

APPELLANT'S APPENDIX

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Appendix A – Trial Court Docket

THIRD JUDICIAL CIRCUIT OF MICHIGAN
REGISTER OF ACTIONS
CASE NO. 16-007780-01-FC

State of Michigan v Dexter Burrell Taylor

§
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§
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§

Location: Criminal Division
Judicial Officer: Lillard, Qiana Denise
Filed on: 09/06/2016
Case Number History: 16711257-01
Case Tracking Number: 16711257-01
CRISNET/Incident No.: 2016-9038

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Capital Felonies
1. Criminal Sexual Conduct - First Degree (multiple Variables)	750520B	.	07/02/1996	Case Status:	06/27/2017 Final
Arrest: 07/02/1996	WCPO - W C Pros Office Investigators			Case Flags:	Habitual Offender
Statistical Closures					Case in Collections
05/02/2017 Jury Verdict					Case has PDF Electronic Transcripts
					Case has PDF PE Electronic Transcripts


PARTY INFORMATION

Plaintiff	State of Michigan	Lead Attorneys
		Dillon, Susan Marie
		(313) 224-7449(W)
Defendant	Taylor, Dexter Burrell	Brown, Mark L.
	<i>Black Male</i>	<i>Court Appointed</i>
		(313) 999-0150(W)
Appellate Attorney	Branch, William F.	

DATE	EVENTS & ORDERS OF THE COURT	INDEX
06/10/2016	Recommendation for Warrant	
06/10/2016	Habitual Offender	
06/13/2016	Warrant Signed	
08/08/2016	Arraignment on Warrant (Judicial Officer: Courtright, John T) Resource: Court Rpt/Rec OCR Reporter, Out County <i>Defendant Stands Mute; Plea Of Not Guilty Entered By Court</i>	
08/08/2016	Plea (Judicial Officer: Courtright, John T) 1. Criminal Sexual Conduct - First Degree(multiple Variables) Defendant Stand Mute: Plea of Not Guilty Entered by Court	
08/08/2016	Interim Condition for Taylor, Dexter Burrell (Judicial Officer: Courtright, John T) - Individual Cash Bond \$1,000,000.00	
09/06/2016	Preliminary Examination (Judicial Officer: Courtright, John T) Resource: Court Rpt/Rec 7009 Briggs, Tamara <i>Waived/Bound Over</i>	
09/06/2016	Bound Over	
09/06/2016	Interim Condition for Taylor, Dexter Burrell (Judicial Officer: Courtright, John T) - Cash or Surety \$1,000,000.00	
09/13/2016	Arraignment On Information (Judicial Officer: Lillard, Qiana Denise) Resource: Court Rpt/Rec AUD Audio, Courtroom Resource: Courtroom Clerk C6009 Frederick, Phillip Resource: Court Rpt/Rec AUD Audio, Courtroom	

THIRD JUDICIAL CIRCUIT OF MICHIGAN
REGISTER OF ACTIONS
CASE NO. 16-007780-01-FC

Held

- 09/13/2016 Refer To Pre-Trial Services For a Bond Review
DUE DATE SID#1736559X BOND TYPE: BOND AMOUNT: \$
- 09/13/2016 **Calendar Conference** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec AUD Audio, Courtroom
Resource: Courtroom Clerk C6009 Frederick, Phillip
Resource: Court Rpt/Rec AUD Audio, Courtroom
Held
- 09/13/2016 **Disposition Conference** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec AUD Audio, Courtroom
Resource: Courtroom Clerk C6009 Frederick, Phillip
Resource: Court Rpt/Rec AUD Audio, Courtroom
Held
- 09/14/2016 Order For Production Of Exam Transcript Signed and Filed
Tammy Briggs, 9/6/16 Cap case
- 10/07/2016  PE PDF Transcript, filed
Courtney Matthews for Tammy Briggs, 9/6/16 Cap case
- 09/20/2016 **Motion Hearing** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec AUD Audio, Courtroom
Resource: Courtroom Clerk C6009 Frederick, Phillip
Resource: Court Rpt/Rec AUD Audio, Courtroom
Minutes Comment: NOR (Clerk: Frederick, P Date: 09-20-16)
Adjourned at the Request of the Defense
- 09/21/2016 **Motion Hearing** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Held
- 09/21/2016 **Interim Condition for Taylor, Dexter Burrell** (Judicial Officer: Lillard, Qiana Denise)
- Cash or Surety
\$100,000.00
- Tether
- 11/04/2016 **Final Conference** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress
- 11/18/2016 **Final Conference** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C6031 Basley, Joanne
Held
- 12/05/2016 **Jury Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Adjourned at the Request of the Defense
- 12/12/2016 **Jury Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress
- 12/13/2016 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress
- 12/14/2016 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress
- 12/15/2016 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom

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THIRD JUDICIAL CIRCUIT OF MICHIGAN
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CASE NO. 16-007780-01-FC


Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress


12/16/2016 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Held


12/16/2016 Hung Jury


12/22/2016 **Pre-Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Held

01/06/2017 Order For Production Of Transcript
VIDEO COURTROOM: Bromeaica McBride, 12/12/16, 12/16/16; testimony only.

02/21/2017  Notice of Transcript Filed
VIDEO COURTROOM: Bromeaica McBride, 12/12/16, 12/13/16; testimony only.

03/03/2017  Notice of Transcript Filed
Bromeaica McBride, 12/13/16 JT

02/10/2017  Notice of Other Acts Evidence

02/10/2017  Brief Or Memorandum of Law

02/27/2017 **Pre-Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
02/24/2017 *Reset by Court to 02/27/2017*
In Progress

03/15/2017 **Pre-Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress

03/20/2017 **CANCELED Jury Trial**
Adjourned: At The Request Of The Court

03/24/2017 **Motion Hearing** (Judicial Officer: Kenny, Timothy M.)
Resource: Court Rpt/Rec 454 Blackman, Shedria
Resource: Courtroom Clerk C5938 Gray, Lynda
03/16/2017 *Reset by Court to 03/24/2017*
Held

03/24/2017 Motion To Disqualify/Recuse Judge

03/24/2017 Heard And Denied - Order Signed and Filed (Judicial Officer: Kenny, Timothy M.)

03/28/2017 **Pre-Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Adjourned at the Request of the Court

04/04/2017 **Pre-Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
03/31/2017 *Reset by Court to 04/04/2017*
Held


04/13/2017 **Pre-Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Held


04/25/2017

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pages

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pages

THIRD JUDICIAL CIRCUIT OF MICHIGAN
REGISTER OF ACTIONS
CASE NO. 16-007780-01-FC

 Witness List, Filed

04/25/2017  Witness List, Filed

04/26/2017 **Jury Trial** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress

04/27/2017 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress

04/28/2017 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress

05/01/2017 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
In Progress

05/02/2017 **Jury Trial in Progress** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C5923 Brown, Dawn
Held

05/02/2017 **Disposition** (Judicial Officer: Lillard, Qiana Denise)
1. Criminal Sexual Conduct - First Degree(multiple Variables)
Found Guilty by Jury

05/02/2017 Found Guilty By Jury

05/02/2017 Refer to Probation For Pre-Sentence Report

05/31/2017 **Sentencing** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec 01 Not On, Record
Resource: Courtroom Clerk C6066 Barnes, Renee
05/23/2017 *Reset by Court to 05/24/2017*
05/24/2017 *Reset by Court to 05/31/2017*
Adjourned at the Request of the Court

06/27/2017 **Sentencing** (Judicial Officer: Lillard, Qiana Denise)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C6066 Barnes, Renee
06/13/2017 *Reset by Court to 06/22/2017*
06/22/2017 *Reset by Court to 06/26/2017*
06/26/2017 *Reset by Court to 06/27/2017*
Held

06/27/2017 **Sentence** (Judicial Officer: Lillard, Qiana Denise)
1. Criminal Sexual Conduct - First Degree(multiple Variables)
Prison Sentence
Fee Totals:
- Crime Victims Fee - 130.00
(FEL)
- State Minimum Cost 68.00
(FEL)
Attorney Fees 400.00
Court Costs 1,300.00
Fee Totals \$ 1,898.00
State Confinement:
Agency: Michigan Department of Corrections
Effective 06/27/2017
Term: 37 Yr to 80 Yr
Credit for Time Served: 325 Days

06/27/2017 Sentenced to Prison Order Signed and Filed

THIRD JUDICIAL CIRCUIT OF MICHIGAN
REGISTER OF ACTIONS
CASE NO. 16-007780-01-FC

08/31/2017	Order For Production Of Trial And Sentence Transcript <i>Video Courtroom- AR 9/13/16, MO 9/20/16, MO 9/21/16, FC 11/4/16, FC 11/18/16, JT 12/5/16, JT 12/12/16-JT 12/16/16, PT 12/22/16, PT 2/27/16, PT 3/15/17, PT 3/28/17, PT 4/4/17, PT 4/13/17, JT 4/26/17-JT 4/28/17, JT 5/1/17, JT 5/2/17, SE 6/27/17</i>	
08/31/2017	Stenographer Certificate Required <i>Video Courtroom- AR 9/13/16, MO 9/20/16, MO 9/21/16, FC 11/4/16, FC 11/18/16, JT 12/5/16, JT 12/12/16-JT 12/16/16, PT 12/22/16, PT 2/27/17, PT 3/15/17, PT 3/28/17, PT 4/4/17, PT 4/13/17, JT 4/26/17-JT 4/28/17, JT 5/1/17, JT 5/2/17, SE 6/27/17</i>	
09/19/2017	Stenographers Certificate Filed <i>Bromeaica McBride for Video Courtroom- AR 9/13/16, MO 9/20/16, MO 9/21/16, FC 11/4/16, FC 11/18/16, JT 12/5/16, JT 12/12/16-JT 12/16/16, PT 12/22/16, PT 2/27/17, PT 3/15/17, PT 3/28/17, PT 4/4/17, PT 4/13/17, JT 4/26/17-JT 4/28/17, JT 5/1/17, JT 5/2/17, SE 6/27/17</i>	
01/30/2018	Notice of Transcript Filed <i>Bromeaica McBride for Video Courtroom- AR 9/13/16, MO 9/21/16, FC 11/4/16, FC 11/18/16, JT 12/5/16, 12/12/16 JT, 12/13/16 JT, 12/14/16 JT, 12/15/16 JT, 12/16/16, PT 12/22/16, PT 2/27/17, PT 3/15/17, 3/28/17, 4/4/17, 4/13/17, 5/2/17, 6/27/17,</i>	Vol./Book 18 692 pages
03/01/2018	Notice of Transcript Filed <i>Bromeaica McBride, JT 4/26/17, 4/27/17 JT, JT 4/28/17</i>	Vol./Book 3 583 pages
03/08/2018	Notice of Transcript Filed <i>Bromeaica McBride, 5/1/17 JT</i>	Vol./Book 1 105 pages
08/31/2017	Appointment for Claim of Appeal (Circuit) <i>William Branch appointed</i>	
09/05/2017	Motion	
09/21/2017	Order (Judicial Officer: Colombo, Robert J., Jr.) <i>Order Denying Motion for Modification of Restitution, s/f</i>	
03/21/2018	Order For Production Of Transcript <i>Shedria Blackman, MO 3/24/17</i>	
03/21/2018	Stenographer Certificate Required <i>Shedria Blackman, MO 3/24/17</i>	
03/26/2018	Stenographers Certificate Filed <i>Shedria Blackman, MO 3/24/17</i>	
04/18/2018	Notice of Transcript Filed <i>Shedria Blackman, MO 3/24/17</i>	Vol./Book 1 9 pages
03/29/2019	Miscellaneous, Filed	
03/29/2019	Proof of Service, Filed	

DATE	FINANCIAL INFORMATION		
	Defendant Taylor, Dexter Burrell		
	Total Charges		2,238.00
	Total Payments and Credits		0.00
	Balance Due as of 2/12/2020		2,238.00
06/30/2017	Charge	Defendant Taylor, Dexter Burrell	1,898.00
08/26/2017	Charge	Defendant Taylor, Dexter Burrell	340.00

THIRD JUDICIAL CIRCUIT OF MICHIGAN
REGISTER OF ACTIONS
CASE No. 16-007780-01-FC

RECEIVED by MSC 4/14/2020 4:30:44 PM

Appendix B – Court of Appeals Docket

[Home](#) [Cases, Opinions & Orders](#)

Case Search

Case Docket Number Search Results - 340028

Appellate Docket Sheet

COA Case Number: 340028**MSC Case Number: 159612**

PEOPLE OF MI V DEXTER BURRELL TAYLOR

1	PEOPLE OF MI Oral Argument: N Timely: N	PL-AE	PRS	(65223) SOMERS AMY
2	TAYLOR DEXTER BURRELL Oral Argument: Y Timely: Y	DF-AT	APP	(26846) BRANCH WILLIAM F

COA Status: Case Concluded; File Open **MSC Status:** Pending on Application

09/05/2017 1 Claim of Appeal - Criminal
 Proof of Service Date: 08/31/2017
 Register of Actions: Y
 Fee Code: PI
 Attorney: 26846 - BRANCH WILLIAM F

06/27/2017 2 Order Appealed From
 From: WAYNE CIRCUIT COURT
 Case Number: 16-007780-01-FC
 Trial Court Judge: 64230 LILLARD QIANA D
 Nature of Case:
 CSC-1

09/05/2017 3 Transcript Ordered By Trial Court
 Date: 08/31/2017
 Timely: Y
 Reporter: 3000 - REPORTER UNKNOWN
 Hearings:
 09/13/2016 Arraignment
 09/20/2016 Motion
 09/21/2016 Motion
 11/04/2016 Final Conf
 11/18/2016 Final Conf
 12/05/2016 Jury Trial
 12/12/2016 Jury Trial
 12/13/2016 Jury Trial
 12/14/2016 Jury Trial
 12/15/2016 Jury Trial
 12/16/2016 Jury Trial
 12/22/2016 Pretrial
 02/27/2017 Pretrial

03/15/2017 Pretrial
03/28/2017 Pretrial
Comments: Elec Copy in Evt#1; Video Recording

09/05/2017 4 Transcript Ordered By Trial Court
Date: 08/31/2017
Timely: Y
Reporter: 3000 - REPORTER UNKNOWN
Hearings:
04/04/2017 Pretrial
04/13/2017 Pretrial
04/26/2017 Jury Trial
04/27/2017 Jury Trial
04/28/2017 Jury Trial
05/01/2017 Jury Trial
05/02/2017 Jury Trial
06/27/2017 Sentence
Comments: Elec Copy in Evt#1; Video Recording

09/19/2017 5 Invol Dismissal Warning - No Steno Cert
Attorney: 26846 - BRANCH WILLIAM F
Due Date: 10/10/2017
Comments: No Steno Cert for Trns in Evs 3&4

09/19/2017 6 Steno Certificate - Tr Request Received
Date: 08/31/2017
Timely: Y
Reporter: 7279 - MCBRIDE BROMEICA A
Hearings:
09/13/2016 Arraignment
09/20/2016 Motion
09/21/2016 Motion
11/04/2016 Final Conf
11/18/2016 Final Conf
12/05/2016 Jury Trial
12/12/2016 Jury Trial
12/13/2016 Jury Trial
12/14/2016 Jury Trial
12/15/2016 Jury Trial
12/16/2016 Jury Trial
12/22/2016 Pretrial
02/27/2017 Pretrial
03/15/2017 Pretrial
03/28/2017 Pretrial

09/19/2017 7 Transcript Not Taken By Steno
Date: 08/31/2017
Timely: Y
Reporter: 3000 - REPORTER UNKNOWN
Hearings:
09/13/2016 Arraignment
09/20/2016 Motion

09/21/2016 Motion
 11/04/2016 Final Conf
 11/18/2016 Final Conf
 12/05/2016 Jury Trial
 12/12/2016 Jury Trial
 12/13/2016 Jury Trial
 12/14/2016 Jury Trial
 12/15/2016 Jury Trial
 12/16/2016 Jury Trial
 12/22/2016 Pretrial
 02/27/2017 Pretrial
 03/15/2017 Pretrial
 03/28/2017 Pretrial

09/19/2017 8 Steno Certificate - Tr Request Received
 Date: 08/31/2017
 Timely: Y
 Reporter: 7279 - MCBRIDE BROMEICA A
 Hearings:
 04/04/2017 Pretrial
 04/13/2017 Pretrial
 04/26/2017 Jury Trial
 04/27/2017 Jury Trial
 04/28/2017 Jury Trial
 05/01/2017 Jury Trial
 05/02/2017 Jury Trial
 06/27/2017 Sentence

09/19/2017 9 Transcript Not Taken By Steno
 Date: 08/31/2017
 Timely: Y
 Reporter: 3000 - REPORTER UNKNOWN
 Hearings:
 04/04/2017 Pretrial
 04/13/2017 Pretrial
 04/26/2017 Jury Trial
 04/27/2017 Jury Trial
 04/28/2017 Jury Trial
 05/01/2017 Jury Trial
 05/02/2017 Jury Trial
 06/27/2017 Sentence

11/22/2017 10 Motion: Extend Time - File Transcript
 Proof of Service Date: 11/22/2017
 Requested Extension: 01/05/2018
 Steno: 7279 - MCBRIDE BROMEICA A
 Answer Due: 11/29/2017
 Reporter(s):
 7279 - MCBRIDE BROMEICA A

12/05/2017 11 Submitted on Court Reporter Motion Docket
 Event: 10 Extend Time - File Transcript

District: D
Item #: 5

12/07/2017 12 Order: Extend Time - File Transcript - Grant
View document in PDF format
Event: 10 Extend Time - File Transcript
Panel: CMM,KFH,MJR
Extension Date: 01/05/2018
Steno: 7279 - MCBRIDE BROMEICA A

01/04/2018 13 Correspondence Sent
Comments: NSF Advisory To Ct Rptr McBride - Ck#1041 \$100 Ret'd As NSF - Send Replace Ck w/in 14 Day

01/09/2018 14 Invol Dismissal Warning - No Transcript
Attorney: 26846 - BRANCH WILLIAM F
Due Date: 01/30/2018
Comments: No NFT for Transcripts in Events #6 & #8

01/23/2018 15 Telephone Contact
Comments: Ct Rptr McBride To Replace NSF Check On 1/26/2018 @ Detroit Clerk's Office

01/26/2018 16 Fee Miscellaneous
Comments: Ct Rptr McBride Replaced NSF Ck#1041

02/02/2018 17 Notice Of Filing Transcript
Date: 01/30/2018
Timely: Y
Reporter: 7279 - MCBRIDE BROMEICA A
Hearings:
12/16/2016 Jury Trial
03/28/2017 Pretrial
04/13/2017 Pretrial
04/04/2017 Pretrial
05/02/2017 Pretrial
06/27/2017 Sentencing

02/02/2018 18 Notice Of Filing Transcript
Date: 01/30/2018
Timely: Y
Reporter: 7279 - MCBRIDE BROMEICA A
Hearings:
09/13/2016 Arraignment
09/21/2016 Motion
11/04/2016 Final Conf
11/18/2016 Final Conf
12/05/2016 Jury Trial
12/12/2016 Jury Trial
12/13/2016 Jury Trial
12/14/2016 Jury Trial
12/15/2016 Jury Trial
12/22/2016 Pretrial
02/27/2017 Pretrial
03/15/2017 Pretrial

02/06/2018 19 Telephone Contact

Reporter: 2345 - JOSEPHS RICHARD
Comments: Per Crmnl CRS Supervisor; Rptr McBrides Overdue Trans Not Filed

02/06/2018 20 Telephone Contact
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: Atty wb Filing a motion to show cause rptr McBride

03/06/2018 21 Telephone Contact
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: cnsl believes the transcript is complete - rptr says no notes for several dates

03/06/2018 22 Telephone Contact
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: cnsl checked and concedes that several dates are still missing-will file motion to show cause

03/06/2018 26 Steno Affidavit - No Notes
Date: 03/06/2018
Reporter: 7279 - MCBRIDE BROMEICA A
Hearings:
09/20/2016
Comments: Amended steno cert from event 6.

03/07/2018 23 Notice Of Filing Transcript
Date: 03/01/2018
Timely: Y
Reporter: 7279 - MCBRIDE BROMEICA A
Hearings:
04/26/2017 Jury Trial
04/27/2017 Jury Trial
04/28/2017 Jury Trial

03/09/2018 24 Notice Of Filing Transcript
Date: 03/08/2018
Timely: Y
Reporter: 7279 - MCBRIDE BROMEICA A
Hearings:
05/01/2017 Jury Trial

03/13/2018 25 Telephone Contact
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: LM for Atty re update on mtn to show cause

03/13/2018 28 Motion: Extend Time - Appellant
Proof of Service Date: 03/13/2018
Filed By Attorney: 26846 - BRANCH WILLIAM F
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Fee Code: PI
Requested Extension: 06/11/2018
Answer Due: 03/20/2018

03/13/2018 30 Proof of Service - Generic

Date: 03/13/2018
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: P/S of mtn by email defective

03/14/2018 27 Telephone Contact
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: Left vmail for atty Branch that we have all the transcripts.

03/14/2018 29 Defective Filing Letter
Event: 28
Defect:
Proof of Service - Cured

03/19/2018 31 Proof of Service - Generic
Date: 03/19/2018
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: P/S of Mtn to Ext in Evt#28 to cure defect

03/26/2018 32 Defect Cured
Event: 28
P/S Date: 03/19/2018
Defect:
Proof of Service - Cured

03/26/2018 34 Steno Certificate - Tr Request Received
Date: 03/21/2018
Timely: N
Reporter: 454 - BLACKMAN SHEDRIA L
Hearings:
03/24/2017

03/27/2018 33 Submitted on Administrative Motion Docket
Event: 28 Extend Time - Appellant
District: D
Item #: 6

03/27/2018 35 Order: Extend Time - Appellant Brief - Grant
View document in PDF format
Event: 28 Extend Time - Appellant
Panel: MJT
Attorney: 26846 - BRANCH WILLIAM F
Extension Date: 06/11/2018

04/02/2018 36 Transcript Ordered By Trial Court
Date: 03/21/2018
Timely: N
Reporter: 454 - BLACKMAN SHEDRIA L
Hearings:
03/24/2017

04/23/2018 37 Notice Of Filing Transcript
Date: 04/18/2018

Timely: N
Reporter: 454 - BLACKMAN SHEDRIA L
Hearings:
03/24/2017

04/28/2018 38 Brief: Appellant
Proof of Service Date: 04/28/2018
Oral Argument Requested: Y
Timely Filed: Y
Filed By Attorney: 26846 - BRANCH WILLIAM F
For Party: 2 TAYLOR DEXTER BURRELL DF-AT

04/28/2018 39 Presentence Investigation Report - Confidential
Date: 04/28/2018
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F

06/03/2018 40 Noticed
Record: REQST
Mail Date: 06/04/2018

06/06/2018 41 Record Filed
File Location:
Comments: File(Trs Incd);Trs(24)

08/09/2018 43 Prosecutor Advisory - No Brief
Attorney: 1182 - WAYNE COUNTY PROSECUTOR

01/14/2019 47 Correspondence Sent
Date: 01/14/2019
For Party: 2 TAYLOR DEXTER BURRELL DF-AT
Attorney: 26846 - BRANCH WILLIAM F
Comments: Lvl 3 rec request - sentencing info rpt

03/07/2019 55 Brief: Appellee
Proof of Service Date: 03/07/2019
Oral Argument Requested: N
Timely Filed: N
Filed By Attorney: 65223 - SOMERS AMY
For Party: 1 PEOPLE OF MI PL-AE

03/13/2019 49 Submitted on Case Call
District: D
Item #: 14
Panel: DBS,JMB,MJK

03/13/2019 58 Oral Argument Audio

03/13/2019 59 Oral Argument Audio

03/13/2019 60 Oral Argument Audio

03/26/2019 65 Opinion - Per Curiam - Unpublished
View document in PDF format
Pages: 8
Panel: DBS,JMB,MJK
Result: L/Ct Judgment/Order Affirmed

Case Search

https://courts.michigan.gov/opinions_orders/case_search/...

05/17/2019 66 SCt: Application for Leave to SCt
 Supreme Court No: 159612
 Answer Due: 06/14/2019
 Fee: Indigent Person
 For Party: 2
 Filed By Pro Per

05/23/2019 67 SCt Notice Letter Sent
 Proof Of Service Date: 05/23/2019

06/10/2019 68 Supreme Court - Record Sent To
 File Location:
 Comments: sc#159612 lcf;24 tr

06/10/2019 69 SCt: Answer - SCt Application/Complaint
 Filing Date: 06/10/2019
 For Party: 1 PEOPLE OF MI PL-AE
 Filed By Attorney: 65223 - SOMERS AMY
 Timely: Y
 Comments: Answer incorporating COA brf by reference.

