
5 the matter asserted, and then give an opinion  
6 concerning those witnesses' statements. It's  
7 classic hearsay.

8 MR. MARTIN: I'm not asking for an opinion.  
9 May I proceed, Your Honor?

10 THE COURT: Without the exact wording as to  
11 what he was told by someone else, that kind of  
12 smacks of classic hearsay. So you can ask in  
13 general what he was --

14 BY MR. MARTIN:

15 Q. Did you become aware of any other witnesses on  
16 January 13th, 2014, other than Corporal Hamilton and Matt  
17 Reeves, who had any law enforcement background?

18 A. Not that I'm aware of, no.

19 Q. And, of course, it goes without saying that  
20 Mr. Matt Reeves, the Defendant's son, and Corporal  
21 Hamilton were not the subject of an investigation because  
22 on that day they did not shoot anyone?

23 A. Correct.

24 Q. So of all of the people there, it was only  
25 Mr. Reeves with his law enforcement background, knowledge

1 of the factors that can be used to determine whether or  
2 not deadly force was, in fact, justified -- he was the  
3 only one there on that day?

4 A. Yes, sir.

5 Q. And it was Mr. Reeves who was taken in  
6 handcuffs to the back of the theater, sat in a police car  
7 and interviewed by Detective Proctor; was he not?

8 A. Yes, he was.

9 Q. He gave a statement to Detective Proctor?

10 A. Yes, he did.

11 Q. That was approximately one hour, approximately  
12 after the shooting incident?

13 A. I believe so. Yes, sir.

14 Q. And during that one-hour time, Mr. Reeves sat  
15 there in that chair until he was arrested, looking down  
16 at the evidence down at his feet; did he not?

17 MR. ESCOBAR: Objection. Improper predicate.

18 He's got to be able to be a witness to that  
19 process. He can't speculate as to what was  
20 happening anywhere in another room, anywhere in a  
21 vehicle unless he raises the proper predicate,  
22 because that's an opinion.

23 MR. MARTIN: That's not an opinion.

24 THE COURT: I'm not sure what the question was  
25 aimed at.

1 MR. MARTIN: Let me just rephrase it.

2 THE COURT: Rephrase it and make it a little  
3 clearer.

4 BY MR. MARTIN:

5 Q. Were you aware whether or not Mr. Reeves,  
6 before he was interviewed, sat in the theater in the seat  
7 where the shooting took place with the evidence at this  
8 feet?

9 A. Yes, I'm aware that he was seated there for  
10 some time when the investigation started.

11 MR. ESCOBAR: Judge, it's an improper  
12 predicate, because if he's giving an opinion that he  
13 was aware that he was seated there at some time, he  
14 had to be aware from someone else, because he didn't  
15 get in there until an hour-plus after the incident.

16 It's classic not laying the proper predicate.  
17 If he got that information from someone else, it's  
18 being offered today for the truth of the matter  
19 asserted, and so we've got to lay a proper predicate  
20 if someone is going to be giving an opinion about a  
21 happening that he was not in. He was not in that  
22 happening because he didn't come into that scene  
23 until way, way after.

24 MR. MARTIN: Mr. Escobar went over and over  
25 about everything that occurred before Mr. Smith got

1           there. He went over and over again about everything  
2           that was provided to him so that he could conduct  
3           his investigation.

4           I am following up on what knowledge he had and  
5           dealing with as a crime scene detective and why he  
6           did the things that he did. I'm just following up  
7           on what Mr. Escobar did.

8           THE COURT: Overruled.

9           MR. MARTIN: Thank you, Judge.

10          BY MR. MARTIN:

11           Q. Have you had the life experience of  
12           interviewing individuals who have been involved in an  
13           event that could potentially lead to criminal charges?

14           A. Yes, sir.

15           Q. Okay. One of the things that a police officer  
16           will look at in evaluation of the statement that he  
17           obtained from such an individual --

18           MR. ESCOBAR: Objection. Beyond the direct.  
19           We haven't talked at all at this point in time about  
20           Mr. Proctor's interview of Mr. Reeves, and that's  
21           exactly where he's going at right now. That's  
22           beyond the scope of direct.

23           THE COURT: I'm not quite sure what the  
24           question was going to be, but it -- clearly there  
25           was significant testimony elicited from this witness

1       about the manner in which the whole crime scene  
2       investigation was conducted and to whom he talked to  
3       and what he did and who said what and what -- how  
4       did he know about this and that. I'm not seeing  
5       that from, as best I could tell, where the question  
6       was going, that is outside of that scope.