06/17/2019 70 SCt: Trial Court Record Received
 12 tr; 1 files

01/24/2020 74 SCt Order: MOAA -Oral Argument on Lv Appl
 View document in PDF format
 Comments: TC is directed to appoint William Branch to represent DFAT if feasible. Invited AC=PAAM, CDAM

02/07/2020 75 SCt Correspondence Received
 Proof Of Service Date: 02/07/2020
 Comments: RTS envelope; SC updated DF-AT address and resent order, event 74

02/27/2020 76 SCt: Miscellaneous Filing
 Filing Date: 02/27/2020
 Filed By Pro Per
 Comments: 02-14-2020 Cir Ct order appointing W. Branch P26846 to represent DF-AT

02/28/2020 77 Correspondence Sent
 Proof Of Service Date: 02/28/2020
 Comments: SC emailed SC pleadings to appointed counsel

Case Listing Complete

Appendix C – Judgement of Sentence

Original Court
Corrections
Corrections (for return)

3rd copy - Michigan State Police CJIC
4th copy - Defendant
5th copy - Prosecutor

Approved, SCAO Original - Court

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	JUDGMENT OF SENTENCE COMMITMENT TO DEPARTMENT OF CORRECTIONS <input type="checkbox"/> Amended	CASE NO. 16-007780-01-FC
---	---	-----------------------------

ORI MI - 821095J Court Address 1441 St. Antoine, Detroit, MI 48226 Courtroom 502 Court Telephone No. 313-224-2520
Police Report No.

THE PEOPLE OF THE STATE OF MICHIGAN

Prosecuting attorney name Bar no.
Susan Marie Dillon 72904

Defendant name, address, and telephone no.
Dexter Burrell Taylor
Alias(es) -
Unknown, .

CTN/TCN 16711257-01	SID	DOB 11/01/1966
------------------------	-----	-------------------

Defendant attorney name Bar no.
Mark L. Brown 39562

THE COURT FINDS:

1. The defendant was found guilty on 05/02/2017 of the crime(s) stated below:

Count	CONVICTED BY			DISMISSED BY*	CRIME	CHARGE CODE (S) MCL citation/PACC Code
	Pleas*	Court	Jury			
1			G		CSC 1 ST DEGREE	750520B

*Insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill, "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

☐ 2. The conviction is reportable to the Secretary of State under MCL 257.625(21)(b).

☐ 3. HIV testing and sex offender registration are completed.

Defendant's driver license number

☐ 4. The defendant has been fingerprinted according to MCL 28.243.

☐ 5. A DNA sample is already on file with the Michigan State Police from a previous case. No assessment is required.

IT IS ORDERED:

☐ 6. Probation is revoked.

7. Participating in a special alternative incarceration unit is ☐ prohibited. ☐ permitted.

8. Defendant is sentenced to custody of Michigan Department of Corrections. This sentence shall be executed immediately.

Count	SENTENCE DATE	MINIMUM			MAXIMUM			DATE SENTENCE BEGINS	JAIL CREDIT		OTHER INFORMATION
		Years	Mos.	Days	Years	Mos.	Days		Mos.	Days	
1	06/27/2017	37			80			06/27/2017		325	

☐ 9. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)

☐ each other.

☐ case numbers

10. The Defendant shall pay:

State Minimum	Crime Victim	Restitution	DNA Assess.	Court Costs	Attorney Fees	Fine	Other Costs	Total
\$ 68.00 x 1	\$ 130	\$	\$	\$ 1300	\$ 400	\$	\$	\$ 1898

The due date for payment is . Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.

11. The concealed weapon board shall ☐ suspend for ☐ days ☐ permanently revoke the concealed weapon license, permit number issued by County.

☐ 12. The defendant is subject to lifetime monitoring pursuant to MCL 750.520n.

13. Court recommendation:

06/27/2017

Date

I certify that this is a correct and complete abstract from the original court records. The sheriff shall, without needless delay, deliver defendant to the Michigan Department of Corrections at a place designated by the department.

(SEAL)

Judge

Qiana Denise Lillard

64230

Bar no.

Deputy court clerk

Appendix D – People’s Notice of Intent to Introduce Other Acts Evidence Pursuant to
MRE 404(b)

STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT, COUNTY OF WAYNE
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN

Hon. Qiana Lillard, Court Room 502

V.

Case No. 16-007780-01-FC

DEXTER BURRELL TAYLOR

16-007780-01-FC

Susan M. Dillon, P72904
Assistant Prosecuting Attorney
Wayne County Prosecutor's Office
1441 St. Antoine 11th Floor
Detroit, MI 48226
(313) 224-7449
sdillon@waynecounty.com

FILED IN MY OFFICE
WAYNE COUNTY CLERK
2/10/2017 10:52:48 AM
Mark L. Brown, P39562
Attorney for Defendant CATHY M. GARRETT
645 Griswold St Ste 972
Detroit, MI 48226-4017
(313) 999-0150
mlbesq@gmail.com

PEOPLE'S NOTICE OF INTENT TO INTRODUCE
OTHER ACTS EVIDENCE PURSUANT TO M.R.E. 404(b)

Now come the People of the State of Michigan, ex rel. Kym L. Worthy, Wayne County Prosecutor, by and through Susan M. Dillon, Assistant Prosecuting Attorney, respectfully providing notice to both the Court and to the above listed defendant of the People's intention to introduce other acts evidence at trial against the defendant. Such other acts evidence involves the commission of a criminal sexual conduct offense similar to the offense charged. Notice is provided pursuant to MRE 404(b) as set forth by the constraints therein. The People provide notice that they will propose evidence for admission under this provision, to wit:

- I. In this case, defendant Taylor is charge with one count of Criminal Sexual Conduct First Degree (Multiple Variables). He is charged as a Habitual Offender, Fourth Offense

Notice. This charge arose out of Defendant's conduct occurring on July 25, 1996 in the City of Melvindale, County of Wayne, and State of Michigan.

2. On July 25, 1996, 26 year old Rachel Davis was in the area of Salliotte Street and 15th Mile. The defendant approached Ms. Davis in a car and asked her if she "wanted to get a buzz". Ms. Davis, who used crack-cocaine at the time, got into the defendants vehicle. The defendant drove the vehicle to the loading dock area behind an abandoned K-Mart off of Outer Drive within the city limits of Melvindale. Once the car was parked the defendant said to Ms. Davis "bitch get outta the car!". At this time Ms. Davis got out of the car. The defendant got out of the car and pushed Ms. Davis down to the ground which was cement. It was at this time the defendant removed Ms. Davis' clothing and penetrated her vagina with his penis. After getting up the defendant hit Ms. Davis with a baseball bat and then drove off leaving her at the loading dock. Ms. Davis made her way back to Outer Drive and was discovered by an off-duty police officer who was driving by. Police arrived on scene and recovered the baseball bat. Ms. Davis was taken by ambulance to Oakwood Hospital where she underwent an examination also known as Sexual Assault Forensic Exam ("Rape Kit") during which a number of samples were collected from Ms. Davis' body and clothing. The sexual assault kit was collected and turned over to the Melvindale police department. In the police report, Ms. Davis described the perpetrator as a black male in his mid-20's with facial hair. In July 1996, the sexual assault kit was received by the Michigan State Police lab in Northville. Serology was performed by Laboratory Scientist Charlotte Day who reported finding the presence of semen on the vaginal swabs and crotch of Ms. Davis' underpants and jeans. At that time there was no known suspect for the case and there was no further DNA

testing done. In 2003-2004, the Michigan State Police received Federal grant funding to address non-suspect cases for DNA analysis. The evidence from Ms. Davis' sexual assault kit was outsourced to Fairfax Identity Laboratories for DNA testing. Forensic Analyst Benedict Arrey performed the DNA extraction and analysis process and a DNA profile of an unknown male was identified. The information was sent back to the Michigan State Police Forensic Science Division in October 2004. It was then reviewed by a Forensic Scientist with the Michigan State Police. Post review, the profile was entered into the Combined DNA Index System (CoDIS) database on October 18, 2004. On March 25, 2005, a search of the CODIS database resulted in a match of the unknown male DNA profile from Ms. Davis' vaginal swabs to Dexter Burrell Taylor, SID# 1736559X. This information was then forwarded to the Melvindale Police Department for investigation.

3. The People propose the following other act:
 - a. On February 17, 1994, 20 year old Erica Doak had taken a bus to Outer Drive and Fort Street. Ms. Doak, who was five months pregnant at the time, started walking down Fort Street towards Schaefer Avenue in the city of Detroit, Wayne County, State of Michigan. Ms. Doak was in the area of Downing and Fort Street when she was approached from behind by the defendant who put a knife to her side and said "don't scream." The defendant demanded Ms. Doak's purse and coat, which she gave to him. The defendant took money from her purse and returned it to her. The defendant then made Ms. Doak walk with him down the alley and into the basement of a building further down the alley. The defendant removed her pants and proceeded to sexually assault Ms. Doak by placing his penis inside her

vagina. When the defendant was done sexually assaulting Ms. Doak, he went through her coat looking for something of value. The defendant kept Ms. Doak's coat and also took two silver bracelets from her. The defendant walked up the basement steps and told Ms. Doak not to come out. Ms. Doak waited for awhile to make sure the defendant had left before leaving the building herself. Ms. Doak walked to Fort Street and Downing and called her mother but she did not answer. Ms. Doak then called her friend's house and spoke to her friends Dad. She told him she had been robbed and raped. Ms. Doak was taken to Oakwood Hospital in Dearborn where she underwent an examination also known as Sexual Assault Forensic Exam ("Rape Kit") during which a number of samples were collected from Ms. Doak's body and clothing. The sexual assault kit was collected and turned over to the Detroit Police Department. Ms. Doak then met with investigators from the Detroit Police Department and took them to the abandoned building where she was sexually assaulted. While at the scene investigators recovered the knife the defendant left at the scene. Erika Doak described her assailant as a black male, 18-20 years old, medium complexion with a slim build. In 2014, Ms. Doak's sexual assault kit was sent to a Sorenson Forensics for DNA analysis under a Federal Grant to address the issue of untested sexual assault kits. Forensic DNA Analyst Jessica Lowney performed the DNA extraction and analysis process and a DNA profile of an unknown male was identified. The information was sent back to the Michigan State Police in August 2014. It was then reviewed by a Forensic Scientist with the Michigan State Police. Post review, the profile was entered into the Combined DNA Index System (CoDIS)

database in October 2014. In January 2015, a search of the CODIS database revealed a case to case association between the male DNA profile obtained from the vaginal swab of Erica Doak to the male DNA profile obtained from the vaginal swab of Rachel Davis. The search of the CODIS database resulted in a match of the unknown male DNA profile from Ms. Doak's vaginal swab to Dexter Burrell Taylor, SID# 1736559X. This information was then forwarded to law enforcement for investigation.

MRE 404(b)

4. The evidence listed in paragraph three, subparagraph a is admissible under MRE 404(b), to show Defendant Taylor's motive, intent, and common plan or system, as well as to show lack of consensual sexual interaction, with women which he intends to have a sexual encounter, whether they are willing participants or not.
5. According to *People v. VanderVliet*, 444 Mich. 52 (1993), this other acts evidence is admissible for the purposes set forth in paragraph four for the following reasons:
 - a. The evidence is relevant under MRE 404(b) to issues of fact which are of consequence at trial. MRE 404(b)(1) allows admission of evidence of other crimes, wrongs, or acts, not to show character conformity, but to show other things, such as motive, intent, or common plan or system in doing an act; and also to show a lack of consensual sexual activity. The evidence here is offered for proper purposes under MRE 404(b) that do not include propensity.
 - b. The prior act of Defendant Taylor is relevant to show intent, motive, and system in doing an act and to show a lack of consensual sexual activity. *People v. Marizke*, 251 Mich. App. 282 (2002), *People v. Orr*, 275 Mich. App. 587 (2007),

People v. Sullivan, 282 Mich. App. 191 (2009), *People v. Oliphant*, 399 Mich. 472 (1976), *People v. Sabin*, 463 Mich. 43 (2000).

- c. The probative value of the other act evidence is not substantially outweighed by any risk of unfair prejudice, pursuant to MRE 403. The other act evidence is highly probative of Defendant Taylor's motive, intent, and system in committing the charged offense. The trial court should determine under MRE 403 whether the danger of undue prejudice substantially outweighs the probative value of the evidence, in view of the availability of other means of proof and other appropriate facts. *VanderVliet*, *supra* at 74-75. The evidence shows that Defendant Taylor uses a common plan and system of approaching women who are walking alone in the area, taking the women to an isolated location and sexually assaulting them. Defendant Taylor uses force and threats to assault or attempts to assault the victims in an isolated location. Each woman was threatened with a weapon, Ms. Davis was hit with a baseball bat and Ms. Doak was threatened with a knife. Both weapons were recovered at the scene of the assault. This other act evidence is highly probative of Defendant Taylor's motive, intent and common plan or system in committing the charged offense. Upon request, the trial court may provide a limiting instruction under MRE 105, cautioning the jury to use the evidence for its proper purpose and not to infer a bad or criminal character caused the defendant to commit the charged offense. *VanderVliet*, *supra* at 75. The probative value of the other act evidence is not substantially outweighed by any risk of unfair prejudice, pursuant to MRE 403. *Sabin* at 592-593.

6. The *VanderVliet* Court emphasized that MRE 404(b) is a rule of inclusion rather than one of exclusion, that "the general exclusion of similar acts evidence is mistaken" and "there is no policy of general exclusion relating to other acts evidence." *Supra* at 73.
7. The *VanderVliet* Court recognized that "some bad acts evidence is so powerfully probative that it would pervert the truth seeking process to prevent a jury from using what looks like ordinary common sense." *Supra* at 73. In the instant case, the other acts evidence is so powerfully probative that it would pervert the truth seeking process to prevent a jury from bearing it, and would prevent a jury from using common sense to assess the case.
8. Under *People v. VanderVliet*, 444 Mich 52 (1993) and its progeny, the People submit that the other acts evidence they intend to introduce is properly admissible MRE 404(b) and existing case law.

THE DOCTRINE OF CHANCES

9. The evidence listed in paragraph three, subparagraph a, is also admissible under the Doctrine of Chances. The evidence is admissible to show that rare or unusual events that occur frequently to an individual person are less likely to have innocent explanations and more likely to demonstrate the probability of an *actus reus*.
10. The Court in *People v. Breidenbach*, 498 Mich. 1 (2011), recognized that the doctrine of chances created a non-character basis for the admission of evidence of other acts when the other acts are related to the offense charged in such a way as to make it objectively improbable that all the acts were accidental, and probable that at least one of them was the result of an *actus reus*. Rather than relying on the subjective character of the defendant, it relies on the objective improbability of so many accidental or unexplained

events of a similar nature befalling one individual. *People v. Breidenbach*, 498 Mich 1 (2011) citing *Imwinkelried*, Uncharged Misconduct Evidence (rev ed.), § 4:03.

11. In *People v. Holland*, No. 320869, 2015 WL 5442817, (Mich Ct App September 15, 2015) the Michigan Court of Appeals noted that the “doctrine of numbers” requires a lower threshold of similarity for admission under MRE 404(B)(1). That the “level of similarity required when disproving innocent intent is less than when proving modus operandi...logical relevance dictates only that the charged crime and the proffered other acts are of the same general category.”
12. In the instant case, two victims have reported that they were sexually assaulted after coming in contact with Defendant Taylor.
13. When multiple women report a sexual assault executed in a similar way, it is less likely that these events have an innocent explanation and more likely that these facts demonstrate guilty acts.
14. If the Defendant intends to contest the admissibility of some or all of the offered evidence on any grounds, the People request this Court to require Defendant to articulate his theory or theories of defense, as under *VanderVliet* and MRE 404(b)(2).

WHEREFORE, the People of the State of Michigan respectfully request that this Honorable Court grant the People's motion and admit at trial, pursuant to MRE 404(b) and the Doctrine of Chances, evidence concerning Defendant Taylor's other acts for the reasons stated herein.

Respectfully submitted,

This 10th day of February, 2017



Susan M. Dillon, P72904
Assistant Prosecuting Attorney
Wayne County Prosecutor's Office
1441 St. Antoine, 11th Floor
Detroit, MI 48226
(313) 224-7449
sdillon@waynecounty.com

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-01

DEXTER TAYLOR

Defendant.

_____ /

PRETRIAL HEARING
BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE
Detroit, Michigan - Monday, February 27, 2017

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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<u>WITNESSES</u>	<u>PAGE</u>
None.	

E X H I B I T S

	<u>Offered</u>	<u>Received</u>
None.		

1 Detroit, Michigan

2 Monday, February 27, 2017

3 At approximately 11:08 a.m.

4 - - -

5 THE CLERK: Case number 16-7780. People
6 versus Dexter Taylor. The matter is here today for
7 a pretrial hearing.

8 THE COURT: Appearances please.

9 MS. DILLON: Good morning, your Honor.
10 Susan Dillon here on behalf of the People.

11 THE COURT: Good morning.

12 MR. BROWN: Good morning, your Honor. May
13 it please the Court. Mark Brown, appearing on
14 behalf Mr. Dexter Taylor.

15 THE COURT: Good morning.

16 MR. BROWN: Who stands to my right. Good
17 morning. Mr. Taylor, you can be seated. It's
18 actually a motion. You may.

19 MS. DILLON: Do you need a copy, Judge?

20 THE COURT: No.

21 MS. DILLON: Your Honor, the People have
22 found a motion to introduce evidence at trial
23 pursuant to 404 B in regards to other acts evidence.
24 As detailed in the motion file by the People there
25 is other acts evidence that occurred in February of

1 1994 involving a victim, Erica Doak, who was 20 at
2 the time. The motion details how the events are
3 similar. They're similar in the fact that there is
4 a weapon displayed in both events, and I know the
5 Court is familiar with the facts behind the actual
6 case we are here for because the matter as already
7 gone to trial once and also that Ms. Doak was taken
8 to an area of seclusion, which in this case was an
9 abandoned house in a basement in a building down an
10 alley and was sexual assaulted. We believe that the
11 similarities are enough that pursuant to the case
12 law, current case law, this evidence would be
13 admissible pursuant to 404B. That matter, because
14 it occurred in 1994 is barred by the Statute of
15 Limitations which is why it's not brought as it's
16 own separate matter.

17 Also in regards to the Doctrine of Chances
18 these women don't know each other. They've never
19 met each other and so the chance that would
20 individuals with no relationship and no relationship
21 to Mr. Taylor would both file reports and bring
22 forth an allegation of sexual assault against Mr.
23 Taylor and then have the DNA come back identifying
24 Mr. Taylor would be more than just a pure
25 coincidence and more likely that the defendant

1 committed the acts and so we haven't received any
2 sort -- I'm sure counsel will argue, I haven't
3 received any sort of written objection, but we
4 believe pursuant to 404B and the current case law
5 that there's enough similarities. And the cases
6 don't have to be absolutely similar for them to
7 be -- to the other acts evidence to be allowed but
8 we believe that there's enough similarity in a
9 common scheme, a common plan, use of a weapon,
10 getting the person into a location that's more
11 secluded where there aren't other individuals and
12 the type of sexual assault and the fact that, you
13 know, two women who aren't related that don't know
14 each other, that don't know the defendant would make
15 such an allegation would lead it to be more than
16 just any -- that it wouldn't be some sort of
17 collusion or a plot against the defendant, so we'd
18 ask that the 404B evidence involving Erica Doak be
19 admissible at trial. She is available to testify
20 and so are the laboratory personnel involved in her
21 case.

22 THE COURT: Mr. Brown.

23 MR. BROWN: Yes, ma'am. I think there's
24 about three things here. Number one, I think the
25 circumstances are dissimilar and you can make a

1 determination on that based upon reading the motion
2 and in your own personal knowledge obviously because
3 of the entire trial with the first, the other
4 complainant.

5 Second, I think that, you know, there is
6 despite the fact that 404B actions are allowed, or
7 404B evidence is allowed. There is there is the
8 prejudice and I think the prejudice here is extreme
9 and I really would go back to the trial we had in
10 this case where we had a trial where without
11 prompting there was, or maybe it was with prompting,
12 there was a question by the jurors about any other
13 cases without anything involved in terms of letting
14 them know about this particular circumstances or
15 whatever, so I think that's a thing of extreme
16 prejudice.

17 And then finally I think, and I don't know
18 because I have not read the transcript, because I
19 don't know whether the Court's remarks are recorded
20 about whether or not the 404B motion should have
21 been filed in that case and if that is on the
22 transcript, because I don't know if it's on the
23 transcript then, in fact, then maybe we should be
24 going to a different Court.

25 THE COURT: All right. Well what happened

1 and I think it probably is all on the transcript.
2 What happened was the Officer-in-charge testified
3 regarding an investigation in investigating a case.
4 That he worked specifically on a grant that had
5 something to do with cases in Detroit and that as a
6 result of investigating the allegations in Detroit
7 that led him to this case that was outside of
8 Detroit, and the juror wanted to know whether or not
9 that meant that there was another case and I
10 indicated that there was no 404B notice filed and I
11 asked if a 404B notice had been filed and why a 404B
12 notice had not been filed when the circumstances
13 were clear that in order to get into any testimony
14 regarding the Officer-in-charge that it was in the
15 context of investigating another case that the --
16 that led the -- led to, I think the testimony was a
17 case by case association or something like that. I
18 don't remember exactly what it was but that there
19 was a case to case association that caused this
20 Wayne County Prosecutor's Office investigator to be
21 looking into a case, this case, that was actually
22 before the jury so, I mean, to the extent that that
23 is a motion to recuse the Court because the Court
24 made an inquiry as to why the proper procedure
25 wasn't filed by the prosecutor in order to get into

1 that presentation of evidence I don't think that has
2 any basis or merit. I've reached no conclusions
3 about whether or not Mr. Taylor committed this
4 offense and regardless, you know, it's for a jury to
5 decide. I have no bias or prejudices against Mr.
6 Taylor but I have an obligation and that obligation
7 is to make sure that trials are run fairly and
8 efficiently and without proper notice filed by the
9 prosecutor it would have been improper to allow the
10 Officer-in-charge to go into any detail about this
11 other case or these other investigations, so that
12 was the context in which the Court's inquiry about
13 an Other Act Notice being filed or why it wasn't
14 filed. And I will say I do recall Ms. Dillon making
15 some remarks, which if overheard, because I hear
16 everything. Ms. Dillon made some comment --

17 MR. BROWN: Forgive. I didn't mean to
18 chuckle.

19 THE COURT: No, the record should be clear
20 that she made some comment that -- I'm trying to
21 remember exactly. It was off the record. It was to
22 defense counsel and it was quite frankly disparaging
23 of the Court. It was inappropriate and I heard it
24 and it was something to the affect that I brow beat
25 her or I raked her over the coals or something very

1 disrespectful regarding an assertion that I had some
2 how chastised her or inappropriately commented
3 towards her because she failed to file Another Act
4 Notice which, you know, that happened. It happened
5 in this courtroom and I heard it and I said
6 something to both of you when I overheard her saying
7 those things you know. I have a job to do and my
8 job is to make sure that the trial is run fairly and
9 efficiently but regardless of Ms. Dillon's remarks
10 it doesn't affect my ability to be fair in this
11 case. People say things but I don't think they
12 realize that this courtroom is designed so that the
13 judge can hear and I hear everything, everything
14 people say, which is often why if someone wants to
15 talk to their client in the box I leave because I
16 don't want to overhear conversations so, you know, I
17 don't have any biases against the prosecutor. I
18 don't have any biases against Mr. Brown, and I
19 certainly, most importantly, do not have any biases
20 against Mr. Taylor and I certainly can be fair.

21 Is there something else that you wanted to
22 say?

23 MR. BROWN: Yes.

24 THE COURT: You may.

25 MR. BROWN: First of all, I'm old and my

1 addled memory or whatever. The point is not whether
2 you have bias against Ms. Dillon because you think
3 she said something or whatever, she said something
4 or you heard something or whatever. My point is
5 that you suggested to her what she should have done
6 and that's -- may I please finish?

7 THE COURT: Sure.

8 MR. BROWN: What you suggested or what she
9 should have done so you said and what we all know
10 that you're a very, you were a very good prosecutor
11 and these kinds of cases or casing involving
12 children or casing involving sexual assault and so
13 I'm saying that the, I'm saying on behalf of Mr.
14 Taylor, that it's very it's not a long stretch for
15 somebody to think that you have a bias or a
16 prejudice and I'm saying that not just because you
17 were a prosecutor, because we tried the case here
18 and I didn't bring that up and I know you, and I'm
19 not disparaging you or whatever.

20 THE COURT: No, you have a job to do. I
21 get it.

22 MR. BROWN: But I'm saying that because of
23 that it's like there's a suggestion; oh you should
24 have done, it's almost like helping the prosecutor
25 and then I'm saying that in the context of this case

1 and this kind of case that that is an example not
2 about, I wasn't talking about Ms. Dillon and
3 whatever comments that you think and I said it just
4 like that, you think that she said or how she said
5 it, because it's really your suggestion and that's
6 what I in terms of --

7 THE COURT: I understand that.

8 MR. BROWN: Okay. I'll sit down.

9 THE COURT: And I think once the
10 transcripts come, which should have been due on the
11 17th and they are not here. I think you'll be in a
12 better position to file a formal motion to recuse
13 the Court if you think what I said regarding the
14 Other Acts Notice crossed the line into advocacy or
15 was some how a suggestion to Ms. Dillon or what she
16 should do or was rendering some assistance. As I
17 remember things and, you know, I don't always get
18 things right but as I remember it it was only in the
19 context that this issue came up. A juror asked a
20 question because of something that I think, and I
21 could be wrong, when the transcripts come we'll see.
22 I think it was on direct examination that the
23 testimony was elicited from the Officer-in-charge
24 that he was looking into another matter and that led
25 to Mr. Taylor by a case by case association with

1 this other case that was out of his normal
2 jurisdiction and so I'm pretty sure I did say that,
3 you should have filed an Other Acts Notice because
4 the only -- you can't just get into testimony about
5 some other case without an Other Acts Notice and it
6 wasn't filed and that's why I didn't allow it so --

7 MR. BROWN: Well one thing I want to
8 respond. I don't think Ms. -- that's the whole
9 point. Ms. Dillon was not trying to get into
10 another case.

11 MS. DILLON: I wasn't.

12 MR. BROWN: That's what I'm saying. She
13 wasn't.

14 THE COURT: But the point is --

15 MR. BROWN: She didn't file a motion. She
16 certainly was aware I had the information about the
17 other case before. That was not her intent or
18 purpose so then --

19 THE COURT: Well --

20 MR. BROWN: That's not what she was trying
21 to do.

22 THE COURT: I don't know. Hold on.

23 MR. BROWN: I'm sorry.

24 THE COURT: I don't know what her intent
25 was but the reality is it happened.

1 MR. BROWN: Yes, ma'am.

2 THE COURT: And as a result of what
3 happened, the jury started writing questions wanting
4 to know if Mr. Taylor had another case and I'm not
5 saying that she intentionally got into the issue but
6 it happened, and I could be wrong but I think it
7 happened on direct examination of that witness where
8 he was trying to explain because he had already said
9 that he was -- had some sort of special grant funded
10 job or something where he was only looking at cases,
11 unsolved sexual assault cases in the city of Detroit
12 and then there was a case, something was said and he
13 may have done it. I mean that Officer-in-charge
14 said a whole lot of strange things that were not
15 necessarily intended to be, I don't think either
16 party intended to elicit but there was no way that
17 that could come in without an Other Acts Notice
18 being filed and the Court did ask, did you file an
19 Nother Act Notice. Maybe I said, why didn't you
20 filed an Other Acts Notice, so it is what it is, and
21 when the transcripts come you'll have a better
22 opportunity to make a full record of what exactly it
23 is that I said or did that you think was
24 inappropriate and warrant a recusal but until we get
25 the transcripts we won't really. I mean it's not

1 fair. I mean it's too important for your client for
2 you to make a full argument on this issue without
3 the transcripts and so I think what probably is best
4 is that, and I want you all to know that I did
5 contact Mr. Josephs because the transcript at this
6 point is ten days date and they don't like it when I
7 show cause court reporters from the Third Circuit
8 Court so I think it's probably best that we address
9 that issue first and before I rule on this issue
10 because if I think that's important. There's and so
11 we need to figure out when the transcripts are
12 coming so that you can address that issue first.
13 Okay.

14 THE COURT: All right. So I'll let you
15 all know as soon as I hear back from Mr. Josephs and
16 we'll give you another date. Mr. Taylor, please go
17 with my deputies, sir.

18 MR. BROWN: Thank you, Judge.

19
20 (At 11:13 p.m. proceedings concluded)
21
22
23
24
25

C E R T I F I C A T E

STATE OF MICHIGAN)

)ss

COUNTY OF WAYNE)

I, Bromeaica McBride, certify that this transcript consisting of 15 pages is a complete, true and correct transcript of the proceedings and testimony taken in this case on February 2, 2017.

1-30-18____[BROMEICA] [MCBRIDE]____

Date

BROMEICA MCBRIDE, CSR 7279
Lincoln Hall of Justice
1025 East Forest, Room 105
Detroit, Michigan 48207
(313) 833-0787

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-01

DEXTER TAYLOR

Defendant.

_____ /

PRETRIAL HEARING
BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE
Detroit, Michigan - Thursday, April 13, 2017

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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14		<u>Offered</u>	<u>Received</u>
15	None.		
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1 Detroit, Michigan

2 Thursday, April 13, 2017

3 At approximately 12:05 p.m.

4 - - -

5 THE COURT: This is case number
6 2016-007780-01-FC. People of the State of Michigan
7 versus Dexter Burrell Taylor here today for a
8 special pretrial I think. Your appearances for the
9 record please.

10 MS. DILLON: Good morning, your Honor.
11 Susan Dillon on behalf of the People.

12 THE COURT: Good afternoon. Ms. Dillon.

13 MR. BROWN: Good afternoon, your Honor.
14 May it please the Court, Mark Brown, appearing on
15 behalf Mr. Taylor who is seated in front of me.

16 THE COURT: Good afternoon, Mr. Brown, and
17 good afternoon to you, Mr. Taylor.

18 DEFENDANT TAYLOR: Good afternoon, your
19 Honor.

20 THE COURT: What are you here for? I
21 don't remember. I don't remember telling you guys
22 to come and I don't remember why you're here.

23 MR. BROWN: We're here for the ruling on
24 the motion regarding the 404B.

25 MS. DILLON: I had filed a motion in

1 regards to 404B.

2 THE COURT: Did you ever argue it though?

3 MS. DILLON: We had kind of and then it
4 got a little sidetracked because we had the other
5 motion in regards to the disqualification.

6 THE COURT: Okay. All right.

7 MS. DILLON: And so you had invited us
8 back in regards to that.

9 THE COURT: And then Mr. Taylor was in the
10 hospital.

11 MS. DILLON: Correct.

12 THE COURT: Okay.

13 MS. DILLON: And we currently have trial
14 date set for April 26th.

15 THE COURT: Oh all right. Is there
16 anything you'd like to say as it relates to your
17 motion to introduce other acts?

18 MS. DILLON: Your Honor, just in regards
19 to the motion I would I know we've already kind of
20 argued this so I would just quickly point out that
21 there are similarities in regards to both cases. I
22 think the facts, the Court is very well aware of the
23 facts involving Rachael Davis because of the trial
24 we've already had and then the facts are spelled out
25 in the motion in regards to Erica Doak who is our

1 proposed 404B witness. She actually was walking
2 down in the city of Detroit here Outer Drive and
3 Ford Street. She had gotten off the bus. She was
4 headed to Schafer. At the time Ms. Doak was five
5 months pregnant and she did not know the defendant
6 and her report is that he came upon her, threatened
7 her with a knife, took her to an abandoned home in
8 the basement, assaulted her vaginally, penis to
9 vagina, and actually stole money from her and some
10 bracelets she was wearing and she had later taken
11 the police back to that site and the knife that she
12 had seen that he threatened her with was actually
13 left behind so they recovered that similar to the
14 baseball bat that was used in the Rachael Davis case
15 that the defendant had also left behind at the
16 scene.

17 While that and Rachael Davis' case he
18 picked her up in a car, in both cases you've got a
19 female by herself on the street. One, taken to an
20 abandoned K-Mart, the other taken to an abandoned
21 home, and I would also point out that the abandoned
22 location that Ms. Doak was taken to is on the same
23 street where when the defendant gave the statement
24 to the officers it's right where he lived too. He
25 also lived on the same street and the assaults in

1 both cases took place in a very concentrated area
2 right around the Outer Drive, Schafer, Fort Street
3 area there in Detroit. And the sexual assault both
4 were penis to vagina, sexual assault. We've got
5 weapons in both cases. Both females taken to
6 abandoned locations.

7 In the Davis case I would argue, you know,
8 there was testimony that they were going to do drugs
9 together. In Erica Doak's case she was robbed of
10 the money she had, some bracelets she had which was
11 kind of indicative of maybe that was going to be
12 used to purchase drugs and in both cases he left the
13 weapon behind and then, Judge, in regards to whether
14 or not there's going to be a consent defense raised
15 in this case, which there pretty much was in the
16 original trial, the odds that two women who neither
17 knew the defendant, well, Erica Doak definitely
18 didn't know the defendant. She was pregnant at the
19 time. She does not know Rachael Davis, didn't know
20 anything of this other case. The fact that both of
21 these would accuse the defendant of a similar type
22 offense, similar time frame and a similar area I
23 think the chances of that being any sort of scheme
24 against the defendant or I think that that's
25 improbable and that it should be clearly admissible

1 to rebut any sort of theory of consent in the case.

2 THE COURT: Mr. Brown.

3 MR. BROWN: Well, I don't know how it
4 rebuts any issue of consent but I think I argued
5 this before but I will say that I think it's the
6 facts of the probative value of this case, the
7 probative value of this information coming in in
8 terms of how it squares with the prejudicial affect
9 and I think you don't have very similar
10 circumstances because we had the opportunity to go
11 through the trial and have Ms. Davis testify and, of
12 course, her stories were very different at different
13 times but you can start out with somebody taking
14 somebody off the street but then you get to that's
15 not really what happened, and there's no suggestion
16 here that Ms. Doak was going to smoke crack with Mr.
17 Taylor. It's a very, very, different factual
18 situation.

19 The thing about the weapon being left
20 there, I mean, you say weapon. Ms. Davis could
21 testify to being struck with a bat. There's no
22 medical verification of that as you heard during the
23 course of the trial. There's no bat any where.
24 There's no DNA any where on a knife that I'm aware
25 of in Ms. Doak's case unless that's part of the

1 something that's, you know, brand new so the
2 similarities of the weapons being left there I think
3 that's really, I think it's really more of an
4 emotional appeal because of course then we'll say oh
5 my God, she was pregnant. It's in the Court's
6 discretion make a decision but certainly I think
7 that this is more of just obviously he had two cases
8 and we kind of know this from the previous case
9 where we almost had a mistrial in this days because
10 the jurors are saying, well, is there another case,
11 so once there's another case it's an entirely
12 different story. If there's another case with all
13 the extra added bells and whistles of pregnancy and
14 whatever else then, you know, it's just assigning
15 well, I don't know. I leave it in the Court's
16 discretion.

17 THE COURT: All right. Is there anything
18 else you'd like to say on your own behalf before I
19 make my ruling? This is your motion so if there's
20 something else you'd like to say on behalf of the
21 People, you may.

22 MS. DILLON: Your Honor, just the comment
23 in regards to the lack of the bat, we there was
24 testimony by the sergeant and other officers. They
25 saw the bat. They recovered the bat. There was

1 evidence that the bat had gone to MSP for
2 fingerprint testing so I don't think we can argue
3 today that that bat didn't exist, and as far as
4 Erica Doak is concerned she saw the knife and they
5 recovered the knife at the scene so I don't think we
6 need DNA on the knife because she actually saw it
7 and it was there. That's all I wanted to say.

8 THE COURT: All right. Having reviewed
9 the pleadings and heard the arguments presented by
10 the parties, the Court is prepared to make the
11 following ruling: Michigan Rule of 404B1 governs
12 the admissibility of evidence of other crimes,
13 wrongs or acts and it indicates that evidence of
14 other crimes, wrongs or acts cannot be used to prove
15 character but it can be used for other purposes such
16 as to prove motive, opportunity, intent,
17 preparation, scheme, plan or system in doing an act
18 knowledge, identity absence of mistake or accident
19 when the same is material whether such crimes,
20 wrongs, acts are contemporaneous with prior or
21 subsequent to the conduct at issue in the case, and
22 while I recognize that there is the danger in using
23 this -- in admitting this evidence because it could
24 be viewed as impermissible character, or create an
25 impermissible character to conduct inference, the

1 Michigan Supreme Court looking at this type of
2 evidence has held in People versus Timothy Jackson,
3 498 Mich 246 a 2015 case, wherein a pastor was
4 accused of sexual assaulting a child that was a
5 member of his congregation and there was evidence
6 that was introduced that he had engaged in
7 consensual sexual contact with another parishioner
8 who was an adult, even that evidence was found to
9 have fallen within the scope of the coverage of the
10 Michigan Rule of Evidence 404B, and when you look at
11 the test that's outlined in People versus
12 VanderVliet, 444 Mich 52, a 1993 case. It looked at
13 the admissibility of other acts evidence under
14 Michigan Rule of Evidence 404B and it looked at the
15 use of that evidence in order to determine whether
16 or not there is is a modus operandi to prove
17 identity and, in this case, I think, and also in
18 VandeVliet they looked at whether or not under a 402
19 and a 403 analysis if there was a danger of unfair
20 prejudice that substantially outweigh the probative
21 value of the evidence in light of the availability
22 of other means of proof and other appropriate facts,
23 and whether or not the other act evidence had any
24 relevance under 4042.

25 And although all of the case law clearly

1 points in the direction of this testimony being
2 admissible there is some caution that has to be used
3 where, you know, wherein the Court can provide a
4 limiting instruction under Michigan Rule of Evidence
5 105 to caution the jury to use the evidence for it's
6 proper purpose and not to infer that the defendant
7 has a bad criminal character, he's a bad person or a
8 criminal character. So I think that if you look at
9 all the case law that is available to date looking
10 at the use of other act evidence I think it's clear
11 that even though there are some dissimilar aspects
12 of the assault wherein you have one woman who
13 original told the police that she was abducted off
14 of the street and later admitted under oath that she
15 had in fact going with the defendant willingly with
16 the lure of the ability to smoke drugs for free, and
17 then the other case is one where, again, the woman
18 initially told the police that she was abducted off
19 of the street by force or violence and taken against
20 her will and sexual assaulted by the defendant. I
21 think that there are still sufficient similarities
22 to warrant the admissibility of this evidence. You
23 have both women indicating that the sexual assault
24 was perpetuated by the use of a weapon in force or
25 violence. You have both women indicating that they

1 were alone on the street at night when they were
2 either accosted or approach by the defendant and
3 lured or taken away and although, you know, the
4 initial reports by both of the women are similar
5 because they both initially report that they were
6 taken away by force or violence we know that the
7 complaining witness in this case ultimately admitted
8 that she went away with the defendant freely and
9 voluntarily under the lure of being enticed to go
10 with him for some drugs, so I think that the
11 evidence is dissimilar in the same sense that in the
12 People V Jackson case where you have one child who
13 was being sexually abused by an adult and the Court
14 ruled that it was admissible to allow evidence to
15 come in that the pastor had also engaged in a
16 consensual sexual relationship with an adult, and so
17 I think that the factual circumstances don't have to
18 be exactly identical in order for the rule of
19 evidence to allow other act testimony to be admitted
20 and so over defense objection I am going to allow
21 the other act evidence to be introduced but I will
22 offer a limiting instruction that will instruct the
23 jury the limited purpose for which this evidence is
24 to be used. Is there anything else?

MR. BROWN: What, Judge, is the purpose

1 for which it's to be used?

2 THE COURT: Well they can't use it for --
3 they can't use it for -- the jury instruction says
4 it's Michigan Standard Jury Instruction 20.28 and it
5 says, "You have heard evidence that introduced to
6 show that the defendant has engaged in improper
7 sexual conduct for which the defendant is not on
8 trial. If you believe this evidence you must be
9 very careful to consider it only for one limited
10 purpose, that is, to help you judge the
11 believability of the testimony of the complainant
12 regarding the acts for which the defendant is now on
13 trial. You must not consider this evidence for any
14 other purpose. For example, you must not decide
15 that it shows that the defendant is a bad person or
16 that the defendant is likely to commit crimes. You
17 must not convict the defendant here because you
18 think he is guilty of other bad conducts", so you
19 know it shows his -- I guess she's saying she's
20 offering it because of the similarities and it goes
21 to identity, lack of consent, and all the other
22 issues that will be raised at the trial so the
23 limiting instruction specifically telling them that
24 they can't just assume that because he may have done
25 other bad things or inappropriate things that that

1 means he's guilty. They have to still believe the
2 complaining witness in this case and if they find
3 that this other evidence helps in her believability
4 so.

5 MR. BROWN: And I apologize, Judge,
6 because I probably shouldn't asked you the question.
7 The question probably as you actually pointed out
8 just now should have been directed to the prosecutor
9 so I know what the purpose is that the prosecutor is
10 offering it in evidence.

11 THE COURT: Well I think she outlined the
12 purposes that she was offering it in her brief I
13 think.

14 MR. BROWN: Okay.

15 THE COURT: All right. I'll see you all
16 back on the trial date.

17 MR. BROWN: Thank you, Judge.

18 MS. DILLON: Thank you, Judge.

19 THE COURT: You're welcome.

20 MS. DILLON: Your Honor, I am going to be
21 filing today, in light of your ruling, a new witness
22 list which I did give defense a copy so I'll e-file
23 it though.

24 THE COURT: All right. What? Did we have
25 an issue with Mr. Taylor having clothes last time or

1 no?

2 MR. BROWN: He had clothes but he has them
3 still on? Yes.

4 THE COURT: All right.

5 MR. BROWN: The only difference in the
6 witness list is that you added Erica Doak?

7 MS. DILLON: And I added her lab person.

8 MR. BROWN: Okay. Thank you very much.

9 THE COURT: You're welcome. Thank you.

10 (At 12:22 p.m. proceedings concluded)

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1 C E R T I F I C A T E

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3 STATE OF MICHIGAN)

4)ss

5 COUNTY OF WAYNE)

6

7 I, Bromeaica McBride, certify that this transcript
8 consisting of 16 pages is a complete, true and correct
9 transcript of the proceedings and testimony taken in this
10 case on April 13, 2017.

11

12

13

14 1-30-18 _____[BROMEICA] [MCBRIDE]_____

15 Date BROMEICA MCBRIDE, CSR 7279
16 Lincoln Hall of Justice
17 1025 East Forest, Room 105
18 Detroit, Michigan 48207
19 (313) 833-0787

20

21

22

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24

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Appendix G – Jury Trial Transcript, April 26, 2017

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-01

DEXTER TAYLOR

Defendant.

_____ /

JURY TRIAL

BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE

Detroit, Michigan - Wednesday, April 26, 2017

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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15	None.		
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1 Detroit, Michigan

2 Wednesday, April 26, 2017

3 At approximately 9:38 a.m.

4 - - -

5 THE COURT: This is case number
6 16-007780-01. People of the State of Michigan
7 versus Dexter Burrell Taylor. Here today for a jury
8 trial. Your appearances for the record please.

9 MS. DILLON: Good morning, your Honor.
10 Susan Dillon on behalf of the People.

11 THE COURT: Good morning, Ms. Dillon.

12 MR. BROWN: Good morning, your Honor. May
13 it please the Court, Mark Brown appearing on behalf
14 Mr. Dexter Taylor who is seated in front of me.

15 THE COURT: Good morning, Mr. Brown, and
16 good morning to you, Mr. Taylor.

17 DEFENDANT TAYLOR: Good morning, your
18 Honor.

19 THE COURT: Today is the date and time set
20 for a jury trial. Is there anything for the record
21 before we bring in the jury?

22 MS. DILLON: I don't think so. We're
23 ready.

24 MR. BROWN: I don't think so either.

25 THE COURT: All right. Are you asking for

1 sequestration of witnesses?

2 MR. BROWN: Yes.

3 MS. DILLON: Yes, Judge, and I'd ask for
4 the exception of the Officer-in-charge, Officer
5 Tuski.

6 THE COURT: The basis for your exception?

7 MS. DILLON: Your Honor, I believe that it
8 is allowed per statute and he is going to be
9 assisting me as far as getting witnesses in and out
10 of the courtroom.

11 THE COURT: Any objection?

12 MR. BROWN: No.

13 THE COURT: All right. The exception will
14 be granted for the Officer-in-charge and you both
15 have checked and there are no witnesses in the
16 audience, correct?

17 MR. BROWN: I think that's right, Judge.

18 MS. DILLON: Yes, your Honor.

19 THE COURT: All right. All rise for the
20 jury.

21 COURT OFFICER: All rise for the jury.

22 (Whereupon the prospective jury enters the courtroom)

23 THE COURT: You may be seated. Good
24 morning, Ladies and gentlemen.

25 THE PROSPECTIVE JURY: Good morning.

1 THE COURT: My name is Judge Qiana Denise
2 Lillard and it is my pleasure to welcome you to the
3 Third Circuit Court for the County of Wayne. You
4 are the members from whom we will be selecting a
5 jury to hear a case called the People of the State
6 of Michigan versus Dexter Burrell Taylor.

7 I know that jury duty may be a new
8 experience for some of you. Jury duty is one of the
9 most serious duties that members of a free society
10 are asked to perform. Our system of self-government
11 could not exist without it. The jury is an
12 important part of this court. The right to a jury
13 trial is an ancient tradition and part of our
14 heritage. The law says that both a person who is
15 accused of a crime and the Prosecution have the
16 right to a trial not by one person but by a jury of
17 12 impartial persons. All man. We're missing
18 somebody.

19 MR. BROWN: Yeah, oh no. I was thinking
20 the court reporter but that's not it.

21 THE COURT: That's not it. Dawn, can I
22 see the list please? How does this happen? All
23 right. So we're going to throwback it will be way
24 back Wednesday. I'm going to read your names and
25 like when you were in kindergarten if you hear your

1 name say here. John Armaley.

2 PROSPECTIVE JUROR ARMALEY: Here.

3 THE COURT: James Atkins.

4 PROSPECTIVE JUROR ATKINS: Here.

5 THE COURT: John BARRERA.

6 PROSPECTIVE JUROR BARRERA: Here.

7 THE COURT: Mary Beard.

8 PROSPECTIVE JUROR BEARD: Here.

9 THE COURT: Rahala Bagoon.

10 PROSPECTIVE JUROR BAGOON: Here.

11 THE COURT: Colleen Blake.

12 PROSPECTIVE JUROR BLAKE: Here.

13 THE COURT: Susan Blascawicz.

14 PROSPECTIVE JUROR BLASCAWICZ:

15 Blascawicz.

16 THE COURT: Blascawicz, thank you. John

17 Carney.

18 PROSPECTIVE JUROR CARNEY: Here.

19 THE COURT: Christina Carson.

20 PROSPECTIVE JUROR CARSON: Here.

21 THE COURT: Kelly Chessor.

22 PROSPECTIVE JUROR CHESSOR: Here.

23 THE COURT: Cheryl Crawford.

24 PROSPECTIVE JUROR CRAWFORD: Here.

25 THE COURT: Michael day do. Michael Dado.

1 I think we found our missing person. Let's see if
2 we can find Mr. Dado. Does anybody remember seeing
3 someone next to them on the elevator or in line that
4 isn't here now?

5 UNIDENTIFIED JUROR: Excuse me, Ms.?

6 THE COURT: Yes.

7 UNIDENTIFIED JUROR: There was a gentleman
8 that was looking for his group and he went back
9 downstairs.

10 THE COURT: Okay. That's probably Mr.
11 Dado. Thank you. Dawn, can you call downstairs.
12 Mr. Dado?

13 PROSPECTIVE JUROR DADO: Yes, ma'am.

14 THE COURT: Welcome. We were looking for
15 You.

16 PROSPECTIVE JUROR Dado: I was trying to
17 find my car but my car found me.

18 THE COURT: Your car? All right. As I
19 was saying, the jury is an important part of this
20 court. The right to a jury trial is an ancient
21 tradition and part of our heritage. The law says
22 that both a person who is accused of a crime and the
23 Prosecution have the right to a trial not by one
24 person but by a jury of 12 impartial persons.
25 Jurors must be free as humanly possible from bias,

1 prejudice or sympathy for either side. Each side in
2 a trial is entitled to jurors who keep open minds
3 until the time comes to decide the case.

4 A trial begins with jury selection. The
5 purpose of this process is to obtain information
6 about you that will help us choose a fair and
7 impartial jury to hear the case.