7               MR. ESCOBAR: Judge --

8               MR. MARTIN: He asked -- just a minute. He  
9       asked over --

10              MR. ESCOBAR: He never asked about the  
11       interview of Mr. Reeves. That's the issue. We  
12       never spoke about the issue of Mr. Reeves because he  
13       wasn't involved in the interview of Mr. Reeves at  
14       any point in time.

15              So he's now trying to elicit testimony that  
16       somehow when you interview someone that's a suspect,  
17       you know, like Mr. Reeves, that --

18              MR. MARTIN: Mr. Escobar doesn't know what's in  
19       my head. Now, that's the second time I've made that  
20       statement, and I assure you, it's just as true today  
21       as it was the other day.

22              MR. ESCOBAR: I think he'd be surprised.

23              THE COURT: What was the question?

24              MR. MARTIN: Judge, Mr. Escobar --

25              MR. ESCOBAR: Let me hear what the question

1 was.

2 MR. MARTIN: Mr. Escobar asked over and over  
3 about the iPhone and the popcorn and whether or not  
4 he was told about the interview of Mr. Reeves,  
5 whether or not Mr. Reeves said he was hit by an  
6 iPhone, whether or not he was hit by any other  
7 object. Do you remember that line of questioning?

8 THE COURT: Yes.

9 MR. MARTIN: Well, that's about the interview  
10 of Mr. Reeves.

11 MR. ESCOBAR: No, that's about a statement that  
12 he made to his wife immediately after the incident  
13 that he was hit on the face. That's what it's  
14 about.

15 THE COURT: All right.

16 MR. ESCOBAR: He --

17 THE COURT: What's the question again,  
18 Mr. Martin?

19 MR. MARTIN: I don't know. I kind of fell in  
20 that same situation you were in. I lost track. It  
21 happens to the best of us, right?

22 THE COURT: Let's move on. Let him ask that  
23 question, and then we'll go from there.

24 BY MR. MARTIN:

25 Q. Now, would you not agree that an individual who

1 is facing charges would be highly motivated in order  
2 to --

3 MR. ESCOBAR: Objection. Calls for  
4 speculation. That calls for speculation.

5 If someone that is charged -- just because  
6 they're charged, they're now motivated to fabricate.  
7 That is the most speculative question I've heard in  
8 34 years of my practice.

9 THE COURT: Rephrase, please. Rephrase.

10 BY MR. MARTIN:

11 Q. An individual who is a potential suspect in a  
12 crime has the motive to paint --

13 MR. MARTIN: You know, I felt that presence of  
14 someone standing up behind me. Extremely annoying.

15 MR. ESCOBAR: We get to know each other very  
16 well during these proceedings, Your Honor.

17 MR. MARTIN: Judge, let me just -- I have a  
18 right to ask about the evaluation of the information  
19 received. Mr. Escobar did not lay the foundation  
20 that that information came from his wife. That was  
21 not said at all.

22 He kept talking about Proctor and when did they  
23 discuss things and whether or not it was used as  
24 to -- hit the phone.

25 Ms. Reeves never said that he was hit by the

1           phone. It's Mr. Reeves -- it's Mr. Reeves that said  
2           he was hit by the phone. So how could Mr. Escobar  
3           say he got that information from Mrs. Reeves,  
4           because she doesn't know anything about that?

5           So all the questions about the DNA and picking  
6           it up, and you knew that Mr. Reeves said he was hit  
7           by the phone -- in fact, I have it written down and  
8           circled -- he said he was hit over the head with the  
9           phone. That's Mr. Reeves' statement.

10          I have a right to go into it. It's very  
11          disingenuous for Mr. Escobar to stand up here and  
12          suggest: Oh, that just came from Mrs. Reeves,  
13          because that's just wrong.

14          MR. ESCOBAR: Judge, let's go back to the  
15          question because he's trying to circle around the  
16          question.

17          The question was, very simply: Someone like  
18          Mr. Reeves that's being investigating and charged  
19          with a crime, is there some indicia that he has the  
20          motive to fabricate? That's what -- that's what the  
21          question was. That is the most speculative type of  
22          question that you could have. It has no foundation.

23          There is nothing unique about someone that's  
24          accused of a crime. In this country we are innocent  
25          until proven guilty. There is nothing to suggest

1           that someone that is accused of a crime now has the  
2           propensity to lie just because they've been accused  
3           of a crime. That is outrageous, that's prejudicial  
4           and it has no foundation. It has no foundation  
5           whatsoever.

6           MR. MARTIN: You know --

7           THE COURT: Just --

8           MR. MARTIN: -- it is the most logical thing in  
9           the world, and I have a right to ask about whether  
10          or not you take that into consideration in  
11          evaluating how you do the crime scene, because I'm  
12          going to go, "He said he was hit with the phone.  
13          Where?"