8 During jury selection the lawyers and I
9 will ask you questions, this is called the voir
10 dire. The question are meant to find out if you
11 know anything about the case. Also, we need to find
12 out if you have any opinions or person experiences
13 that might influence you for or against the -- for
14 or against the prosecution, the defendant or any
15 witnesses. One or more of these things could cause
16 you to be excused in this particular case even
17 though you may otherwise be qualified to be a juror.
18 The questions may probe deeply into your attitudes,
19 beliefs and experiences. They are not meant to be
20 an unreasonable prying into your private life but
21 the law requires that we get this information so
22 that an impartial jury can be chosen.

23 If you do not hear or understand a
24 question you should say so. If you do understand it
25 you should answer it truthfully and completely.

1 Please do not hesitate to speak freely about
2 anything you believe we should know.

3 During jury selection you maybe excused
4 from serving on the jury in one of two ways: First,
5 I may excuse you for cause, that is, I may decide
6 that there's a valid reason why you cannot or should
7 not serve in this case, or a lawyer from one side or
8 the other may excuse you without giving any reason
9 for doing so. This is called a peremptory
10 challenge. The law gives each side the right to
11 excuse a certain number of jurors in this way. If
12 you are excused you should not feel bad or take it
13 personally. As I explained before, there simply
14 maybe something that causes you to be excused in
15 this particular case.

16 I will now ask you to stand and swear to
17 answer truthfully, fully and honestly all the
18 questions that you will be asked about your
19 qualifications to serve as a juror in this case. If
20 you have religious beliefs against taking an oath
21 you may affirm that you will answer all the
22 questions truthfully, fully and honestly. Please
23 stand.

24 THE CLERK: Raise your right hands. Do
25 you solemnly swear or affirm that you will answer

1 truthfully and completely all questions put to you
2 touching upon your qualifications to serve as jurors
3 in the cause now pending?

4 THE PROSPECTIVE JURY: Yes.

5 PROSPECTIVE JUROR DADO: No.

6 (At 9:47 a.m. prospective jurors sworn)

7 THE COURT: Excuse me? Have a seat
8 everyone. Mr. Dado, perhaps you think that this is
9 some sort of a joke.

10 PROSPECTIVE JUROR DADO: It's not.

11 THE COURT: But, sir, hold on. This is a
12 very serious matter and everyone involved in this
13 case takes this matter very seriously and every
14 single person that you see sitting here in this
15 courtroom have all taken off time from their jobs
16 and their personal lives to be here for jury duty
17 and then you, when I ask a very simple question,
18 such as the oath you answer no?

19 PROSPECTIVE JUROR DADO: Can I respond?

20 THE COURT: Sure. You can respond but you
21 better think very carefully before you answer.

22 PROSPECTIVE JUROR DADO: I am. I tried to
23 tell that girl I'm really religious. I do love
24 people. It's just I don't want to -- it's for God
25 to judge. I tried to tell the girl.

1 THE COURT: Well that might be very nice
2 but at this point people -- look around this room.
3 You can see there are people of all different
4 colors.

5 PROSPECTIVE JUROR DADO: Yes.

6 THE COURT: They're probably people of all
7 different faiths and nothing about having a faith
8 gets you out of your civic duty to serve so the
9 question is, sir, and I'm going to ask it to you
10 again and then you think about it before you answer.
11 I'm going to give you this oath again and you think
12 about it before you answer. Here is your oath, sir.
13 Raise your right hand. Do you solemnly swear or
14 affirm that you will truthfully and completely
15 answer all of the questions about your
16 qualifications to serve as a juror in this case?

17 PROSPECTIVE JUROR DADO: That's fine, yes.

18 THE COURT: Have a seat. I'd like to
19 introduce you to the members of my staff. The
20 person seated in front of me is my Court reporter.
21 Her name is Dawn Brown. Oh my Court Clerk. We
22 don't have a court reporter but now modern
23 technology we have video so if you have to answer a
24 question make sure you say yes or no because if you
25 say uh-un and un-huh those two things can be

1 confused and if you nod your head for yes or shake
2 it for no the camera won't pick that up because as
3 jurors the cameras are never focused on you because
4 your faces and what you look like is private. It
5 doesn't become a part of the record so please use
6 your words. That is my court clerk. Her name is
7 Dawn Brown and her job is to make sure that
8 everything goes according to plan. I have two
9 deputies, one that you already met, Corporal Baker.
10 She came downstairs to get you, and that's Corporal
11 McDougall. Their responsibilities are to make sure
12 that we are all safe. They are also the only people
13 that you can speak directly with throughout this
14 process so if you have a question or a concern, even
15 if you have to go to the bathroom right now don't
16 just get up and walk out. Let the deputies know and
17 they will alert me and we will take a break as a
18 group.

19 Now as I explained before this case is
20 called the People of the State of Michigan versus
21 Mr. Dexter Burrell Taylor and this is a criminal
22 case that involves the charges of Criminal Sexual
23 Conduct in the First Degree which I will explain to
24 you more fully later. This charge has been made
25 against the defendant, Mr. Taylor, who is

1 represented by an attorney named Mr. Brown. If you
2 could please stand and introduce yourself as well as
3 your client, Mr. Brown.

4 MR. BROWN: Yes, ma'am. Good morning,
5 Ladies and gentlemen.

6 THE PROSPECTIVE JURY: Good morning.

7 MR. BROWN: My name is Mark Brown. I'm a
8 defense attorney. I'm representing Mr. Taylor this
9 morning. Mr. Taylor, please introduce yourself.

10 DEFENDANT TAYLOR: I'm Dexter Taylor.

11 MR. BROWN: Thank you. Good morning.

12 THE COURT: Thank you, Mr. Brown, and
13 thank you, Mr. Taylor. Please be seated. And this
14 case is being brought against Mr. Taylor by the
15 People of the State of Michigan, and in Wayne County
16 the People of the State of Michigan are represented
17 by a person called an Assistant Prosecuting Attorney
18 who, in this instance, is Ms. Dillon. Ms. Dillon,
19 if you could please stand and introduce yourself as
20 well as the gentleman seated with you.

21 MS. DILLON: Thank you, your Honor. Good
22 morning, everyone. As Judge Lillard just told you,
23 my name is Susan Dillon. I am the prosecutor for
24 this case, and seated with me, you'll see him
25 throughout the trial, is Officer Ron Tuski who is

1 the Officer-in-charge of this case. Thank you.

2 THE COURT: Thank you very much. Now some
3 of the witnesses who may be called in this case
4 are -- I'm going to read a long list. You may not
5 hear from all of these people but I have to read all
6 of their names just in case: Rachael Davis, retired
7 Officer Taft from the Melvindale Police Department,
8 retired Officer Chad Hayes from the Melvindale
9 Police Department, retired Inspector Diffatta. Do
10 you know Inspector Diffatta's first name?

11 MS. DILLON: Yes, ma'am. It's John.

12 THE COURT: John Diffatta from the
13 Melvindale Police Department. Retired Sergeant Guy
14 Marabito also from the Melvindale Police Department.
15 Valerie Johns Taylor, Benedict Arrey, Heather Vitta,
16 Erick Doak, Lindsay Dashe. It could be Dashe. It's
17 spelled D-A-S-H-E. Kirk Deleeuw.

18 Do any of you believe that you know
19 myself, the members of my staff, the lawyers, the
20 defendant, the Officer-in-charge or believe that you
21 recognize the names of any of the individuals who
22 have been called as potential witnesses? If so,
23 please raise your hand. Okay. We're going to start
24 on the back row. Sir, can you please stand and tell
25 me your name?

1 PROSPECTIVE JUROR CARNEY: My name is John
2 Carney.

3 THE COURT: Good morning, Mr. Carney. Who
4 is it that you believe you know?

5 PROSPECTIVE JUROR CARNEY. David Taft.

6 THE COURT: And how is it that you know
7 Mr. Taft?

8 PROSPECTIVE JUROR Carney: I believe I
9 went to school with him and his brother.

10 THE COURT: Like elementary school? High
11 school?

12 PROSPECTIVE JUROR CARNEY: High school.

13 THE COURT: Okay. Thank you for letting
14 us know. Sir, were you -- can you tell me your
15 name?

16 PROSPECTIVE JUROR RICHEY: Richey.

17 THE COURT: Good morning, Mr. Richey. Who
18 is it that you believe you know Also.

19 PROSPECTIVE JUROR RICHEY: Officer Taft
20 also.

21 THE COURT: How is it that you know Mr.
22 Taft?

23 PROSPECTIVE JUROR RICHEY: (Inaudible).

24 THE COURT: Thank you for letting us know.
25 Anyone else back there? Okay. Ma'am, if you could

1 please stand and tell me your name.

2 PROSPECTIVE JUROR CARSON: Christina
3 Carson.

4 THE COURT: Tell me again.

5 PROSPECTIVE JUROR CARSON: Christina
6 Carson.

7 THE COURT: Good morning, Ms. Carson. Who
8 is it that you believe you know?

9 PROSPECTIVE JUROR CARSON: David Taft.

10 THE COURT: How is it that you know Mr.
11 Taft?

12 PROSPECTIVE JUROR CARSON: He's a customer
13 at the barber shop I work at.

14 THE COURT: Okay. Thank you for letting
15 us know. All right. Anyone on the second row? No
16 hands. Now on the first row. Ma'am, please stand
17 and tell me your name?

18 PROSPECTIVE JUROR MATTHEWS: Yvonne
19 Matthews.

20 THE COURT: Ms. Matthews, who is it that
21 you believe you know?

22 PROSPECTIVE JUROR MATTHEWS: You yourself.
23 Not that I know you but I've been in your courtroom
24 before.

25 THE COURT: Okay. Well Thank you for

letting us know. If necessary we'll learn more about that. Anyone else on the first row? That's not the first row. Members of the jury, with the exception of one juror I want you all to step into the hallway. All rise for the jury.

COURT OFFICER: All rise for the jury.

(At 9:54 a.m. jury exits the courtroom)

COURT OFFICER: You all can be seated.

Mr. Dado, can you please come forward.

PROSPECTIVE JUROR DADO: Yes.

THE COURT: Oh right up front. Mr. Dado,
I'll remind you that you are still under oath.

COURT OFFICER: Right there.

THE COURT: Right here. I'll remind you that you are still under oath. Mr. Dado, are you under the influence of any drugs, alcohol or other substance that is affecting your ability to make decisions or your behavior today?

PROSPECTIVE JUROR DADO: No, ma'am, no.
I've never been in no court before so I'm not
familiar with it.

THE COURT: You're not familiar with how to behave appropriate in a court of law or in public or what is it that you're not familiar with?

PROSPECTIVE JUROR DADO: Just I've never

1 been to court before and I was just going to ask a
2 question about --

3 THE COURT: About what?

4 PROSPECTIVE JUROR DADO: When you can
5 raise your hand and I was going to ask you so from
6 what I understood.

7 THE COURT: No, no, that's not the way
8 this works, Mr. Dado. I ask questions. I ask
9 questions.

10 PROSPECTIVE JUROR DADO: Yes.

11 THE COURT: And you give answers to the
12 questions that are being asked.

13 PROSPECTIVE JUROR DADO: Yes.

14 THE COURT: Now when you first -- you
15 disappear from the hallway and we couldn't find you.
16 When you first brought yourself in here you refused
17 to give the oath. You answered no, which was
18 disruptive of the oath and disruptive of the
19 proceedings and then you began expose some beliefs
20 about your religion and God and all this other stuff
21 and I don't know if you've been on one of those
22 websites like how to get out of juryduty.com or
23 something like that that gave you the idea that if
24 you came here and you acted in a bizarre or
25 disruptive manner that you would get out of jury

1 duty but that's not the way this works, Mr. Dado.

2 How old are you?

3 PROSPECTIVE JUROR DADO: I am 35.

4 THE COURT: Do you work?

5 PROSPECTIVE JUROR DADO: Yes, ma'am.

6 THE COURT: What do you do for a living?

7 PROSPECTIVE JUROR DADO: Well can I --

8 THE COURT: No, no. I ask the questions

9 and you give the answers. What do you do for a

10 living?

11 PROSPECTIVE JUROR DADO: I drive a

12 semi-truck.

13 THE COURT: Are you married?

14 PROSPECTIVE JUROR DADO: No, ma'am.

15 THE COURT: Do you have any children?

16 PROSPECTIVE JUROR DADO: No, ma'am.

17 THE COURT: Have you ever been around any

18 children?

19 PROSPECTIVE JUROR DADO: I have nephews

20 and nieces, yes.

21 THE COURT: All right. And you would

22 imagine that there's a difference in the way that

23 adults behave and the way children behave, would

24 that be fair to say?

25 PROSPECTIVE JUROR DADO: Yes, your Honor.

1 THE COURT: All right. So what you need
2 to do is to conduct yourself like an adult of your
3 age and a grown man who goes to work everyday and
4 knows how to conduct himself indecent see and in
5 order, do you understand, sir?

6 PROSPECTIVE JUROR DADO: Yes, your Honor.

7 THE COURT: Questions will be asked and
8 you give answers to the questions that are given.
9 Now the question that I asked, which you had a
10 delayed response to was whether or not you knew the
11 members of my staff, myself, the lawyers, the
12 defendant or believed that you recognized the names
13 of any of the witnesses who have been called and
14 that's what prompted you to raise your hand so do
15 you believe that you know myself, the members of my
16 staff, the lawyers, the defendant, one of the
17 witnesses? Do you think you know someone involved
18 in this case?

19 PROSPECTIVE JUROR DADO: Yes, your Honor,
20 you.

21 THE COURT: Oh how is it that you know me?

22 PROSPECTIVE JUROR DADO: My friend got
23 called to jury duty and he told me that he was on
24 your jury and he liked you and you were very nice.

25 THE COURT: But that doesn't mean that you

1 know me.

2 PROSPECTIVE JUROR DADO: Oh.

3 THE COURT: Does it?

4 PROSPECTIVE JUROR DADO: Just from a
5 friend.

6 THE COURT: So we don't know each other,
7 do we?

8 PROSPECTIVE JUROR DADO: So that's a
9 compliment. I like you and I'm sorry.

10 THE COURT: Okay. Well Thank you. I
11 appreciate that but it's not fair to everyone
12 involved in this case for you to act out, okay, so
13 you have to act appropriately.

14 PROSPECTIVE JUROR DADO: Yes, your Honor,
15 yes.

16 THE COURT: Otherwise I'm going to start
17 to get concerned that there maybe something else
18 going on and you could find yourself in a different
19 situation okay.

20 PROSPECTIVE JUROR DADO: Yes.

21 THE COURT: You cannot disrupt. If you
22 have a serious concern like you have to go to the
23 bathroom or it's some emergency. I'm not saying
24 just sit there and be silent. Get the attention of
25 the deputies and if they can address it they will.

1 If not they'll alert me okay.

2 PROSPECTIVE JUROR DADO: Can I respond, if
3 you don't mind?

4 THE COURT: Respond to what?

5 PROSPECTIVE JUROR DADO: Yeah, I haven't
6 heard anything how to get out or nothing it's just
7 that since the day I got called I'm unbelievably the
8 most honest person you'll meet in your life
9 probably. I told her, ma'am, I don't want to judge
10 people. That's for God to judge. I sincerely he
11 can tell when somebody is lying. He's a sheriff or
12 a cop. It comes from my heart. I don't judge
13 people. Nobody. I let God judge that and I'm
14 honest.

15 THE COURT: Well unfortunately, Mr. Dado.

16 PROSPECTIVE JUROR DADO: I'm sincere. I
17 don't like judging people.

18 THE COURT: Mr. Dado, hold on. Mr. Dado.

19 PROSPECTIVE JUROR DADO: Yes, ma'am.

20 THE COURT: That doesn't get you out of
21 jury duty.

22 PROSPECTIVE JUROR DADO: It's not that I'm
23 trying to get out of being a juror.

24 THE COURT: Hold on. Stop. In American
25 society we have juries that are made up of citizens

1 that come from the community.

2 PROSPECTIVE JUROR DADO: Yes.

3 THE COURT: And you're not here to judge a
4 person or condemn them or decide whether they're a
5 good or a bad person. You listen to evidence and
6 you decide if the evidence convincing you that
7 something occurred or it didn't and if it convinces
8 you beyond a reasonable doubt that the defendant is
9 the one that did it, that's it. That's all you're
10 here to decide. It doesn't have anything to do with
11 your faith or God or judging people or anything like
12 that. That's not getting you out of jury duty but
13 Thank you for sharing your honest feelings about
14 that.

15 PROSPECTIVE JUROR DADO: Yep, and I do
16 like you and I like him because he was friendly when
17 I walked in. He goes you're here. He's friendly
18 but, yes, I'll be respectful but I just wanted to
19 share my honest feelings with you.

20 THE COURT: Okay but --

21 PROSPECTIVE JUROR DADO: I'm very honest
22 with my feelings.

23 THE COURT: But here's the thing, Mr.
24 Dado, there's a time.

25 PROSPECTIVE JUROR DADO: Yes.

1 THE COURT: And a place for everything.

2 PROSPECTIVE JUROR DADO: Yes.

3 THE COURT: And we hadn't reached that
4 point where anybody asked you anything about your
5 feelings.

6 PROSPECTIVE JUROR DADO: Yes.

7 THE COURT: If you make it to the box.

8 PROSPECTIVE JUROR DADO: Yes.

9 THE COURT: The lawyers will ask questions
10 and give answers and that's the time for you to talk
11 to about your feelings.

12 PROSPECTIVE JUROR DADO: Yes.

13 THE COURT: Do you understand?

14 PROSPECTIVE JUROR DADO: Yes, ma'am.

15 THE COURT: All right. Go back to your
16 seat. Bring back in the jury.

17 PROSPECTIVE JUROR DADO: Thank you.

18 THE COURT: You're welcome.

19 COURT OFFICER: All rise for the jury.

20 (At 10:03 a.m. prospective jury enters the courtroom)

21 THE COURT: We're standing for you. All
22 right. You all maybe seated. We think that this
23 trial will last the rest of the week. If you
24 believe that the length of this trial would be a
25 real hardship for you if you could please let me

1 know and before you all raise your hands let me
2 explain to you what I mean by hardship. Hardship
3 means that unfortunately you had a death in the
4 family and you have a funeral that you have to
5 attend Thursday morning at 11:00 a.m. Now if you
6 all start raising your hand and telling me about
7 your great Uncle Gus that passed away and his
8 funeral is on Thursday I'm going to get a little bit
9 suspicious.

10 It could be something pleasant though.
11 You could have an all expense paid vacation to the
12 island of Maui. Your flight is leaving tonight at
13 7:30 p.m.

14 UNIDENTIFIED SPEAKER: I'll take that one.

15 THE COURT: And as much as you want to
16 take me with you I will not fit in your luggage.
17 Having to come downtown and scour the streets for a
18 place to park become some geniuses decided to take
19 the two parking lots that service this building and
20 turn it into a half-built jail museum possible
21 future soccer stadium does not count as a hardship
22 okay. Unfortunately those are the normal
23 inconveniences that go along with jury duty and now
24 it's Tiger season so I don't even know if the Tigers
25 have a day game today or tomorrow but that could

1 affect parking prices. All of that is just a
2 reality of our current circumstances. But who
3 knows, if Mr. Gilbert gets his wish maybe we'll
4 relocated a land far, far away where parking will be
5 ample and sporting events will not interfere with
6 your ability to serve your civic duties.

7 Now there's a lot of benefits and
8 privileges that come along with being a citizen of
9 the great state of Michigan and the county of Wayne.
10 Especially this time of year when the weather is
11 nice and the trees are blooming and you can enjoy
12 all the parks and other recreational things that we
13 have in Wayne County but we only really ask two
14 things of you in order to be a citizen, that is,
15 that you pay your taxes and that every once in a
16 while you serve on a jury. Now if you don't pay
17 your taxes they might garnish your wages and take
18 your stuff. You don't even have to vote if you
19 don't want to but then you can't complain when
20 things don't go your way but jury duty is one of
21 those things that you just have to do. It's a
22 reality. It only comes around once in a blue moon
23 and you just have to do it so if there's anyone --
24 oh. I should explain to you that having to miss
25 work is not a hardship no matter even if you're a

1 sole business owner, missing work does not count as
2 a hardship. Having to find someone to care for your
3 children that you're normally the caregiver for does
4 not qualify as a hardship either. Also, having to
5 find someone to care for your Loved one who is an
6 elderly person that you normally are the caregiver
7 for that doesn't count either. So if you think that
8 you have a hardship we can talk more about it.
9 Please raise your hand. Okay. Sir, on the second
10 row. Please stand and tell me your name.

11 PROSPECTIVE JUROR SALAMOSE: Nicholas
12 Salamose.

13 THE COURT: Good morning, Mr. Salamose.
14 What's your hardship?

15 PROSPECTIVE JUROR SALAMOSE: I'm taking my
16 family to Florida on Friday so we'll be leaving at
17 10:00 a.m. on Friday.

18 THE COURT: Oh okay. All right. And when
19 are you coming back?

20 PROSPECTIVE JUROR SALAMOSE: May 8th.

21 THE COURT: Okay. Thank you for letting
22 us know. I'll keep that in mind. Let me write it
23 down. Tell me your name again.

24 PROSPECTIVE JUROR SALAMOSE: Nicholas
25 Salamose.

1 THE COURT: Okay. I'll write it down.

2 Anyone else? Okay. Ma'am, on the first row in the
3 striped shirt. Tell me your name.

4 PROSPECTIVE JUROR HADEY: Laura Hadey.

5 THE COURT: Good morning, Ms. Hadey.

6 PROSPECTIVE JUROR HADEY: Hi. I don't
7 know when this case will start but I have to have a
8 stress test for heart blockages on May 3rd.

9 THE COURT: No, the trial is starting
10 today. Y

11 PROSPECTIVE JUROR HADEY: Oh it's starting
12 today?

13 THE COURT: Yeah, it will be done this
14 week.

15 PROSPECTIVE JUROR HADEY: Okay.

16 THE COURT: So that shouldn't be a problem
17 May 3rd. Thank you for letting us know though. Is
18 there anyone else? Okay. For the record, okay, sir
19 on the second row tell me your name.

20 PROSPECTIVE JUROR NASSIR: Ali Nassir.

21 THE COURT: Tell me again.

22 PROSPECTIVE JUROR NASSIR: Ali Nassir.

23 THE COURT: Good morning, Mr. Nassir.

24 PROSPECTIVE JUROR NASSIR: I don't
25 understand sometimes because I'm new at speaking

1 english.

2 THE COURT: All right. English is not
3 your first language?

4 PROSPECTIVE JUROR NASSIR: No, no, second
5 one.

6 THE COURT: Okay. What's your first
7 language?

8 PROSPECTIVE JUROR NASSIR: Arabic.

9 THE COURT: All right. Now if something
10 comes up and you don't understand or you need us to
11 repeat or rephrase it or get -- make, help you
12 understand just let us know okay. Will you be
13 willing to do that even during deliberations with
14 your fellow jurors?

15 PROSPECTIVE JUROR NASSIR: Actually I
16 don't understand.

17 THE COURT: All right. Have a seat. Sir
18 in the black shirt on the last row, tell me your
19 name.

20 PROSPECTIVE JUROR WALKER: My name is
21 Peter Walker.

22 THE COURT: Good morning, Mr. Walker.

23 PROSPECTIVE JUROR WALKER: I was robbed at
24 gunpoint.

25 THE COURT: Okay. Well I asked you if --

1 that's not. I didn't ask you about that but if you
2 make it to the box we'll talk more about that. Have
3 a seat, Mr. Walker. Anyone else? Okay. Does
4 anyone have any health issues, difficulty seeing or
5 hearing that we should know about? Difficulty
6 sitting or standing? Sir, please stand, if you can
7 and tell me your name.

8 PROSPECTIVE JUROR ARMALEY: I have what's
9 called Army ear but the ladies have to speak up.

10 THE COURT: Okay. What's your name?

11 PROSPECTIVE JUROR ARMALEY: John Armaley.

12 THE COURT: Okay. Thank you for letting
13 us know, Mr. Armaley.

14 This is a criminal case as I've told you
15 before and the paper used to charge the defendant
16 with a crime is called an information. The
17 Information in this case charges the defendant, Mr.
18 Dexter Burrell Taylor, with criminal sexual conduct
19 in the first degree and it reads as follows: The
20 People of the State of Michigan versus Dexter
21 Burrell Taylor with a date of offense of July 25,
22 1996, a place of offense 25201 West Outer Drive
23 Melvindale, Michigan with a complainant or a victim
24 named Rachael Collette Davis, State of Michigan,
25 county of Wayne and in the name of the People of the

1 State of Michigan. The prosecuting attorney for
2 this county appears before the Court and informs the
3 Court that on the date and at the location described
4 above the defendant in count one, Criminal Sexual
5 Conduct First Degree Multiple Variables, did engage
6 in sexual penetration to wit penis to genital
7 opening with Rachael Davis under the following
8 circumstances: During the commission of the felony
9 of felonious assault and/or the defendant was armed
10 with a weapon or any article used or fashioned in a
11 manner to lead the victim to reasonably believe it
12 to be a weapon and/or the defendant effected sexual
13 penetration through force or coercion and the victim
14 sustained personal injury contrary to MCL 750.520B.