14          I mean, how do you evaluate how you're going to  
15          do things without going into the credibility of the  
16          witness as to whether or not this man right here has  
17          a motive when he is sitting in a cruiser with  
18          handcuffs on, knowing that he's going to jail,  
19          knowing that only the police officer he spins the  
20          right web can let him go, that is absolutely  
21          relevant to the investigation that they have to do.

22          THE COURT: All right. Mr. Escobar definitely  
23          opened the door to going into the intent and the  
24          focus of the investigation.

25          As far as the actual question, Mr. Martin, I

1           agree, though, you do need to lay some foundation as  
2           to, you know, that question. So I'll sustain it in  
3           part and overrule it in part.

4   BY MR. MARTIN:

5           Q.   Mr. Escobar asked you a question about the  
6           iPhone. He equated it with a baseball and a cue ball.  
7           Do you remember that?

8           A.   Yes, sir.

9           Q.   Did you see Mr. Reeves at the scene?

10          A.   No, sir. I didn't.

11          Q.   Mr. Proctor did? Detective Proctor did?

12          A.   Yes, sir.

13          Q.   Okay. In determining whether or not and how  
14          the iPhone was to be processed, did you make any inquiry  
15          as to any of the injuries about Mr. Reeves that would  
16          suggest that he was -- as Mr. Escobar lamented, he was  
17          hit over the head with a cell phone?

18          A.   At the time, I don't recall asking any specific  
19          information about injuries because I wasn't aware and  
20          didn't have information that he had been hit with the  
21          phone.

22          Q.   What was that?

23          A.   If I understand your question correctly, at the  
24          time I didn't have any information when I was processing  
25          the scene that Mr. Reeves had been hit by the phone or

1 had -- that I would be looking for any injury.

2 MR. MARTIN: Judge, Detective Smith will be  
3 called in the State's case. I'm going to continue  
4 my questioning with Detective Smith at that time,  
5 reserving the right to go into the matters  
6 Mr. Escobar raised, but I will do it during my case  
7 on direct.

8 THE COURT: Okay.

9 MR. ESCOBAR: Judge, I just have a couple of  
10 questions that I'm going to be -- if you want me to  
11 recall him, I'll recall him right now because  
12 they're outside scope of cross, but it's going to be  
13 very, very short.

14 THE COURT: Any objection.

15 MR. MARTIN: I'm calling him back, so...

16 MR. ESCOBAR: Okay. Well, chances are I won't  
17 be allowed to ask those questions if he stays away  
18 from the topic, so I apologize. It will be very  
19 short, I promise you.

20 MR. MARTIN: Okay. Sorry..

21 MR. ESCOBAR: Short by Escobar standards.

22 THE COURT: I have no objection --

23 MR. MARTIN: Okay. I'll accept that.

24 THE COURT: I will overrule any objection, if  
25 there is, to recalling him at this point.

1 MR. ESCOBAR: Thank you, Your Honor. It will  
2 be, again, very, very short.

3 THE COURT: Go ahead.

4 REDIRECT EXAMINATION

5 BY MR. ESCOBAR:

6 Q. Detective, I just want to direct your attention  
7 to a period of time where you went to Alabama --

8 A. Yes, sir.

9 Q. -- in an effort to go pick up some hard drives.  
10 Do you remember that?

11 A. Yes.

12 Q. Who did you go with?

13 A. Detective Proctor.

14 Q. Why were you going to Alabama to pick up hard  
15 drives?

16 A. At some point after the initial investigation,  
17 we had been made aware by Cobb Theater that they pulled  
18 the hard drives out of the DVRs that were in the theater  
19 in Wesley Chapel and transported them to their -- I  
20 believe their headquarters there in Birmingham.

21 Once we were aware of that, we contacted their  
22 attorneys and said that we would like to seize those as  
23 items of evidence since they were out there and traveled  
24 to retrieve those.

25 Q. Were you familiar at that time as to when they

1 had gone to retrieve those hard drives?

2 A. No. Not as far as what date they had taken  
3 them out, no, sir.

4 Q. Did you know how many hard drives were in the  
5 system? Did you actually look at the DVR the day of  
6 January 13th of 2014 to determine how many DVRs were in  
7 the system?

8 A. I did not look at them. I think I was aware  
9 that there were four, I believe, in total, but I honestly  
10 can't say where.

11 Q. Four hard drives?

12 A. No, four DVRs.

13 Q. Okay. Well, that's my question. Did you look  
14 at the DVR to see how many hard drives were in the DVR on  
15 January 13th of 2014?