15 The defendant has pled not guilty to this
16 charge. You should clearly understand the
17 information I have just read is not evidence. An
18 Information is read in every criminal trial so that
19 the defendant and the jury can hear the charges.
20 You must not think it is evidence of his guilt or
21 that he must be guilty because he has been charged.

22 A person accused of a crime is presumed to
23 be innocent. This means that you must start with
24 the presumption that the defendant is not guilty -- is
25 innocent -- that the defendant is not guilty. This

1 presumption continues throughout the trial and
2 entitles the defendant to a verdict of not guilty
3 unless you are satisfied beyond a reasonable doubt
4 that he is guilty. Let me read that again so I make
5 sure I read it correctly. A person accused of a
6 crime is presumed to be innocent. This means that
7 you must start with the presumption that the
8 defendant is innocent. This presumption continues
9 throughout the trial and entitles the verdict -- the
10 defendant to a verdict of not guilty unless you are
11 satisfied beyond a reasonable doubt that he is
12 guilty.

13 Every crime is made up of parts called
14 elements. The prosecutor must prove each element of
15 the crime beyond a reasonable doubt. The defendant
16 is not required to prove his innocence or to do
17 anything. If you find that the prosecutor has not
18 proven every element beyond a reasonable doubt then
19 you must find the defendant not guilty.

20 A reasonable doubt is a fair, honest doubt
21 growing out of the evidence or lack of evidence. It
22 is not merely an imaginary or possible doubt but a
23 doubt based on reason and common sense. A
24 reasonable doubt is just that, a doubt that is
25 reasonable after a careful and considered

1 examination of the facts and circumstances of this
2 case.

3 All right. So now the process that we
4 will follow is Ms. Brown is going to start to call
5 names. When you hear your name called, if you could
6 follow the direction of Corporal McDougall who will
7 direct you to the place where you will be seated in
8 the jury box. Once you are seated in the jury box
9 the lawyers will have 20 minutes to address you and
10 ask you questions and talk to you and learn more
11 about you, and this will be your opportunity to
12 answer their questions and tell them about your
13 beliefs, your experiences or whatever they ask you
14 about. Please, those of you who are in the
15 audience, pay attention to the lawyers as they
16 address the jurors that are in the box because as
17 people are excused, people from the audience will be
18 called up to replace them and the lawyers are not
19 going to have a whole new 20 minutes to ask you
20 questions all over again. I'm just going to ask you
21 if you see any reason, based upon the issues that
22 were raised, why you would be unable to serve as a
23 fair and impartial juror, so if you could please pay
24 attention even though you're in the audience and not
25 box. Ms. Brown, whenever you're ready.

1 THE CLERK: Joseph last name spelled
2 W-R-O-N-E, seat one.

3 THE COURT: Can you pronounce your name
4 for us, Wrone, is it Wrone?

5 PROSPECTIVE JUROR NO. 1: Correct.

6 THE COURT: Okay. Thank you, Mr. Wrone.

7 THE CLERK: John Armaley seat two.

8 PROSPECTIVE JUROR NO. 2: Armaley.

9 THE COURT: Thank you, Mr. Armaley.

10 THE CLERK: Ali Nassir seat three. Tasha
11 Smith seat four. Trina Pfeiffer, seat five. Kevin
12 Gibson seat six. John Burrell seat seven.
13 Christina Carson seat eight. Kelly Chessor seat
14 nine. Arvin last name spelled P-O-O-B-A-L-A-N, seat
15 ten.

16 THE COURT: Sir, is your last name
17 Poobalan?

18 PROSPECTIVE JUROR NO. 10: Poobalan.

19 THE COURT: Okay Poobalan.

20 THE CLERK: Paula Haney, seat 11. Carol
21 last name spelled H-O-G-G seat 12.

22 PROSPECTIVE JUROR NO. 12: It's Carol
23 Hogg.

24 THE COURT: Thank you, Ms. Hogg.

25 THE CLERK: Mary Duda seat 13. Mary Beard

1 seat 14.

2 THE COURT: Ms. Dillon, you may.

3 MS. DILLON: Thank you, your Honor.

4 THE COURT: You're welcome.

5 MS. DILLON: Good morning, again

6 THE PROSPECTIVE JURY: Good morning.

7 MS. DILLON: I know we had read the
8 witness list and David Taft seems to be a very
9 poplar individual and I think actually, Ms. Carson.

10 PROSPECTIVE JUROR NO. 8: Yes.

11 THE COURT: You know Officer Taft, is that
12 right?

13 PROSPECTIVE JUROR NO. 8: Yes.

14 MS. DILLON: There, for all of you, there
15 are going to be a number of officers that testify in
16 this case and one of the questions, the first
17 question I'm going to ask you since it kind of came
18 up already with Officer Taft do any of you feel that
19 well, first question, do any of you have any friends
20 or family that are in law enforcement? Okay. And
21 that would be Ms. Pfeiffer. Who do you know that's
22 in law enforcement?

23 PROSPECTIVE JUROR NO. 5: My uncle.

24 MS. DILLON: Okay. Is he an active
25 officer?

1 PROSPECTIVE JUROR NO. 5: No, he's now
2 retired.

3 MS. DILLON: Now knowing that your uncle
4 was a police officer would that make you give more
5 weight or less weight to the testimony of an officer
6 in this case?

7 PROSPECTIVE JUROR NO. 5: No.

8 MS. DILLON: Okay. So you would be able
9 to listen and unbiased and not say oh he's an
10 officer so I'm going to believe everything he says
11 or he's an officer, I'm not going to believe
12 anything he says because I know my uncle okay.

13 PROSPECTIVE JUROR NO. 5: No.

14 MS. DILLON: Okay. And who else raised
15 their hand? This is juror number 12, Ms. Hogg?

16 PROSPECTIVE JUROR NO. 12: Yes.

17 MS. DILLON: Okay. Who to you know?

18 PROSPECTIVE JUROR NO. 12: An uncle.

19 MS. DILLON: I'm sorry?

20 PROSPECTIVE JUROR NO. 12: An uncle
21 retired officer, yes.

22 MS. DILLON: Okay. And same question.
23 Does that sway you or would it have any impact?

24 PROSPECTIVE JUROR NO. 12: I don't think
25 so. Right is right and wrong is wrong.

1 MS. DILLON: Okay. And then, Ms. Duda,
2 you also raised your hand?

3 PROSPECTIVE JUROR NO. 13: Yes, I have a
4 brother-in-law.

5 MS. DILLON: All right. Is he is an
6 active police officer?

7 PROSPECTIVE JUROR NO. 13: Yes.

8 MS. DILLON: All right. And would that
9 have any impact on your ability to listen to the
10 testimony of officers and weigh their testimony more
11 or less than any other?

12 PROSPECTIVE JUROR NO. 13: No.

13 MS. DILLON: And, Ms. Carson, so you
14 actually know officer, well he's retired now,
15 Officer Taft, you said he comes into the shop where
16 you work?

17 PROSPECTIVE JUROR NO. 8: Yes, I work in a
18 barbershop. I know a lot of police officers.

19 MS. DILLON: Okay. Do you actually cut
20 his hair?

21 PROSPECTIVE JUROR NO. 8: Yes.

22 MS. DILLON: All right. So you actually
23 kind of have a personal relationship with Officer
24 Taft?

25 PROSPECTIVE JUROR NO. 8: Yes.

1 MS. DILLON: Well it's really more
2 professional but?

3 PROSPECTIVE JUROR NO. 8: Well it's
4 professional but I'm also friends with him on
5 Facebook and stuff. (Inaudible)

6 MR. BROWN: I'm sorry. I couldn't --

7 THE COURT: I couldn't hear what she said.

8 MR. BROWN: I'm sorry. Apologize.

9 THE COURT: Yeah, I couldn't hear her
10 either.

11 PROSPECTIVE JUROR NO. 8: I said he's
12 retired now, yes, and he does come in the barber
13 shop. He's come in over the years. I've worked
14 there for 23 years. I've known him for years and I
15 am friends with him on Facebook and things like that
16 too.

17 MS. DILLON: Okay. And would your
18 professional and friendship relationship with
19 Officer Taft would it in any way sway you to believe
20 his testimony more or less than any other witness in
21 this case?

22 PROSPECTIVE JUROR NO. 8: No, I know he's
23 a good man but, you know, like I said right is right
24 and wrong is wrong.

25 MS. DILLON: Okay. So you would be able

1 to remain impartial?

2 PROSPECTIVE JUROR NO. 8: I think so.

3 MS. DILLON: And have any of you ever
4 served on a jury before? Okay. I want to make sure
5 I say it right Armaley.

6 PROSPECTIVE JUROR NO. 2: Armaley.

7 MS. DILLON: Okay. Mr. Armaley, when did
8 you serve on a jury?

9 PROSPECTIVE JUROR NO. 2: I think it was
10 about three or four years ago. It was a murder
11 case.

12 MS. DILLON: So it was a criminal case?
13 Without telling us any of the facts or your verdict,
14 did you reach a verdict in that case?

15 PROSPECTIVE JUROR NO. 2: We did.

16 MS. DILLON: Okay. Was there anything in
17 serving as a juror on that case, anything that's
18 would effect your ability to serve on a jury in this
19 case or has you leaning one way or another against
20 the justice system or anything that would lead to
21 you not being able to be impartial?

22 PROSPECTIVE JUROR NO. 2: No.

23 MS. DILLON: Okay. This case Judge
24 Lillard --

25 THE COURT: I think someone else raised

1 their hand.

2 MS. DILLON: Oh I'm sorry.

3 THE COURT: Ms. Duda.

4 MS. DILLON: Ms. Duda, I'm sorry I missed
5 that. When did you serve on a jury?

6 PROSPECTIVE JUROR NO. 13: It's been quite
7 a few years but I was an alternate so I did not go
8 to the deliberation.

9 MS. DILLON: Okay. So you actually didn't
10 have to deliberate. Was it civil or criminal?

11 PROSPECTIVE JUROR NO. 13: It was a gas
12 station theft.

13 MS. DILLON: Okay. So it was a criminal
14 case and would that have any impact on your ability
15 to remain impartial and serve as a juror today?

16 PROSPECTIVE JUROR NO. 13: No.

17 THE COURT: Judge Lillard read you the
18 information and let you know in that, if you were
19 listening, that this case started took place, the
20 events took place in 1996, so that is 21 years ago.
21 I went to law school so I didn't really have to do
22 math but 21 years ago, so the question is to all of
23 you the fact that this case happened 21 years ago
24 would that have any impact on your thinking as far
25 as the facts of this case or the ability to remain

1 impartial and biased and listen to all the evidence
2 or do you believe it's been 21 years, why are we
3 even here with this? Does anyone feel that way just
4 knowing that this case happened in 1996? Oh I see a
5 hand. Mr. Barrera.

6 PROSPECTIVE JUROR NO. 7: Yes.

7 MS. DILLON: Okay. What are your thoughts
8 on that?

9 PROSPECTIVE JUROR NO. 7: Well 21 years
10 ago I was victimized by a family member so I'm not
11 too sure I could.

12 MS. DILLON: Okay. I'm going to hold onto
13 that thought for one second. Does anyone have an
14 issue about the case being 21 years old?

15 PROSPECTIVE JUROR NO. 6: I got a slight
16 issue.

17 MS. DILLON: Okay. Mr. Gibson.

18 PROSPECTIVE JUROR NO. 6: My only question
19 is why did it take so long to get to this point?

20 MS. DILLON: Okay. As far as it actually
21 being 21 years old just knowing that right now, not
22 knowing any of the facts, just knowing that right
23 now, does that sway you one way or another in what
24 you're thinking in this case?

25 PROSPECTIVE JUROR NO. 6: No.

1 MS. DILLON: All right. Anybody else?
2 Okay. Mr. Barrera, you brought up another issue
3 that I wanted to get into with everyone is as Judge
4 Lillard let you know this case involves an
5 accusation of sexual assault. Is there anyone here
6 that has been either you have a family member or
7 close friend that has been the victim of a sexual
8 assault? Okay. Let's start with Mr. Wrone, what
9 relationship was the person to you?

10 PROSPECTIVE JUROR NO. 1: Actually my wife
11 was sexual assaulted by her uncle when she was 12.

12 MS. DILLON: And knowing that and knowing
13 what the nature of this case is do you think you
14 could remain unbiased and listen to the evidence in
15 this case or do you already have some preconceived
16 notion in your mind based on --

17 THE COURT: I'm going to stop your timer.
18 You all should be aware that the defendant is not
19 accused of doing anything that has anything to do
20 with a child. This involves adults, not children.
21 You may continue.

22 MS. DILLON: Thank you, your Honor.

23 PROSPECTIVE JUROR NO. 1: To answer your
24 question, no, it's not an issue.

25 MS. DILLON: Okay. You can remain

1 impartial?

2 PROSPECTIVE JUROR NO. 1: Yes.

3 MS. DILLON: Okay. And I'm sorry, who
4 else raised their hand? All right. Ms. Haney?

5 PROSPECTIVE JUROR NO. 11: Yes.

6 MS. DILLON: Okay. Ms. Haney, who was it
7 that you know that was a victim?

8 PROSPECTIVE JUROR NO. 11: Me. I was 22.
9 I was sexually attacked.

10 THE COURT: I'm sorry. What did you say?

11 PROSPECTIVE JUROR NO. 11: I'm sorry. I
12 was sexually attacked.

13 MS. DILLON: And so that was a number of
14 years ago. Do you think that you would be able to
15 serve on this jury?

16 PROSPECTIVE JUROR NO. 11: No.

17 MS. DILLON: And, Ms. Hogg, you raised
18 your hand?

19 PROSPECTIVE JUROR NO. 12: Yes.

20 MS. DILLON: And who did you know?

21 PROSPECTIVE JUROR NO. 12: I was sexually
22 assaulted at age 12.

23 MS. DILLON: Okay. And now Judge Lillard
24 did indicate that this does not involve any
25 children.

1 PROSPECTIVE JUROR NO. 12: It involved me
2 and that was enough.

3 MS. DILLON: Okay.

4 PROSPECTIVE JUROR NO. 12: And it was
5 never taken any where so I don't think I can
6 honestly.

7 MS. DILLON: All right. On the other side
8 of that, do any of you have any close friends or
9 family that have ever been accused of sexual
10 assault? And, Ms. Duda, having that or knowing a
11 friend or family who has been accused would that in
12 any way affect your ability to remain a fair and
13 impartial juror and listen to the evidence in this
14 case?

15 PROSPECTIVE JUROR NO. 13: I think it
16 would.

17 MS. DILLON: And the next question I have
18 is in regards to we've already talked about the age
19 of this case. The other aspect I want to talk to
20 you about is if someone is going to do something
21 that is illegal do any of you feel that that person
22 can still be the victim of a crime? For example,
23 just an example, it has nothing to do with this case
24 but say someone was going to an area to buy drugs
25 and got robbed, do you feel that person is still the

1 victim of a crime or do any of you feel that that
2 person kind of got what they deserved? Juror number
3 four, not to call you out but you're kind of shaking
4 your head.

5 THE COURT: That's juror number five.

6 MS. DILLON: All right. Juror number
7 five, yes, Ms. Pfeiffer.

8 PROSPECTIVE JUROR NO. 5: I just feel like
9 if you put yourself in circumstances you're going to
10 be at a higher level of risk and that's a decision
11 that you consciously make.

12 MS. DILLON: So you feel that person then
13 bears some responsibility?

14 PROSPECTIVE JUROR NO. 5: I do.

15 MS. DILLON: And I believe juror number
16 four did you raise your hand as well, Ms. Smith? Oh
17 you didn't okay. Did anyone else feel that way that
18 if a person puts themselves in a situation they sort
19 of bear some of the responsibility? Mr. Gibson?

20 PROSPECTIVE JUROR NO. 6: Yes.

21 MS. DILLON: What are your thoughts on
22 that?

23 PROSPECTIVE JUROR NO. 6: I thought
24 similar to her's that if you open yourself up to it,
25 I guess, there are some unknowns, I guess, some

1 written rules of understandings that you open
2 yourself up for. You know things could possibly
3 happen and so if you don't want those things to
4 possibly happen you shouldn't be doing them.

5 MS. DILLON: Okay. Mr. Armaley?

6 PROSPECTIVE JUROR NO. 2: You just have to
7 take responsibility for your own actions.

8 MS. DILLON: Okay. And I'm sorry, Ms.
9 Hogg, did you raise your hand?

10 PROSPECTIVE JUROR NO. 12: Yes, I did.

11 MS. DILLON: And what were your thoughts
12 on that, ma'am?

13 PROSPECTIVE JUROR NO. 12: Same. You're
14 going to do wrong and wrong gets done to you then
15 maybe you shouldn't have been heading to do the
16 wrong.

17 MS. DILLON: Anyone else have an opinion
18 on that subject?

19 UNIDENTIFIED JUROR: I feel the same way.

20 MS. DILLON: You do? Now if, those of you
21 that said you feel the same way, if you're presented
22 facts in this case and you're given basically the
23 law to follow from the Judge, can you actually weigh
24 the evidence and put your personal opinions aside
25 and actually decide what's right in regards to the

1 law that's presented by the judge and the facts that
2 you hear in this case or do you feel if, you know
3 how you feel, that some people bear responsibility
4 for being the victim of a crime? Now Ms. Chessor,
5 you kind of actually said yes? You think you can
6 put that opinion aside?

7 PROSPECTIVE JUROR NO. 9: Yes.

8 MS. DILLON: Okay. How about you, Ms.
9 Pfeiffer?

10 PROSPECTIVE JUROR NO. 5: I could.

11 MS. DILLON: All right. Mr. Gibson, what
12 about you?

13 PROSPECTIVE JUROR NO. 6: I believe I
14 could. I believe I could.

15 MS. DILLON: You believe you could?

16 PROSPECTIVE JUROR NO. 6: Yes.

17 MS. DILLON: Okay. And, Ms. Hogg, what
18 about you?

19 PROSPECTIVE JUROR NO. 12: Yeah, I believe
20 I could and on behalf of the sexual assault I don't
21 believe I could, no.

22 MS. DILLON: Okay. Is there anyone here
23 that believes that you would not be able to convict
24 someone of sexual assault if the complainant or the
25 victim didn't fight back? Is there anyone that has

1 an opinion regardless of the evidence that's present
2 or anything that that victim didn't fight back is
3 there anyone here that would believe then, you know,
4 they wouldn't be able to convict someone if the
5 victim didn't fight back? I don't see anybody
6 saying yes to that.

7 Okay. Now Judge Lillard is also going to
8 instruct you about the burden in this case and as
9 the People who brought this case today we have the
10 burden of proving the elements, as she described the
11 elements of beyond a reasonable doubt okay, so do
12 you understand that it's beyond a reasonable doubt
13 and not beyond all doubt? Does anyone have an issue
14 in regards to that? I don't see any hands. And the
15 last question I have is as you sit there today I
16 know you haven't heard any of the facts of this case
17 yet but you know that we have a complainant that's
18 going to come in and you also know that we have Mr.
19 Taylor that's actually accused, are there any of
20 you, as you sit there, believe that you have to like
21 the complainant and you have to dislike Mr. Taylor
22 in order to find guilt in this case? No? Okay. I
23 have no further questions, your Honor.

24 THE COURT: All right. You finished with
25 six minutes to spare.

1 MS. DILLON: Thank you.

2 THE COURT: Mr. Brown, whenever you're
3 ready I'll start your timer.

4 MR. BROWN: Can I have her six minutes?

5 THE COURT: No, you may not.

6 MR. BROWN: Good morning again, Ladies and
7 gentlemen.

8 THE JURY: Good morning.

9 MR. BROWN: Mr. Armaley, were you in
10 artillery?

11 PROSPECTIVE JUROR NO. 2: Infantry.

12 MR. BROWN: Infantry oh okay. I asked
13 you, Mr. Armaley, I've never heard that before but
14 that's the boom boom of artilleries okay. So,
15 Ladies and gentlemen, I'm going to ask you some
16 questions because this process is kind of designed
17 because what we want to do is have a fair trial. We
18 want fairness and I represent Mr. Taylor here and I
19 certainly want him to have a fair trial and so the
20 questions we ask about whether or not you have some
21 relationship with a police officer I think is --

22 PROSPECTIVE JUROR NO. 8: Carson.

23 MR. BROWN: Thank you. You know I was
24 goings to ask you. Ms. Carson, you know Officer
25 Taft?

1 PROSPECTIVE JUROR NO. 8: Yes.

2 MR. BROWN: And you've known him for years
3 and years and if you said, first I thought you
4 said -- my hearing is not bad, but I thought you
5 said a burger shop?

6 PROSPECTIVE JUROR NO. 8: No, I'm a
7 barber.

8 MR. BROWN: Yes, I got you know. It takes
9 me a little while. But any way so that means the
10 barber shop is where people just kind of a lot of
11 times come in to get their hair trimmed but also to
12 talk about everything, to talk about what's in the
13 newspaper so you got so it's not just like somebody
14 that you service at a counter and then they go?
15 This is somebody that you have a relationship and a
16 conversation with, right?

17 PROSPECTIVE JUROR NO. 8: Yes.

18 MR. BROWN: Okay. So you were already
19 asked the question of whether or not you could be
20 fair. If Mr. -- pardon me. He's mister now because
21 he's retired, right?

22 PROSPECTIVE JUROR NO. 8: Yes.

23 MR. BROWN: Okay. Officer or Mr. Taft is
24 on the stand and I'm asking him questions and I say
25 essentially through my questions you're lying,

1 you're lying, you don't know me, right?

2 PROSPECTIVE JUROR NO. 8: Right.

3 MR. BROWN: You don't know Mr. Taylor,
4 right?

5 PROSPECTIVE JUROR NO. 8: Correct.

6 MR. BROWN: You're probably going to be a
7 little bit -- you don't think he's like a liar?

8 PROSPECTIVE JUROR NO. 8: No.

9 MR. BROWN: Right. He's a nice guy,
10 right?

11 PROSPECTIVE JUROR NO. 8: Yes.

12 MR. BROWN: So you're going to probably
13 think it's not going to be nice for me if I'm
14 calling him a liar, right?

15 PROSPECTIVE JUROR NO. 8: Yeah.

16 MR. BROWN: Yeah. And you might be
17 inclined, I'm not saying that everybody, and I want
18 you to think about this, because everybody thinks
19 they can be fair but you have to think about it in
20 terms of what your job is as a juror which is for
21 you to process the evidence not process your
22 feelings, does that make sense to everybody?
23 Because it's one thing I can feel a certain way
24 about something but that's got nothing to do with
25 what is there in front of me in terms of what I

1 really have to assess, is everybody with me on that?

2 THE JURY: (Answers affirmatively).

3 MR. BROWN: All right. So if I'm dogging
4 as a lawyer might ask him questions or whatever in a
5 way, you're not going to really like that, right? I
6 mean just be honest.

7 PROSPECTIVE JUROR NO. 8: No, I'm being
8 honest. No, probably wouldn't.

9 MR. BROWN: Right, you don't know me and
10 it's like --

11 THE COURT: Wait. Hold on, Mr. Brown.
12 You have to let her answer. You can't talk over
13 her.

14 MR. BROWN: You're right and I'm sorry.

15 THE COURT: She was answering. And your
16 answer was, ma'am?

17 PROSPECTIVE JUROR NO. 8: He's a very
18 respectful man.

19 MR. BROWN: Nice guy?

20 PROSPECTIVE JUROR NO. 8: Yes.

21 MR. BROWN: So now I've said that and I'll
22 put back to you the question of in this case where
23 you don't know anything about the case or me, or Mr.
24 Taylor, or Ms. Dillon or Officer Tuski where you
25 don't know anything about us you want to be a fair

1 juror, right? You didn't come here with the view of
2 I'm going to convict somebody or I'm going to free
3 somebody or whatever? You came saying I want to be
4 fair, right?

5 PROSPECTIVE JUROR NO. 8: Right.

6 MR. BROWN: So don't you think it would be
7 in the best interest of fairness for you not to have
8 judge your friend?

9 THE COURT: Mr. Brown, it's for me to
10 decide who should and shouldn't serve on a jury.
11 That's not an appropriate question to ask her. Next
12 question.

13 MR. BROWN: Thank you, Judge. You don't
14 want to have to judge your friend, is that fair to
15 say?

16 PROSPECTIVE JUROR NO. 8: I'm not judging
17 him.

18 MR. BROWN: You're certainly as a juror
19 your evaluating his testimony. You're judging
20 whether his testimony is true or false?

21 PROSPECTIVE JUROR NO. 8: Right.

22 MR. BROWN: Okay. Ms. Duda, good morning.

23 PROSPECTIVE JUROR NO. 13: Good morning.

24 MR. BROWN: You said that someone you knew
25 was accused of a sexual assault?

1 PROSPECTIVE JUROR NO. 13: Yes.

2 MR. BROWN: And I'm going to go a little
3 bit further because there were questions earlier
4 about people an sexual assaults, who is it?

5 PROSPECTIVE JUROR NO. 13: My brother.

6 MR. BROWN: Okay. Was he criminally
7 charged?

8 PROSPECTIVE JUROR NO. 13: Yes.

9 MR. BROWN: And did you attend the
10 proceedings or have any familiarity what was going
11 on in terms of the case?

12 PROSPECTIVE JUROR NO. 13: I was called as
13 a witness.

14 MR. BROWN: And would that -- were you
15 satisfied with the outcome of the proceedings?

16 PROSPECTIVE JUROR NO. 13: No.

17 MR. BROWN: Would that situation cause you
18 to have a certain opinion about this type of a
19 proceeding for a sexual assault case?

20 PROSPECTIVE JUROR NO. 13: Yes.

21 MR. BROWN: Okay. What?

22 PROSPECTIVE JUROR NO. 13: That things are
23 not -- it's hard to describe. I don't think that
24 things went fairly in there. I was not allowed in
25 the courtroom for testimony only later but things I

1 saw and things that happened I went home with a real
2 bad taste in my mouth.

3 MR. BROWN: Okay. And would that cause
4 you to have some particular feeling about -- Mr.
5 Taylor and I are the defense?

6 PROSPECTIVE JUROR NO. 13: Yes.

7 MR. BROWN: The defense team. Would that
8 cause you to have some bad feelings about the people
9 on this side of the podium?

10 PROSPECTIVE JUROR NO. 13: I would like to
11 say no but I think that it's just too deep.

12 MR. BROWN: I understand. Because there's
13 other things so we're talking about being fair. We
14 want to be fair but sometimes things affect us in
15 terms of being fair because you remember things?

16 PROSPECTIVE JUROR NO. 13:

17 MR. BROWN: Right, Ms. Hogg?

18 PROSPECTIVE JUROR NO. 12: Yes.

19 MR. BROWN: Yeah, you remember things and
20 you say, I want to be fair, but then I think about
21 what happened in to someone else I know, to me or
22 whatever, it's hard to be fair, right?

23 PROSPECTIVE JUROR NO. 12: Exactly.

24 MR. BROWN: Okay. The judge is going to
25 talk about several things here, I think about proof

1 beyond a reasonable doubt, does everybody understand
2 that? Everybody's a lawyer? Criminal defense
3 attorney? Okay. Mr. Armaley?

4 PROSPECTIVE JUROR NO. 2: I'm not a
5 lawyer.

6 MR. BROWN: Okay. Then I'll ask you
7 questions, okay. Do you understand that the
8 prosecutor has the burden of proofing the case
9 beyond a reasonable doubt? That's one of those, you
10 know, you hear it on TV reasonable doubt, blah,
11 blah, whatever. The prosecutor has the burden so
12 that means, Mr. Armaley, what does Mr. Taylor have
13 to do in a criminal case? What does he have to do?

14 PROSPECTIVE JUROR NO. 2: First he'd had
15 to pay for it.

16 MR. BROWN: Okay. He doesn't have to
17 prove his innocence, does he? He doesn't have to.
18 You know all he has to do, what I have to do, you
19 know, I like Judge Lillard but she might not like
20 some things that I do so what we have to do is
21 behave in the courtroom. Is everybody okay with
22 that? Like I don't have to do, you know, you see
23 people on TV. All the lawyers are like young and
24 sleek and good looking and stuff, and they ask all
25 these questions in 25 minutes that, you know, prove

1 their case like whatever. I don't have to do
2 anything. I can just sit right over there and if I,
3 I don't play games, but I could play games on my
4 computer because I don't have to do anything, does
5 everybody understand that? And the reason for that
6 is because the burden of proof is on the prosecutor.
7 Now it never comes over to Mr. Taylor or me that we
8 have to do something. I guarantee I'm going to do
9 something but I don't have to, is everybody clear
10 with that? Is that okay with everybody? Okay.

11 And then the other thing is that what the
12 judge will tell you and instruct you about, and this
13 kind of goes to the other questions I asked and the
14 prosecutor asked you already, what is it that you
15 have to consider? I'm going to ask Ms. Chessor, how
16 are you?

17 PROSPECTIVE JUROR NO. 9: Good.

18 MR. BROWN: What is it that you think you
19 have to consider in coming to your ultimate
20 decision, because your decision in this case really
21 a simple, I say simple meaning only in words, guilty
22 or nothing, or guilty, not guilty or we can't
23 decide; those are the three things, whatever. What
24 are you going to base that on?

25 PROSPECTIVE JUROR NO. 9: Facts.

1 MR. BROWN: Okay. What are facts? That's
2 all right.

3 PROSPECTIVE JUROR NO. 9: I don't know.
4 Just listening to the evidence and making a
5 determination.

6 MR. BROWN: Okay. So facts are what the
7 evidence that's presented, the rules that the judge
8 gives you, because the judge is going to give you --
9 she's the judge of the law but do you understand
10 that as a juror you judge the facts and that's
11 whether whatever the Prosecution presents, whatever
12 if I decide, I and Mr. Taylor decide to present
13 something, whether you believe what it is so in
14 order to determine whether you believe a fact how to
15 you think you'd go about that, Ms. Haney? How would
16 you determine whether you believed a fact?

17 PROSPECTIVE JUROR NO. 11: Based on the
18 evidence I guess.

19 MR. BROWN: Okay. Suppose I say the
20 ceiling is blue?

21 PROSPECTIVE JUROR NO. 11: I'm not sure if
22 I --

23 MR. BROWN: Okay. I mean right here.
24 This is not a test. You have a few people asking
25 you questions or whatever but if I said to you the

1 sealing is blue?

2 PROSPECTIVE JUROR NO. 11: I would not
3 believe you.

4 MR. BROWN: Okay. Why not?

5 PROSPECTIVE JUROR NO. 11: Because I can
6 see the proof.

7 MR. BROWN: Okay. So you would use your
8 common sense to look up there and say we all learned
9 our colors a long time ago and that doesn't look
10 like it blue. That might be just a little bit tinge
11 of blue but that's not blue.

12 THE COURT: That's just dust.

13 MR. BROWN: Pardon me?

14 THE COURT: That's just dust.

15 MR. BROWN: Ha, ha, ha Thank you. So
16 you'd use your common sense and say that's not what
17 that is. I can see that. But like Ms. Duda was
18 saying sometimes things are not so clear, right?
19 Not so clear as to if it white or blue, right, so
20 sometimes you kind of weigh and judge. That goes
21 back to who has the burden of proof, who does? I
22 can't hear anybody.

23 THE JURY: The State.

24 MR. BROWN: The State, the prosecutor, the
25 Government, that's who has the burden of proof and

1 then you have to decide. Does anybody here work in
2 like manufacturing or anything like that? Nobody
3 except Mr. Armaley. What kind?

4 PROSPECTIVE JUROR NO. 2: Manufacturing.

5 MR. BROWN: Like what? Manufacturing
6 what?

7 PROSPECTIVE JUROR NO. 2: Brillo soap
8 pads.

9 MR. BROWN: Okay. You have standards?

10 PROSPECTIVE JUROR NO. 2: Correct.

11 MR. BROWN: Right. You have certain
12 things, you know, so how much -- I'm going to say
13 phosphates, I don't know anything about it. You
14 have to put so much of some chemical in or some much
15 of some kind of metal in? You have reference
16 points, right?

17 PROSPECTIVE JUROR NO. 2: Correct.

18 MR. BROWN: Okay. So that means that you
19 can, and I don't either some independent agency or
20 Government agency or somebody tests the product to
21 determine whether or not it rises to the standard,
22 do you know what I mean?

23 PROSPECTIVE JUROR NO. 2: Quality.

24 MR. BROWN: Yes, quality control or
25 evaluation or whatever. The same holds true for the

1 criminal justice system and what we have here is we
2 have we know who has to prove the case, who is that?
3 The prosecutor. Everybody can say that the
4 prosecutor has to prove the case? Can everybody say
5 that?

6 THE JURY: The prosecutor has to prove the
7 case.

8 MR. BROWN: Thank you. So but we have
9 know to what level do they have to prove the case
10 and this back on television, everybody heard these
11 words on television.

12 PROSPECTIVE JUROR NO. 7: Beyond a
13 reasonable doubt.

14 MR. BROWN: Mr., just let me, Barrera. I
15 had to check myself. Mr. Barrera, they have to
16 prove beyond a reasonable doubt. What does that
17 mean?

18 PROSPECTIVE JUROR NO. 7: More than 50
19 percent.

20 MR. BROWN: Well not exactly. I'm not,
21 you know, Thank you for saying that because it's a
22 good thing because there is a standard proof in the
23 civil context. Civil is where people are suing for
24 money. You know the lawyers that say I can get you
25 5 million dollars or whatever, something like that,

1 that in that context, in that court, the thing is
2 beyond 50 percent because that's like, remember the
3 scales of justice if they're balanced out? If they
4 tip just a little bit more then 50 percent is
5 straight across. I don't know if I look straight or
6 not, but a little tip is enough in civil context,
7 not the same standard. Anybody know what the
8 standard is in a criminal case?

9 UNIDENTIFIED JUROR: Is it 100?

10 MR. BROWN: Well that would be good. I'd
11 like that.

12 UNIDENTIFIED JUROR: 98?

13 MR. BROWN: I'll take that. Can we use
14 that? No. the standard is beyond a reasonable
15 doubt, that's why I said I know you've heard that on
16 TV before, beyond a reasonable doubt, whatever. So
17 that means that the prosecutor their level of
18 certainty that they have to prove the case to you is
19 that you do not have a reasonable doubt in this
20 case, anybody have any questions about how that
21 works? Everybody got it? Okay. So that means the
22 prosecutor has to prove the case beyond a reasonable
23 doubt not like it could have happened, you know, if
24 you have something that you think I don't really
25 know, because you ultimately are the person who

1 judges the facts. If you don't really know then
2 that means it hasn't been proved beyond a reasonable
3 doubt because you have a doubt because you don't
4 know. Does everybody get that? See words are
5 really kind of interesting in these cases because
6 people, what they do, is people say one thing and
7 then they do something different. Judge, may we
8 approach just a moment?

9 THE COURT: Sure.

10 (At 10:42 a.m. sidebar discussion held off the record)

11 (At 10:43 a.m. sidebar discussion concluded)

12 THE COURT: I'm going to re start your
13 timer Mr. Brown. I stopped it when you asked to
14 approach. You may.

15 MR. BROWN: Okay. Thank you. In this
16 case there is going to probably be some other
17 evidence that comes in and the evidence points a
18 finger to Mr. Taylor in another matter okay. I have
19 to say that to you because like my thing is like I
20 feel you should get it out in the beginning. This,
21 what you're here to decide is what happened on --
22 what day was this?

23 MS. DILLON: July 25th.

24 MR. BROWN: July 25. Thank you very much.
25 July the 25, 1996 between Mr. Taylor and a Rachael

1 Davis. Rachael Davis is the complainant in the
2 case. She alleges that Mr. Taylor did something to
3 her in a certain way. Mr. Taylor has -- you know
4 why Mr. Taylor is here? Does everybody know why
5 we're here? Okay. That's an open question.
6 Because Mr. Taylor said, Ms. Duda, because he said
7 he's not guilty, yeah. Because otherwise there
8 would be no reason for us to be here. Mr. Taylor
9 said to prosecute -- Mr. Taylor is essentially
10 saying by having me represent him, by having us
11 having this trial here that they can't prove this
12 case beyond a reasonable doubt in terms of what
13 happened on July the 25th, 1996.

14 Now there are the prosecutor has the
15 burden of proof so they have to figure out ways to
16 prove that something happened. One way of proving
17 that is to say well we think Mr. Taylor did X, Y, Z
18 something else, does everybody understand what I'm
19 saying?

20 THE JURY: (No verbal response).

21 MR. BROWN: Certainly I don't mean to pick
22 on you, Ms. Chessor, but you were shaking your head
23 so made me look back and I'm sorry. Certainly if
24 you hear that Mr. Taylor has been accused of
25 something else at another time, not been proven but

1 in bringing witnesses to say well we think he did
2 this or that, that's going to affect the way you
3 look at the situation, isn't it?

4 PROSPECTIVE JUROR NO. 9: You said he
5 wasn't charged for it but it was just he said she
6 said?

7 MR. BROWN: Yeah, well we're here on he
8 said she said. We're here, I mean, the trial is
9 that somebody said something that somebody else
10 doesn't agree with so I'm saying what the prosecutor
11 is going to do though is bring in some other stuff
12 to say, well, he must be -- and certainly, Ms.
13 Dillon, you object. That's not the exact reason but
14 they're going to bring in other acts, that's what
15 it's called. That's the legal term, other acts, so
16 I'm asking you all because this is a very difficult
17 thing to do to not let something else bleed into
18 this case. Does anybody here think they'll have
19 some problem with the fact that if something else,
20 some other alleged crime is testified to by somebody
21 here you'll say oh? I'm asking a question. There's
22 a question on the floor here.

23 UNIDENTIFIED JUROR: You said just
24 alleged, correct?

25 THE COURT: Mr. Brown, I'm going to stop

1 your timer real quick. Okay. Members of the jury,
2 here's the deal: In this case the defendant is
3 charged with committing a sexual assault that
4 occurred in 1996 and what Mr. Brown is alluding to
5 is that we anticipate that there is going to be
6 evidence of another possibly you will hear evidence
7 from someone else that says that the defendant also
8 did something to them but what the important thing
9 to remember is although you're going to hear this
10 evidence about another act the defendant is only on
11 trial for what happened in 1996 so that you have to
12 be careful when you hear this evidence of this other
13 act because it can only be used for a specific
14 purpose and you can't say that if he did this other
15 thing he must be guilty of the thing for which he's
16 charged, okay, so you all have to remember that he's
17 on trial for what happened on Outer Drive in
18 Melvindale, Michigan on July 25, 1996 and although
19 the law allows you to hear about these other
20 allegations against the defendant he's only on trial
21 for what happened on July 25, 1996. You may
22 continue, Mr. Brown. You have three minutes and 57
23 seconds.

24 MR. BROWN: Thank you very much. I'm glad
25 she said that because she's the judge of the law and

1 she essentially gave you the law. You're the judges
2 of the facts. Okay. So having heard that and heard
3 whatever ramblings around I was doing not being very
4 specific here, is there anybody who thinks they'd
5 have a problem with being fair in this case to Mr.
6 Taylor because of that fact?

7 THE COURT: For the record, no one has
8 raised their hands.

9 MR. BROWN: Yeah. Does anyone have a
10 problem with -- thank you very much. Ms. Hogg?

11 PROSPECTIVE JUROR NO. 12: I probably will
12 have a problem with what we're trying him on that it
13 happened on the 26th. These are the matters that
14 have happened to me in my past.

15 MR. BROWN: Yes, ma'am. I understand.
16 And, Ms. Haney, you feel the same way?

17 PROSPECTIVE JUROR NO. 11: Yes.

18 MR. BROWN: Mr. Wrone, you feel that same
19 way? The same way I'm talking about is you told us
20 about some incident that happened to your wife
21 before? You've been married a while?

22 PROSPECTIVE JUROR NO. 1: Before we met,
23 correct.

24 THE COURT: When she was 12.

25 MR. BROWN: Okay. But certainly it's

1 something that affected her?

2 PROSPECTIVE JUROR NO. 1: Correct.

3 MR. BROWN: And you certainly believe her?

4 PROSPECTIVE JUROR NO. 1: Right.

5 MR. BROWN: It's not like somebody else
6 said something and she was telling a lie, right?

7 PROSPECTIVE JUROR NO. 1: Right.

8 MR. BROWN: So do you think that would
9 affect your way the way you perceive the testimony
10 if a witness is also saying that Mr. Taylor sexual
11 assaulted her?

12 PROSPECTIVE JUROR NO. 1: No.

13 MR. BROWN: Okay. Anybody in here have
14 any relatives who are -- who have used or are using
15 crack cocaine? Mr. Barrera?

16 PROSPECTIVE JUROR NO. 7: Yes, I have.

17 MR. BROWN: Okay. Ms. Duda?

18 PROSPECTIVE JUROR NO. 13: Yes, I have.

19 MR. BROWN: Is this the same brother?

20 PROSPECTIVE JUROR NO. 13: Yes.

21 MR. BROWN: Okay. And I'm not an expert
22 on crack. I had a brother that used crack too. He
23 was Eagle Scout so it can affect anybody however
24 they did it affects them, and it's not like crack
25 cocaine, I don't know if I can say this. It's not

1 like marijuana is it, Mr. Barrera?

2 PROSPECTIVE JUROR NO. 7: No.

3 MR. BROWN: No. I mean you can smoke a
4 joint -- I don't know. People don't smoke joints
5 any more. They smoke blunts or something, but you
6 could do that and then come back and do whatever
7 you're going to do but crack affects your
8 perception. Ms. Duda, do you agree with that?

9 PROSPECTIVE JUROR NO. 13: Uh-huh.

10 MR. BROWN: Crack affects your judgment,
11 is that right?

12 PROSPECTIVE JUROR NO. 13: Uh-huh.

13 THE COURT: Ma'am, you have to say yes or
14 no.

15 PROSPECTIVE JUROR NO. 13: Yes.

16 MR. BROWN: And I wasn't specific. I
17 apologize.

18 THE COURT: It's okay. And that was Ms.
19 Duda.

20 MR. BROWN: You understand crack affects
21 the whole person, right?

22 PROSPECTIVE JUROR NO. 13: Correct.

23 MR. BROWN: So and then there are certain
24 things that are associated with crack in terms of
25 behaviors. Crack is something that's associated

1 with crime, anybody here disagree with that? I
2 don't see any hands. So that when you're talking
3 about somebody using crack, and I think there's
4 going to be testimony in this case about crack, the
5 use of crack, by the person who is making the charge
6 in this case. Is that going to affect your ability
7 to be fair in terms of how you assess her testimony
8 or assess the situations in which we're talking
9 about during the course of this case, Mr. Gibson?

10 PROSPECTIVE JUROR NO. 6: Only if they
11 were inebriated at the time.

12 MR. BROWN: Okay.

13 THE COURT: You have 40 seconds, Mr.
14 Brown.

15 MR. BROWN: Okay. You said at the time In
16 other words the person hit the pipe?

17 PROSPECTIVE JUROR NO. 6: And then how can
18 you correctly distinguish what actually happen?

19 MR. BROWN: All right. Well my time is
20 running out. Tic toc. This is what I'm going to
21 ask you to do: And I ask you and everybody else
22 here, whoever gets up here, can you be a fair juror
23 and put aside your own personal feelings about
24 things and assess the facts as the facts are
25 presented in this case? Is there anybody that

1 cannot do that please raise your hand? One, two,
2 three. Ms. Duda, Ms. Hogg and Ms. Haney. Okay.
3 Anybody else? Thank you very much, Ladies and
4 gentlemen.

5 THE COURT: All right. Members of the
6 jury, I have received word that one of your fellow
7 comrades of jury duty needs to use the restroom so
8 we're going to take our first break of the morning.
9 If you could please follow the directions of my
10 deputies and step into the hallway. We'll be back
11 with you shortly. All rise for the jury.

12 (At 10:52 a.m. jury exits the courtroom)

13 THE COURT: All right. The members of the
14 jury have been excused. Is there anything for the
15 record now that the record has been excused?

16 MR. BROWN: Not that I'm aware of, Judge.

17 THE COURT: All right. I'll see you all
18 back in ten minutes. Mr. Burrell, just have a --
19 Mr. Taylor. I'm sorry. Just have a seat and if my
20 deputies -- do you need to use the restroom?

21 DEFENDANT TAYLOR: Yes, your Honor.

22 THE COURT: Okay. Well my deputies will
23 take you on back then. He needs to use the
24 bathroom.

25 (At 10:53 a.m. off the record)

1 (At 11:04 a.m. back on the record)

2 THE COURT: Can the attorneys please
3 approach for challenges for cause while we wait for
4 the other jurors?

5 (At 11:04 a.m. sidebar discussion held off the record)

6 (At 11:08 a.m. sidebar discussion concluded)

7 THE COURT: Okay. At this time the Court
8 would like to thank and excuse Ms. Haney. Please go
9 back downstairs to the first floor. There maybe
10 another case that you're better suited for other
11 than one so similar to your own experiences. The
12 same for you, Ms. Hogg, please go back downstairs to
13 the first floor. There maybe another courtroom with
14 a different trial that's more suited for you that is
15 not so akin to your personal experience, and the
16 same for you, Ms. Duda. Given the circumstances
17 with your brother the Court is going to excuse you
18 at this time. Please go back downstairs to the
19 first floor and they'll probably find a different
20 courtroom for you to go to.

21 UNIDENTIFIED JUROR: Thank you, your
22 Honor.

23 THE COURT: You're welcome. Peremptory
24 challenges to the People.

25 MS. DILLON: Your Honor, at this time the

1 People would like to thank and excuse juror number
2 four, Ms. Smith.

3 THE COURT: Ms. Smith, you're excused.
4 Please go back downstairs to the first floor.
5 Anyone else?

6 MS. DILLON: And we would like to thank
7 and excuse Mr. Gibson, juror number six.

8 THE COURT: Mr. Gibson, you're also
9 excused. Please go back downstairs to the first
10 floor. Anyone else?

11 MS. DILLON: Not at this time.

12 MR. BROWN: We're going to reserve our
13 peremptories for later. Thank you.

14 THE COURT: All right. That's fine.

15 MR. BROWN: And pardon my seating. I
16 didn't mean no disrespect.

17 THE COURT: No, no. I take no disrespect.
18 It's fine.

19 THE CLERK: Michelle Ellis seat four.
20 James Atkins seat six. Yvonne Matthews seat 11.
21 Joshua last name spelled S-H-E-K-O, seat 12. Lydia
22 Wiley Kellerman seat 13.

23 THE COURT: Good morning, Ms. Ellis.

24 PROSPECTIVE JUROR NO. 4: Good morning.

25 THE COURT: How are you today?

1 PROSPECTIVE JUROR NO. 4: I'm doing well.

2 THE COURT: Did you hear the lawyers when
3 they had their chance to talk this morning?

4 PROSPECTIVE JUROR NO. 4: Yes.

5 THE COURT: Do you see any reason why
6 based upon the issues that have been raised by
7 either side today that you would be unable to serve
8 as a fair and impartial juror in this case?

9 PROSPECTIVE JUROR NO. 4: Well just
10 addressing the police officer. I do have a nephew
11 who is a active police officer.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 4: I don't feel
14 that that would affect my being on the jury.

15 THE COURT: Okay. So you have a nephew
16 who is an active police officer?

17 PROSPECTIVE JUROR NO. 4: Yes.

18 THE COURT: But that will not affect your
19 ability to be fair?

20 PROSPECTIVE JUROR NO. 4: Correct.

21 THE COURT: Okay. I see you have a mental
22 list because you were counting on your fingers.

23 PROSPECTIVE JUROR NO. 4: I do have one
24 more. I have two. There were sisters that accused
25 my step-father of sexual assaulting them so they

1 were never tried for it, he was not tried for it but
2 it created a lot of angst in our family.

3 THE COURT: I can imagine that that would
4 be something that can just tear a family a part and
5 I can see that just mentioning it causes you to be
6 very emotional because it affected your family,
7 would that be fair to say?

8 PROSPECTIVE JUROR NO. 4: Yes.

9 THE COURT: I'm sorry to hear that that
10 happened in your family but were these things that
11 happened to your sisters or that they said happened
12 to them when they were kids?

13 PROSPECTIVE JUROR NO. 4: One was an
14 adult, a young adult, 20 years old.

15 THE COURT: Okay. Can we get her some
16 kleenex, Dawn? One happened when she was 20 and the
17 other was?

18 PROSPECTIVE JUROR NO. 4: A kid.

19 THE COURT: That your step-dad did those
20 things to her when she was 20 or she told about it
21 when she was 20?

22 PROSPECTIVE JUROR NO. 4: Two separate
23 sisters. One was when she was a kid and she
24 remembered later or she revealed it later in life as
25 an adult, the other as an adult.