16 A. I didn't look at the DVR at all that day.

17 Q. In fact, when you went to Alabama to go  
18 retrieve the DVR, you went to an attorney's office,  
19 right?

20 A. Yes, sir.

21 Q. You didn't go to this IT person that you  
22 believed was competent to Cobb Theater?

23 A. No, sir. He was not in possession of the  
24 drives.

25 Q. You went to an attorney's office.

1                   And there at the attorney's office, did you get  
2 a suitcase of some sort?

3           A.    Yes, sir.

4           Q.    What do they call it, (inaudible) case or  
5 something like that?

6           A.    That's called a Husky case.  That's a  
7 protective black plastic case.

8           Q.    Okay.  What was the condition of that Husky  
9 case when you first got it?

10          A.    It had been locked with a padlock, had a  
11 numbered seal on -- to prevent it from opening.

12          Q.    Were you given the key?

13          A.    Yes, sir.

14          Q.    Did you open it?

15          A.    No, sir.

16          Q.    Why not?

17          A.    The items we were given, the inventory sheet  
18 that Cobb Theater gave where they laid out for us what  
19 was in the box, at that point in time we were not looking  
20 to analyze the drives for anything.

21                   We were picking them up as physical evidence to  
22 retain, and I could not have told you at that point.  It  
23 could have bought a hard drive at Best Buy that afternoon  
24 put it in and I wouldn't have known the difference  
25 anyway.

1           Q.    But I imagine you'd want to open the box and at  
2   least count them, right?  Because you've got a sheet --  
3   let's see -- one, two, three, four, five, six, seven.  
4   You want to count them, right?

5           A.    No, not at that point, sir.  We wanted to leave  
6   the box locked and sealed because it would eventually be  
7   on the testimony of the IT professionals who put them in  
8   there because they'd never been, you know, in a law  
9   enforcement chain of custody of any kind.

10          Q.    Well, maybe not the IT professionals because  
11   it's gone through somebody else's hands, right, an  
12   attorney?

13          A.    Yes, sir, at some point.  Who locked the case,  
14   I'm not sure of.

15          Q.    Why didn't you ask?  Since you were there at  
16   the attorney's office, why didn't you ask?

17          A.    Honestly, I may have, but I don't recall what  
18   the answer is or not sure if I did.

19          Q.    Did you memorialize that maybe in your police  
20   report?

21          A.    I could double-check.

22          Q.    Any time you need to.

23          A.    But I don't think so.

24                No, sir, I did not note who had actually sealed  
25   the box.  I know the inventory, I believe, was signed by

1 Mr. Andrews, their IT professional, but...

2 Q. Okay. So you get a sheet of paper that's  
3 signed. You don't look in the box. You take the box,  
4 you get the key for the box, but you don't open the box?

5 A. Eventually we did, but not while we were up  
6 there. No, sir.

7 Q. So now you leave Alabama?

8 A. Yes, sir.

9 Q. On the trip to Tampa, do you open the box?

10 A. No, sir.

11 Q. So now you get to the property room?

12 A. Yes, sir.

13 Q. So what do you do?

14 A. It's secured as it was.

15 Q. Do you open the box before you gave it to  
16 property?

17 A. No, sir. The seal was left intact on the box  
18 when we put it into property.

19 MR. ESCOBAR: No further questions.

20 THE COURT: Any cross as to that?

21 MR. MARTIN: Judge, I'll handle that during my  
22 case.

23 THE COURT: May this witness -- he can be  
24 released for now?

25 MR. ESCOBAR: For now.

1           THE COURT: And you will remain under subpoena  
2 either by the Defense or the State and subject to  
3 recall another day, right, not today?

4           MR. MARTIN: No.

5           THE COURT: Then you're free to go for today.  
6 Thank you.

7           THE WITNESS: Thank you, Your Honor.

8           (Witness excused.)

9           THE COURT: Now, we're on lunch hour going to  
10 break. Who's the next witness that you'll --

11          MR. ESCOBAR: He's my homicide reconstruction  
12 expert, Mr. Knox.

13          THE COURT: Okay. And I would anticipate that  
14 taking a bit of time. You anticipate one other  
15 witness?

16          MR. ESCOBAR: My use-of-force expert and,  
17 Judge, I think we're doing what I think timewise  
18 would be best, so I'm hoping.

19          THE COURT: How about if we come back at 1:00?

20          MR. ESCOBAR: Perfect.

21          THE COURT: Then we're in recess for lunch  
22 until 1:00.

23          THE BAILIFF: All rise.

24          (Lunch recess taken.)

25