1 THE COURT: Something happened.

2 PROSPECTIVE JUROR NO. 4: And she revealed
3 it exactly at that time.

4 THE COURT: I'm sorry to hear that that
5 happened to your family. I'm sure that that was
6 very traumatic to go through for everyone involved.

7 PROSPECTIVE JUROR NO. 4: True.

8 THE COURT: And it probably still affects
9 your family till this day, would that be fair to
10 say?

11 PROSPECTIVE JUROR NO. 4: Yes, it does.

12 THE COURT: Now you understand that you
13 should know that the defendant is not accused of
14 doing anything to anybody in his family.

15 PROSPECTIVE JUROR NO. 4: I understand.

16 THE COURT: But given that this is such an
17 emotional thing for you. It does involve sexual
18 assault which is something similar although
19 different but still similar to what your sisters
20 went through. Can you set aside what your sisters
21 went through and make your decision only on the
22 evidence in this case?

23 PROSPECTIVE JUROR NO. 4: I don't think
24 so. I don't feel I could.

25 THE COURT: All right. Well Thank you for

1 your honesty. I appreciate it okay. Next we have
2 Mr. Atkins.

3 PROSPECTIVE JUROR NO. 6: Yes, your Honor.

4 THE COURT: Good morning, sir.

5 PROSPECTIVE JUROR NO. 6: How are you?

6 THE COURT: I'm good. How are you?

7 PROSPECTIVE JUROR NO. 6: Fine.

8 THE COURT: Did you hear the lawyers when
9 they had their chance to ask questions?

10 PROSPECTIVE JUROR NO. 6: Yes, I did, your
11 Honor.

12 THE COURT: Do you see any reason why you
13 would be unable to be fair and impartial in this
14 case?

15 PROSPECTIVE JUROR NO. 6: No, your Honor.

16 THE COURT: All right. Thank you, Mr.
17 Atkins. And now we have Ms. Matthews. Good
18 morning, Ms. Matthews.

19 PROSPECTIVE JUROR NO. 11: Good morning.

20 THE COURT: Now, Ms. Matthews, earlier you
21 were telling us that you had come to this courtroom
22 for something before, right?

23 PROSPECTIVE JUROR NO. 11: Yes.

24 THE COURT: What were you here for?

25 PROSPECTIVE JUROR NO. 11: My son who was

1 in front of you.

2 THE COURT: All right. And he was -- your
3 son was charged with a crime?

4 PROSPECTIVE JUROR NO. 11: Yes.

5 THE COURT: And how long ago was that?

6 PROSPECTIVE JUROR NO. 11: Two years.

7 THE COURT: What kind of case was it?

8 PROSPECTIVE JUROR NO. 11: Criminal and he
9 was --

10 THE COURT: But was it like drugs or
11 robbery or rape or murder?

12 PROSPECTIVE JUROR NO. 11: He was accused
13 of having a gun, shooting at someone.

14 THE COURT: All right. Now having had a
15 son that recently went through some allegations
16 although different than what Mr. Taylor is charged
17 with, but having had a son who was a participant in
18 the criminal justice system, charged with a crime in
19 Wayne County and having to come to this same very
20 courtroom where all of that happened with your son,
21 do you think that would affect your ability to be
22 fair in this case?

23 PROSPECTIVE JUROR NO. 11: Not really. I
24 just don't trust the system.

25 THE COURT: All right. Well you know a

1 lot of people don't trust the system but it would be
2 like saying I don't trust politicians so I'm never
3 going to vote, right? The only way that the system
4 can work the system is only as good as the people
5 who are a part of it, but I have some really
6 important questions to ask you, Ms. Matthews, and
7 I'm not trying to embarrass you or get in your
8 personal business but I think it's important for
9 everybody involved to know your thoughts because I
10 think I speak for both of the lawyers, both Ms.
11 Dillon and Mr. Brown, when I say that they want
12 people who can be fair. Would you look at the
13 evidence in this case and decide based on the
14 evidence whether or not the defendant has committed
15 the crime and whether or not the evidence proves to
16 you beyond a reasonable doubt that he committed the
17 crime or would you be thinking about what your son
18 went through?

19 PROSPECTIVE JUROR NO. 11: Definitely
20 going to be thinking about what he went through.

21 THE COURT: All right. Now would you look
22 at this and say, for example, if the evidence
23 convinces you and you hear from the victim and you
24 think oh this definitely happened, oh the defendant
25 definitely did it, oh he's definitely guilty, I'm

1 convinced beyond a reasonable doubt but, you know
2 what, the system did my son wrong so I'm going to
3 ignore the law and I'm going to ignore the evidence
4 and I'm going to find him not guilty because I want
5 to get back at the system for what happened with my
6 son?

7 PROSPECTIVE JUROR NO. 11: No, I wouldn't
8 do that.

9 THE COURT: Okay. All right. Now
10 sometimes people have experiences, right? Like
11 everybody who comes to the jury comes with different
12 life experiences. Everybody has them and you all
13 have different life experiences. You've all gone
14 through things. You all know people who've gone
15 through things, and there's nothing wrong with that.
16 That's why in America we have juries that are made
17 up of ordinary citizens like all of you because your
18 different perspectives add value. You have things
19 that cause you to see things one way or another way,
20 and together with your collective experiences you
21 talk things out and you reason and you come to a
22 decision, so there's nothing wrong with having had
23 certain experiences that make you see things
24 differently than others. The real question is can
25 you be fair to both sides and apply the law as I

1 give it to you to the facts that are presented, so
2 do you think you can do that? Can you listen to the
3 facts and the evidence and make your decision only
4 on the evidence?

5 PROSPECTIVE JUROR NO. 11: I could but I
6 probably wouldn't like the jury or the prosecutor or
7 the defendant.

8 THE COURT: All right. Now Mr. -- I can't
9 read my own handwriting. Mr. Sheko. Sheko.

10 PROSPECTIVE JUROR NO. 12: Yes.

11 THE COURT: Good morning, Mr. Sheko.

12 PROSPECTIVE JUROR NO. 12: Good morning.

13 THE COURT: Did you hear the questions
14 that were asked by the lawyers when they had their
15 chance to ask questions today?

16 PROSPECTIVE JUROR NO. 12: Yes.

17 THE COURT: Do you see any reason why
18 you'd be unable to be fair to either side in this
19 case?

20 PROSPECTIVE JUROR NO. 12: I do not.

21 THE COURT: All right. And now again my
22 handwriting is so bad. Ms. Wiley Kellerman, did I
23 say your name right?

24 PROSPECTIVE JUROR NO. 13: Yes.

25 THE COURT: Good morning, ma'am.

1 PROSPECTIVE JUROR NO. 13: Good morning.

2 THE COURT: Did you hear the lawyers when
3 they had their chance to ask questions today?

4 PROSPECTIVE JUROR NO. 13: I did.

5 THE COURT: Do you see any reason why you
6 would be unable to be fair to either side in this
7 case?

8 PROSPECTIVE JUROR NO. 13: I think I can
9 be fair. I would say our neighbor was raped between
10 our houses about four years ago.

11 THE COURT: Oh no. I'm sorry to hear
12 that. Did they ever catch the person responsible?

13 PROSPECTIVE JUROR NO. 13: No.

14 THE COURT: It was like a stranger?

15 PROSPECTIVE JUROR NO. 13: Yes.

16 THE COURT: Oh I'm sure that affected your
17 entire neighborhood.

18 PROSPECTIVE JUROR NO. 13: Yes.

19 THE COURT: Do you have any reason to
20 believe that that would affect your ability to be
21 fair to either side? Like would you hold it against
22 the police officers that you hear from because they
23 never caught the person who committed a sexual
24 assault in your neighborhood?

25 PROSPECTIVE JUROR NO. 13: No, I wouldn't.

1 THE COURT: All right. And would you hold
2 it against the defendant, Mr. Taylor, or hold it
3 against Mr. Brown because he's defending someone
4 that's accused of a sexual assault that there was an
5 unsolved sexual assault in your neighborhood?

6 PROSPECTIVE JUROR NO. 13: No.

7 THE COURT: Would you be able to listen to
8 the evidence and the law as I give it to you and in
9 that way decide the case?

10 PROSPECTIVE JUROR NO. 13: Yes.

11 THE COURT: All right. Challenges for
12 cause?

13 MR. BROWN: May we approach, Judge?

14 THE COURT: Of course. I was about to ask
15 you to approach.

16 MR. BROWN: Oh Thank you.

17 THE COURT: I was just saying challenges
18 for cause please approach.

19 MR. BROWN: Thank you.

20 (At 11:19 a.m. sidebar discussion held off the record)

21 (At 11:20 a.m. sidebar discussion concluded)

22 THE COURT: Ms. Wiley Kellerman, you're a
23 writer?

24 PROSPECTIVE JUROR NO. 13: Huh?

25 THE COURT: Are you a writer?

1 PROSPECTIVE JUROR NO. 13: Uh-huh.

2 THE COURT: What do you write about?

3 PROSPECTIVE JUROR NO. 13: Mostly social
4 justice movement work often a faith based context.

5 THE COURT: Okay, so not --

6 MR. BROWN: I didn't hear the last thing.
7 I'm sorry.

8 PROSPECTIVE JUROR NO. 13: Often within a
9 faith based context.

10 MR. BROWN: Okay. Thank you.

11 THE COURT: Social justice issues in a
12 faith based context?

13 PROSPECTIVE JUROR NO. 13: Yes.

14 THE COURT: All right. Non-fiction then?

15 PROSPECTIVE JUROR NO. 13: Correct.

16 THE COURT: Is it like motivational stuff
17 you write about or?

18 PROSPECTIVE JUROR NO. 13: I'd hope that
19 it would be motivational I suppose. Yeah, stories
20 of grotesque civil disobedience in the city.

21 THE COURT: You write for a -- do you
22 write for a, don't say what, which one, but do you
23 write for a publication or books or?

24 PROSPECTIVE JUROR NO. 13: Mostly local
25 news letters or not actual newspapers but like small

1 faith based papers or blogs.

2 THE COURT: For community activism?

3 PROSPECTIVE JUROR NO. 13: Yes.

4 THE COURT: All right. Do you all need to
5 come backup for cause or no?

6 MR. BROWN: No. Thank you very much,
7 Judge.

8 THE COURT: All right. Ms. Ellis, we're
9 going to excuse at this time. There maybe another
10 courtroom that's better suited for you where the
11 facts are not so similar to what your family went
12 through okay.

13 PROSPECTIVE JUROR NO. 4: Thank you.

14 THE COURT: You're welcome. Peremptories
15 to the defense.

16 MR. BROWN: Yeah, may we have just a
17 moment, Judge?

18 THE COURT: Sure. Let me know when you're
19 ready. Make sure your microphone is off, Mr. Brown.
20 If it's red remember.

21 MR. BROWN: Can I turn it off?

22 THE COURT: You should turn it off.

23 MR. BROWN: How can I do that?

24 THE COURT: Just touch that finger. See
25 the finger?

1 MR. BROWN: Thank you, Judge. All right.
2 Thank you very much, Judge. Peremptories to the
3 defense.

4 MR. BROWN: Do I press this back?

5 THE COURT: Yep.

6 MR. BROWN: Thank you. Yes. Judge, we'd
7 ask the Court to thank and excuse juror in seat
8 number eight, Ms. Carson.

9 THE COURT: All right. Ms. Carson, you're
10 excused. Please go back downstairs to the first
11 floor. Anyone else?

12 MR. BROWN: Yes, ma'am. Juror in seat
13 number one, Mr. Wrone.

14 THE COURT: Mr. Wrone, you're also
15 excused, sir. Please go back downstairs to the
16 first floor. Anyone else, Mr. Brown?

17 MR. BROWN: Not at this time, your Honor.

18 THE COURT: All right. Ms. Dillon?

19 MS. DILLON: Your Honor, at this time we
20 would thank and excuse Ms. Matthews seated in seat
21 number 11.

22 THE COURT: Ms. Matthews, you're excused.
23 Please go back downstairs to the first floor, ma'am.
24 Is there anyone else, Ms. Dillon?

25 MS. DILLON: Not at this time. Thank you,

1 Judge.

2 THE COURT: All right.

3 THE CLERK: Da'sha Smith, seat one.

4 Lenore Haddy seat four. Paul Murray seat eight.

5 Phillip Richey seat 11.

6 THE COURT: All right. Ms. Smith, good
7 morning.

8 PROSPECTIVE JUROR NO. 1: Good morning.

9 THE COURT: How are you today?

10 PROSPECTIVE JUROR NO. 1: I'm fine. How
11 are you?

12 THE COURT: I'm good. Thank you for
13 asking. Ms. Smith, did you hear the lawyers when
14 they had their chance to talk this morning?

15 PROSPECTIVE JUROR NO. 1: Yes, I did.

16 THE COURT: Do you see any reason why you
17 would be unable to serve as a fair and impartial
18 juror in this case?

19 PROSPECTIVE JUROR NO. 1: No, not actually
20 but I'm only 20 I wasn't around when the case
21 actually happened so I that's about it.

22 THE COURT: Well Thank you for making us
23 all feel old, Ms. Smith. I was like in college.
24 All right. Well Thank you for letting us know.

25 PROSPECTIVE JUROR NO. 1: Okay.

1 THE COURT: That does make it seem like it
2 was a really long time ago, I guess it was, although
3 I'm in denial of just how long ago it was. Okay.
4 Mr. -- Ms. Haddy, you have a heart stress test on
5 Tuesday, right, on Wednesday?

6 PROSPECTIVE JUROR NO. 4: May 3rd whatever
7 day that falls on.

8 THE COURT: Wednesday of next week, one
9 week from today. Did you see the lawyers when
10 they -- hear the lawyers when they had their chance
11 to ask questions this morning?

12 PROSPECTIVE JUROR NO. 4: Yes.

13 THE COURT: Do you see any reason why you
14 would be unable to serve as a fair and impartial
15 juror in this case based on the things that we've
16 talked about this morning?

17 PROSPECTIVE JUROR NO. 4: Okay. There was
18 something, I don't know if it involved this case
19 about the crack cocaine.

20 THE COURT: Mr. Brown was talking about
21 crack cocaine and he was saying that there maybe
22 some testimony that there was some crack cocaine use
23 involved in this case and he talked about the way
24 crack cocaine affects people's lives and stuff like
25 that and basically it being a stronger drug than

1 like marijuana and that kind of thing. Is there
2 something about that you would like to tell us?

3 PROSPECTIVE JUROR NO. 4: It destroyed my
4 marriage and my family.

5 THE COURT: I'm sorry to hear that.

6 PROSPECTIVE JUROR NO. 4: Yes.

7 THE COURT: Now if you heard some evidence
8 or testimony that either Mr. Taylor or some of the
9 witnesses had at one time used crack cocaine would,
10 I understand that that was probably was very
11 difficult to deal with addiction in your family and
12 the affects that's it had on you but can you listen
13 to the evidence and make a decision on the evidence
14 despite the fact that you've had some experience in
15 your family with crack cocaine?

16 PROSPECTIVE JUROR NO. 4: I'm not so sure
17 I can because my son he was a 4.0 graduate. He's
18 destroyed. He tried to kill his father three months
19 ago and ended up in a facility here in Detroit.
20 He's not normal any more so I don't think I can do
21 this.

22 THE COURT: All right. Well Thank you for
23 sharing with us what had to be a very painful
24 experience for you and your family. Dawn, can you
25 get her some tissue. Gary. All right. Okay.

1 Who's next? Mr. Richey.

2 PROSPECTIVE JUROR NO. 11: Yes.

3 THE COURT: Good morning, Mr. Richey. No,
4 wait. Mr. Murray, did I talk to you yet?

5 PROSPECTIVE JUROR NO. 8: Not yet.

6 THE COURT: Good morning, Mr. Murray.

7 PROSPECTIVE JUROR NO. 8: Good morning,
8 your Honor.

9 THE COURT: How are you?

10 PROSPECTIVE JUROR NO. 8: I'm okay. Thank
11 you.

12 THE COURT: Did you hear the lawyers talk
13 this morning?

14 PROSPECTIVE JUROR NO. 8: Yes, I did.

15 THE COURT: And do you see any reason why
16 based upon the issues that have been raised that you
17 would be unable to serve as a fair and impartial
18 juror in this case?

19 PROSPECTIVE JUROR NO. 8: I do not. There
20 are three things that would have come up in the line
21 of questioning.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 8: I was on a
24 murder trial back in the late 80s, we did reach a
25 verdict. I have a cousin in Nebraska who is a

1 warden. I haven't seen him since the last time I
2 was there about eight years, and I have a friend in
3 Texas who was raped before I knew her. It affected
4 her severely.

5 THE COURT: All right. But would any of
6 those things affect your ability to be fair to both
7 sides in this case?

8 PROSPECTIVE JUROR NO. 8: No, I don't
9 think so.

10 THE COURT: All right. Well Thank you for
11 letting us know all those things. Mr. Richey, good
12 morning, sir.

13 PROSPECTIVE JUROR NO. 11: How are you?

14 THE COURT: I'm good. How are you?

15 PROSPECTIVE JUROR NO. 11: Good.

16 THE COURT: Mr. Richey, you also know
17 Officer Taft?

18 PROSPECTIVE JUROR NO. 11: Well not
19 personally but if it was the Melvindale Police
20 Department I could possibly know him.

21 THE COURT: Oh so you don't know for sure
22 that you know him but you just think that because --

23 PROSPECTIVE JUROR NO. 11: Possibly, yes.

24 THE COURT: Well he's retired and you said
25 you grew up in Melvindale?

1 PROSPECTIVE JUROR NO. 11: Yes.

2 THE COURT: And when he was working he
3 would have been working like 20 years ago?

4 PROSPECTIVE JUROR NO. 11: I would have
5 been five so no.

6 THE COURT: Okay. I don't know when he
7 retired but he may. I don't know how long he's been
8 retired but would the fact that you grew up in
9 Melvindale affect your ability to be fair to either
10 side in this case?

11 PROSPECTIVE JUROR NO. 11: No.

12 THE COURT: Do you know some Melvindale
13 police officers?

14 PROSPECTIVE JUROR NO. 11: No.

15 THE COURT: All right. And I think that's
16 it. I think that's everybody. Challenges for
17 cause? If so please approach.

18 (At 11:30 a.m. sidebar discussion held off the record)

19 (At 11:32 a.m. sidebar discussion concluded)

20 THE COURT: Ms. Haddy.

21 PROSPECTIVE JUROR NO. 4: Yes.

22 THE COURT: At this time the Court is
23 going to thank and excuse you. There maybe another
24 case in a different courtroom that doesn't have
25 issues with drug use that are so similar to what --

1 that maybe reminders of what your family went
2 through so if you could please go back downstairs to
3 the first floor. I'm going to excuse you at this
4 time okay. Peremptories to the People.

5 MR. BROWN: I'm going to turn this mic
6 off.

7 THE COURT: Okay.

8 MS. DILLON: I'm sorry, Judge. Just one
9 second.

10 THE COURT: It's okay. Just let me know
11 whenever you're ready. Take your time.

12 MS. DILLON: Your Honor, at this time the
13 People would like to thank and excuse Ms. Wiley
14 Kellerman in seat 13.

15 THE COURT: All right. Ms. Wiley
16 Kellerman, you're excused. Please go back
17 downstairs to the first floor. Anyone else?

18 MS. DILLON: No, not at this time. Thank
19 you.

20 MR. BROWN: May I have just one second?

21 THE COURT: Sure.

22 MR. BROWN: All right. Thank you. We'll
23 pass right now, Judge. Thank you.

24 THE COURT: All right.

25 MR. BROWN: Well no. I'm sorry. Yeah,

1 we'll pass, Judge.

2 THE COURT: Okay. Ms. Brown.

3 THE CLERK: Mary Penn seat four. Joshua
4 Lang seat 13.

5 MR. BROWN: I didn't hear the first one.

6 THE COURT: Mary Penn.

7 MR. BROWN: Pen, okay. Thank you.

8 THE COURT: And Mr. Lang, Joshua Lang for
9 seat number 13.

10 MR. BROWN: Thank you.

11 THE COURT: You're welcome. Good morning,
12 Ms. Penn.

13 PROSPECTIVE JUROR NO. 4: Good morning.

14 THE COURT: How are you today?

15 PROSPECTIVE JUROR NO. 4: I'll doing okay.

16 THE COURT: Did you hear the lawyers when
17 they had their chance to talk this morning?

18 PROSPECTIVE JUROR NO. 4: Yes, I did.

19 THE COURT: Do you see any reason why
20 based upon the issues that we've talked about this
21 morning or even something we haven't talked about,
22 do you see any reason why you would be unable to
23 serve as a fair and impartial juror in this case?

24 PROSPECTIVE JUROR NO. 4: Well, Judge, I'm
25 a Jehovah's Witness. I don't judge people. Jehovah

1 judges us. I don't want to judge him. I don't know
2 if he guilty or not guilty so I don't want to send
3 anyone to jail or prison if they're innocent so.

4 THE COURT: All right. Well Thank you for
5 telling me about your faith and being one of Jehovah
6 witnesses but, you know, religious beliefs do not
7 exempt you from jury duty. I've had many people of
8 many different faiths that have served on juries.
9 We even had someone who was of a faith that had to
10 pray at a certain time of day and we just had to
11 accommodate him and make sure we took breaks so he
12 could have his prayers, and I've even had people who
13 are Jehovah's witnesses that have served on juries.
14 You are not here to judge him as a person and decide
15 whether or not he is a good person or a bad person
16 or whether he had sinned or any of those things and
17 you also don't decide whether he goes to jail or
18 not. Possible penalty is not something that you
19 consider at all and if there is a penalty that's for
20 me to decide. The only thing that I'm asking you to
21 do is to listen to the evidence and decide whether
22 you believe that ha crime was committed, meaning,
23 someone was raped, forced to have sex against their
24 will; whether or not the person who committed that
25 was the defendant, and whether there's evidence that

1 proves to you beyond a reasonable doubt that the
2 things that the prosecutor says happened happened,
3 not whether it was good or bad. That's not what
4 you're being asked to decide, do you understand
5 that?

6 PROSPECTIVE JUROR NO. 4: Yes.

7 THE COURT: All right. Mr. Murray --
8 nope. We already talked. It's Mr. Lang. Joshua
9 Lang.

10 PROSPECTIVE JUROR NO. 13: Yes, that's
11 right.

12 THE COURT: My nephews name is Joshua.

13 PROSPECTIVE JUROR NO. 13: Very good.

14 THE COURT: How could I forget your name.
15 Mr. Lang, good morning, sir.

16 PROSPECTIVE JUROR NO. 13: Good morning.

17 THE COURT: How are you?

18 PROSPECTIVE JUROR NO. 13: I'm doing well.

19 THE COURT: Did you hear the lawyers when
20 they had their chance to talk this morning?

21 PROSPECTIVE JUROR NO. 13: Yes, I did.

22 THE COURT: And do you see any reason why
23 you would be unable to be fair to both sides in this
24 case?

25 PROSPECTIVE JUROR NO. 13: Just a

1 clarification if I could?

2 THE COURT: Please.

3 PROSPECTIVE JUROR NO. 13: Ms. Dillon had
4 a question about whether someone would fight back?

5 THE COURT: Yes.

6 PROSPECTIVE JUROR NO. 13: And I was
7 wondering if we could clarify further on exactly
8 what that means because I feel personally if someone
9 is being wronged then you should fight back whether
10 that's verbally, physically, financially.

11 THE COURT: All right.

12 PROSPECTIVE JUROR NO. 13: So that
13 specific point.

14 THE COURT: You want to talk more about?

15 PROSPECTIVE JUROR NO. 13: All right.
16 Well the law says that a person does not have to
17 resist in order -- let me just read this so I don't
18 mess it up.

19 MR. BROWN: Judge, before you do that can
20 we approach?

21 THE COURT: Sure you can approach.

22 (At 11:37 a.m. sidebar discussion held off the record)

23 (At 11:38 a.m. Sidebar discussion concluded)

24 THE COURT: The law says to prove this
25 charge the prosecutor does not have to show that the

1 victim resisted the defendant, so that means that,
2 you know, everybody responds to different things in
3 different ways. Like there could be someone, for
4 example, like they're deathly afraid of spiders and
5 whenever they see a spider they just completely
6 freeze because they're so afraid of spiders, or
7 there could be someone that's afraid of spiders and
8 so when they see them they immediately go on the
9 attack and you know fight the spider or bat it away.
10 Everybody reacts to different things differently and
11 so in a rape case the law says that the victim
12 doesn't have to resist so I guess your answer to the
13 question that Ms. Dillon asked would be that you
14 think that people should try to fight back or defend
15 themselves in some way?

16 PROSPECTIVE JUROR NO. 13: Yes, I do.

17 THE COURT: And if the evidence you heard
18 in this case was that the person didn't fight back
19 would you be willing to listen to the evidence and
20 testimony and decide if there was a reason why they
21 didn't or shouldn't, shouldn't have?

22 PROSPECTIVE JUROR NO. 13: Yes, I would.

23 THE COURT: All right. Do you see any
24 reason with that additional explanation, do you see
25 any reason why you would be unable to be fair to

1 either side in this case?

2 PROSPECTIVE JUROR NO. 13: No, your Honor.
3 Thank you.

4 THE COURT: All right. Challenges for
5 cause? If so please approach. Oh no. I have one
6 more question for you. Apparently the information
7 that was provided about left what you do for a
8 living blank. What is it that you do for a living?

9 PROSPECTIVE JUROR NO. 13: I'm an
10 optometrist.

11 THE COURT: Okay. Thank you. Challenges
12 for cause, if so, please approach?

13 MR. BROWN: None, your Honor.

14 MS. DILLON: No, Judge.

15 THE COURT: Peremptories, I believe the
16 peremptories are to you this time, Mr. Brown. I
17 could be wrong, but I think so.

18 MR. BROWN: Okay. Thank you very much.
19 Judge, we'd ask the Court to thank and excuse juror
20 in seat number three, Mr. Nassir.

21 THE COURT: Mr. Nassir, you're excused.
22 Please go back downstairs to the first floor.
23 Anyone else, Mr. Brown?

24 MR. BROWN: No, ma'am.

25 THE COURT: All right. Peremptories to

1 the People.

2 MS. DILLON: Your Honor, the People would
3 pass at this time.

4 THE COURT: All right. Someone for seat
5 number three please, Ms. Brown.

6 THE CLERK: Donna Davis seat three.

7 THE COURT: Good morning, Ms. Davis.

8 PROSPECTIVE JUROR NO. 3: Good morning.

9 THE COURT: I've never seen someone smile
10 so bright so hear their name called. How are you
11 today?

12 PROSPECTIVE JUROR NO. 3: Just fine.

13 THE COURT: Did you hear the lawyers when
14 they had their chance to speak this morning?

15 PROSPECTIVE JUROR NO. 3: Yes, I did.

16 THE COURT: And do you see any reason why
17 you would be unable to serve as a fair and impartial
18 juror in this case?

19 PROSPECTIVE JUROR NO. 3: No, I don't.

20 THE COURT: All right. Challenges for
21 cause, if so, please approach?

22 MS. DILLON: None, Judge, from the People.

23 THE COURT: Mr. Brown, do you also pass
24 for cause?

25 MR. BROWN: Pass for cause, Judge.

1 THE COURT: All right. Peremptories to
2 the defense at this, I'm sorry, to the People at
3 this time.

4 MS. DILLON: Your Honor, we would pass at
5 this time.

6 THE COURT: Peremptories to the defense.
7 You need a moment let me know, Mr. Brown, when
8 you're ready okay.

9 MR. BROWN: Yes, your Honor. Thank you,
10 your Honor. We would ask the Court to thank and
11 excuse juror in seat number eight, Mr. Murray.

12 THE COURT: All right. Mr. Murray, you're
13 excused, sir. Please go back downstairs to the
14 first floor. If we could have someone else for seat
15 number eight please, Ms. Brown.

16 THE CLERK: Colleen Blake seat eight.

17 THE COURT: Good morning, Ms. Blake.

18 PROSPECTIVE JUROR NO. 8: Good morning.

19 THE COURT: How are you today?

20 PROSPECTIVE JUROR NO. 8: Good. How are
21 you?

22 THE COURT: I'm good. Thank you for
23 asking. Ms. Blake, did you hear the lawyers when
24 they had their chance to ask questions this morning?

25 PROSPECTIVE JUROR NO. 8: Yes.

1 THE COURT: And do you see any reason why
2 based upon the issues that were raised that you
3 would be unable to serve as a fair and impartial
4 juror in this case?

5 PROSPECTIVE JUROR NO. 8: No, but my best
6 friend is married to an active police officer.

7 THE COURT: All right. For what
8 department?

9 PROSPECTIVE JUROR NO. 8: Dearborn
10 Heights.

11 THE COURT: Do you understand that police
12 officers are human beings and they're capable of
13 making mistakes or being wrong just like anyone
14 else?

15 PROSPECTIVE JUROR NO. 8: Yes.

16 THE COURT: Can you agree that you will
17 treat the police officer witnesses that you hear
18 from in this case just the same as you would any
19 other witness?

20 PROSPECTIVE JUROR NO. 8: Yes.

21 THE COURT: All right. Challenges for
22 cause, if so, please approach.

23 MR. BROWN: I pass for cause, Judge.

24 MS. DILLON: No challenges.

25 THE COURT: Peremptories to the defense.

1 MR. BROWN: I think --

2 THE COURT: You think you went first last
3 time?

4 MR. BROWN: I thought that I --

5 THE COURT: You could be right. Ms.
6 Dillon, did he go first last time? I think he did.

7 MS. DILLON: I think he may have, Judge.

8 THE COURT: All right. Peremptories to
9 the People.

10 MS. DILLON: I'll go first. Your Honor,
11 at this point I think we'll pass.

12 THE COURT: All right.

13 MR. BROWN: Judge, we'd ask the Court to
14 thank and excuse juror in seat number 13, Mr. Lang.

15 THE COURT: All right. Mr. Lang, you're
16 excused. Please go back downstairs to the first
17 floor. Anyone else, Mr. Brown?

18 MR. BROWN: No, ma'am, not at this time.

19 THE CLERK: Peter Walker seat 13.

20 THE COURT: Mr. Walker. Who did you say,
21 Dawn?

22 THE CLERK: Peter Walker.

23 THE COURT: Good morning, Mr. Walker.

24 PROSPECTIVE JUROR NO. 13: Morning.

25 THE COURT: Now, Mr. Walker, earlier you

1 were starting to tell me about a time that you had
2 been the victim of a violent crime?

3 PROSPECTIVE JUROR NO. 13: Yes, ma'am.

4 THE COURT: And I stopped you from talking
5 not because it wasn't important and I didn't want to
6 hear about it but because when you're in the
7 audience speaking it's not the best place to get
8 important information like that from you.

9 PROSPECTIVE JUROR NO. 13: Okay.

10 THE COURT: Because there's no microphones
11 in the audience for you and it's hard for the for
12 the record to capture what you were saying so please
13 tell me more about what happened to you.

14 PROSPECTIVE JUROR NO. 13: Well it's a
15 long time ago but I was -- a guy came out from no
16 where and said give me your money.

17 THE COURT: And you were robbed at
18 gunpoint?

19 PROSPECTIVE JUROR NO. 13: Yes, ma'am.

20 THE COURT: Did they ever catch the person
21 responsible?

22 PROSPECTIVE JUROR NO. 13: No.

23 THE COURT: I'm sorry to hear that that
24 happened to you. I'm sure that that had to be a
25 very traumatic experience for you, would that be

1 fair to say?

2 PROSPECTIVE JUROR NO. 13: Yes.

3 THE COURT: Would you hold it against the
4 police officers or the prosecutor in this case that
5 they never caught the person responsible for robbing
6 you?

7 PROSPECTIVE JUROR NO. 13: Yes.

8 THE COURT: Okay. Tell me more.

9 PROSPECTIVE JUROR NO. 13: Well, I
10 reported it and nothing happened.

11 THE COURT: All right. But I'm trying to
12 understand why you would hold that against the
13 prosecutor or the police in this case?

14 PROSPECTIVE JUROR NO. 13: Well I guess
15 not.

16 THE COURT: All right. But that does
17 bothers you? It bothers you that they never caught
18 the people, right?

19 PROSPECTIVE JUROR NO. 13: It was one guy.

20 THE COURT: But does it bother you that
21 they never caught the person?

22 PROSPECTIVE JUROR NO. 13: Yes.

23 THE COURT: It's upsetting? Is it
24 upsetting for you?

25 PROSPECTIVE JUROR NO. 13: Yes, ma'am.

1 THE COURT: All right. Now would you hold
2 it against Mr. Taylor that they never caught the
3 person responsible for robbing you?

4 PROSPECTIVE JUROR NO. 13: No, ma'am.

5 THE COURT: All right. So would it affect
6 your ability to be fair? Can you set aside that
7 very awful thing that happened to you and the fact
8 that no one was ever caught and make your decision
9 only on the evidence presented in this case?

10 PROSPECTIVE JUROR NO. 13: I guess I can.

11 THE COURT: All right. Now -- all right.
12 Now I know that when you say you guess you could
13 that that probably sounds like that -- what we need
14 to -- what I want you to understand is that what I
15 need to be clear from you is can you make your
16 decision only on the evidence and testimony
17 presented here? What you went through being robbed
18 at gunpoint is probably something that you will
19 never forget and it's always with you, would that be
20 fair to say?

21 PROSPECTIVE JUROR NO. 13: Yes, ma'am.

22 THE COURT: And it's probably affected the
23 way you go places, things you do, how you conduct
24 yourself to try to be safe or whatever, would that
25 be fair to say?

1 PROSPECTIVE JUROR NO. 13: Yes, ma'am.

2 THE COURT: But what I need to know from
3 you is that do you understand that the defendant,
4 Mr. Taylor, is innocent until proven guilty and the
5 prosecutor has to prove beyond a reasonable doubt
6 that he committed this sexual assault, do you
7 understand that?

8 PROSPECTIVE JUROR NO. 13: Yes, ma'am.

9 THE COURT: And will you listen to the
10 evidence and the testimony and make your decision
11 based on the evidence presented as it relates to Mr.
12 Taylor?

13 PROSPECTIVE JUROR NO. 13: Yes.

14 THE COURT: All right. Challenges for
15 cause, if so, please approach?

16 MR. BROWN: Pass for cause, your Honor.

17 MS. DILLON: Your Honor, we would pass for
18 cause.

19 THE COURT: Peremptories to the defense at
20 this time.

21 MR. BROWN: Judge, we would ask the Court
22 to thank and excuse juror in seat number five.

23 THE COURT: All right. Ms. Pfeiffer,
24 you're excused. Please go back downstairs to the
25 first floor. Peremptories to the People.

1 MS. DILLON: Your Honor, at this time we
2 would like to thank and excuse Mr. Walker seated in
3 seat number 13.

4 THE COURT: Mr. Walker, you're excused,
5 sir. Please go back downstairs to the first floor.

6 PROSPECTIVE JUROR NO. 13: Thank you.

7 THE COURT: You're welcome. Two new
8 jurors please, Ms. Brown.

9 THE CLERK: Kristine Potts seat five.
10 John Carney in seat 13.

11 THE COURT: Good morning, Ms. Potts.

12 PROSPECTIVE JUROR NO. 5: Good morning.

13 THE COURT: How are you today?

14 PROSPECTIVE JUROR NO. 5: I'm doing well.

15 THE COURT: Did you hear the lawyers when
16 they had their chance to ask questions this morning?

17 PROSPECTIVE JUROR NO. 5: Yes, I did.

18 THE COURT: And do you see any reason why
19 you would be unable to serve as a fair and impartial
20 juror in this case?

21 PROSPECTIVE JUROR NO. 5: No.

22 THE COURT: All right. Thank you. And,
23 Mr. Carney.

24 PROSPECTIVE JUROR NO. 13: Hi, how are
25 you?

1 THE COURT: Good morning, sir. Did you
2 tell me something earlier? You're going --

3 PROSPECTIVE JUROR NO. 13: Yes, I know
4 David Taft.

5 THE COURT: Oh right. And how is it that
6 you know Officer Taft?

7 PROSPECTIVE JUROR NO. 13: I believe I
8 went to high school with him.

9 THE COURT: Oh yeah.

10 PROSPECTIVE JUROR NO. 13: I'm hold
11 enough.

12 THE COURT: I'm sorry?

13 PROSPECTIVE JUROR NO. 13: I'm hold
14 enough.

15 THE COURT: Okay. Have you -- did you
16 maintain a friendship with him after high school?

17 PROSPECTIVE JUROR NO. 13: No, but I have
18 multiple friendships with officers.

19 THE COURT: All right. Do you understand
20 that police officers are human beings and they're
21 capable of making mistakes or being wrong or even
22 lying? You just have to look at a police officer
23 like you would any other witness, that's what the
24 law says. Can you agree to do that?

25 PROSPECTIVE JUROR NO. 13: It's hard for

1 me.

2 THE COURT: All right. Tell me more.

3 PROSPECTIVE JUROR NO. 13: It's just the
4 way I've been brought up to take what the police say
5 since I was a kid.

6 THE COURT: All right. What if the police
7 make a mistake?

8 PROSPECTIVE JUROR NO. 13: They would have
9 to prove it pretty good I guess.

10 THE COURT: Prove what pretty good?

11 PROSPECTIVE JUROR NO. 13: That it was a
12 mistake.

13 THE COURT: Well they're humans, aren't
14 they?

15 PROSPECTIVE JUROR NO. 13: I'm not saying
16 that they couldn't make a mistake but I'm going to
17 say that I'm going to believe what they say first
18 and they'd have to prove that it was a mistake.

19 THE COURT: All right. And so you're
20 saying that you will not follow the law when I give
21 it to you that says that you have to look at police
22 officer witnesses just as you would any other
23 witness, is that what you're saying?

24 PROSPECTIVE JUROR NO. 13: I'm saying that
25 would be hard, yes.

1 THE COURT: All right. Challenges for
2 cause, if so, please approach?

3 MR. BROWN: Do we need to?

4 THE COURT: You have to approach, yes, you
5 do.

6 MR. BROWN: Yes, ma'am. Thank you.

7 (At 11:52 a.m. sidebar discussion held off the record)

8 (At 11:53 a.m. sidebar discussion concluded)

9 THE COURT: Ms. Potts.

10 PROSPECTIVE JUROR NO. 5: Yes.

11 THE COURT: My understanding is that the
12 biographical information about you is blank. What
13 do you do for a living?

14 PROSPECTIVE JUROR NO. 5: I'm retired.

15 THE COURT: And before you retired what
16 did you do?

17 PROSPECTIVE JUROR NO. 5: Worked in
18 customer service at Carhart.

19 THE COURT: And what community do you live
20 in?

21 PROSPECTIVE JUROR NO. 5: Detroit.

22 THE COURT: All right. Peremptory
23 challenges to the defense at this time.

24 MR. BROWN: Your Honor, we'd ask the Court
25 to thank and excuse juror in seat number ten, Mr.

1 Poobalan.

2 THE COURT: All right. You're excused,
3 Mr. Poobalan. Please go back downstairs to the
4 first floor. Anyone else, Mr. Brown?

5 MR. BROWN: No, ma'am.

6 THE COURT: Peremptories to the People.

7 MS. DILLON: Your Honor, we would pass at
8 this time.

9 THE COURT: All right. Ms. Brown, if we
10 could have someone else for seat number ten.

11 THE CLERK: Dennis Milbourn seat ten.

12 THE COURT: Good morning, Mr. Milbourn.

13 PROSPECTIVE JUROR NO. 10: Good morning.

14 THE COURT: How are you today?

15 PROSPECTIVE JUROR NO. 10: I'm good.

16 THE COURT: Did you hear the lawyers when
17 they had their chance to ask questions this morning?

18 PROSPECTIVE JUROR NO. 10: Yes.

19 THE COURT: Do you see any reason why
20 based upon the issues that we've talked about today
21 or even something we haven't talked about, why you
22 would be unable to serve as a fair and impartial
23 juror in this case

24 PROSPECTIVE JUROR NO. 10: No.

25 THE COURT: All right. What is it that

1 you do for a living?

2 PROSPECTIVE JUROR NO. 10: I am in the
3 maintenance department at the Postal Service.

4 THE COURT: All right. Challenges for
5 cause, if so, please approach?

6 MR. BROWN: Pass for cause, your Honor.

7 MS. DILLON: We'll pass for cause.

8 THE COURT: Peremptories to the People.

9 MS. DILLON: We're satisfied at this time,
10 Judge.

11 THE COURT: Mr. Brown, peremptories to the
12 defense.

13 MR. BROWN: Thank you, Judge. We'd ask
14 the Court to thank and excuse juror in seat number
15 ten, Mr. Milbourn.

16 THE COURT: Mr. Milbourn, you're excused.
17 Please go back downstairs to the first floor.
18 Someone else for seat number ten, Ms. Brown.

19 THE CLERK: West ly last name spelled

20 THE COURT: Pummel. West ly Lincoln
21 Pummel.

22 PROSPECTIVE JUROR NO. 10: You had to
23 throw my middle name in there?

24 THE COURT: Sorry. They gave it to me.

25 PROSPECTIVE JUROR NO. 10: Oh I see how

1 it's going to be.

2 THE COURT: Good, well it's afternoon now.
3 Good afternoon, Mr. Pummel.

4 PROSPECTIVE JUROR NO. 10: Good afternoon.

5 THE COURT: How are you today?

6 PROSPECTIVE JUROR NO. 10: I'm well.

7 Thank you. You?

8 THE COURT: I'm good. Thank you for
9 asking. I know you all are probably getting really
10 hungry. I'm not going to keep you here forever. I
11 just want to try to see if we can get the jury
12 picked before we take our lunch break so no one has
13 to come back unnecessarily. Mr. Pummel, did you
14 hear the lawyers when they had their chance to talk
15 today?

16 PROSPECTIVE JUROR NO. 10: I did.

17 THE COURT: And do you see any reason why
18 you would be unable to serve as a fair and impartial
19 juror in this case?

20 PROSPECTIVE JUROR NO. 10: Not at all.

21 THE COURT: What is it that you do for a
22 living?

23 PROSPECTIVE JUROR NO. 10: Fed-EX driver.

24 THE COURT: And what community do you live
25 in?

1 PROSPECTIVE JUROR NO. 10: Livonia.

2 THE COURT: All right. Challenges for
3 cause, if so, please approach?

4 MS. DILLON: None at this time, Judge.

5 MR. BROWN: Pass for cause, your Honor.

6 THE COURT: Peremptories to the defense.

7 MR. BROWN: Okay.

8 THE COURT: Yeah, she went first last
9 time.

10 MR. BROWN: May I have just one moment
11 please. Pass at this time, your Honor.

12 THE COURT: All right. Peremptories to
13 the People. Peremptories to the People.

14 MS. DILLON: Your Honor, we would pass at
15 this time.

16 THE COURT: All right. At this time the
17 Court is going to thank and excuse Mr. Carney.
18 Please go back downstairs to the first floor, Mr.
19 Carney. If we could have someone else for seat
20 number 13 please, Ms. Brown.

21 THE CLERK: Susan --

22 PROSPECTIVE JUROR NO. 13: Blascawicz.

23 THE CLERK: Seat 13.

24 THE COURT: Good morning. Last name
25 spelled B-L --

1 THE COURT: Good morning. Good afternoon,
2 Ms. Blascawicz.

3 PROSPECTIVE JUROR NO. 13: Good afternoon,
4 your Honor.

5 THE COURT: Did I say your name right?

6 PROSPECTIVE JUROR NO. 13: Blascawicz or
7 Blascawicz in Polish.

8 THE COURT: Blascawicz. How are you
9 today?

10 PROSPECTIVE JUROR NO. 13: I'm fine and
11 you?

12 THE COURT: I'm good. Now did you tell me
13 something earlier? Oh okay. Just how to pronounce
14 your name, that's it?

15 PROSPECTIVE JUROR NO. 13: Uh-huh.

16 THE COURT: Ms. Blascawicz, did you hear
17 the lawyers when they had their chance to ask
18 questions today?

19 PROSPECTIVE JUROR NO. 13: Yes, I did.

20 THE COURT: And do you see any reason why
21 you would be unable to serve as a fair and impartial
22 juror in this case?

23 PROSPECTIVE JUROR NO. 13: No, I don't.

24 THE COURT: What community do you live in?

25 PROSPECTIVE JUROR NO. 13: I live in

1 Dearborn.

2 THE COURT: What do you do for a living?

3 PROSPECTIVE JUROR NO. 13: I'm a
4 supervisor slash merchandiser for Savon Drugs.

5 THE COURT: All right. Challenges for
6 cause, if so, please approach?

7 MS. DILLON: None from the People, Judge.

8 MR. BROWN: Pass for cause, Judge.

9 THE COURT: Peremptories to the People.

10 MS. DILLON: Judge, we would pass at this
11 time.

12 THE COURT: Peremptories to the defense.

13 MR. BROWN: Can I have just a moment
14 please? Judge, we'd ask the Court to thank and
15 excuse juror in seat number nine, Ms. Potts. Thank
16 you.

17 THE COURT: Ms. Potts, you're excused.
18 Please go back downstairs to the first -- did you
19 say nine or five because she's in seat number five?

20 MR. BROWN: Oh five. I'm sorry. Thank
21 you very much, your Honor.

22 THE COURT: Okay. Ms. Potts, you're
23 excused. Go back downstairs to the first floor.

24 MR. BROWN: Thank you.

25 THE COURT: Anyone else, Mr. Brown?

1 MR. BROWN: Thank you very much. Not at
2 this time.

3 THE COURT: Okay. Someone else for seat
4 number five please, Ms. Brown.

5 THE CLERK: Blake Miller seat five.

6 THE COURT: Good afternoon, Mr. Miller.

7 PROSPECTIVE JUROR NO. 5: Good afternoon.

8 THE COURT: How are you today?

9 PROSPECTIVE JUROR NO. 5: I am fine. How
10 are you?

11 THE COURT: I'm good. Thank you for
12 asking. Mr. Miller, what community do you live in?

13 PROSPECTIVE JUROR NO. 5: I live in
14 Detroit.

15 THE COURT: And what do you do for a
16 living?

17 PROSPECTIVE JUROR NO. 5: I work for the
18 UAW International Union.

19 THE COURT: All right. Did you hear the
20 lawyers when they had their chance to talk this
21 morning?

22 PROSPECTIVE JUROR NO. 5: I did.

23 THE COURT: Do you see any reason why
24 based upon the issues, or any issue even if it's not
25 something that they raise, why you would be unable

1 to be fair in this case?

2 PROSPECTIVE JUROR NO. 5: I think I can be
3 fair but I would like the Court to know that I
4 served on a jury three years ago.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 5: On a similar
7 charge.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 5: And I don't know
10 for certain but I think counsel for the defense was
11 the same counsel.

12 THE COURT: All right. Would that affect
13 your ability to be fair?

14 PROSPECTIVE JUROR NO. 5: I don't think
15 so.

16 THE COURT: Can you make your decision
17 only on the evidence presented in this case?

18 PROSPECTIVE JUROR NO. 5: Yes.

19 THE COURT: All right. Thank you for
20 letting us know. Mr. Brown works hard. He's around
21 a lot to it could possibly be true that it was Mr.
22 Brown. I don't know.

23 MR. BROWN: Can I ask a question, Judge?

24 THE COURT: Huh?

25 MR. BROWN: Would that affect his -- maybe

1 you said that already.

2 THE COURT: I asked if it would affect his
3 ability.

4 MR. BROWN: I just --

5 THE COURT: I'll ask again. If it's true
6 that Mr. Brown represented the defendant in the case
7 that you did before would that affect your ability
8 to be fair in this case?

9 PROSPECTIVE JUROR NO. 5: No.

10 THE COURT: All right.

11 PROSPECTIVE JUROR NO. 5: I just want
12 counsel to be aware that I may have.

13 THE COURT: Possibly okay. Challenges for
14 cause, if so, please approach?

15 MS. DILLON: No challenges by the People
16 for cause, Judge.

17 MR. BROWN: Pass for cause, Judge.

18 THE COURT: Peremptories to the defense.

19 MR. BROWN: One second. Thank you, Judge.
20 We'd ask the Court to excuse Mr. Miller in seat
21 number five.

22 THE COURT: Mr. Miller, you're excused.
23 Please go back downstairs to the first floor.
24 Anyone else, Mr. Brown?

25 MR. BROWN: No, ma'am, not at this time.

1 THE CLERK: Nicholas Salamose seat five.

2 THE COURT: Mr. Salamose, good afternoon,
3 sir.

4 PROSPECTIVE JUROR NO. 5: Good afternoon,
5 your Honor.

6 THE COURT: You're leaving when?

7 PROSPECTIVE JUROR NO. 5: Friday morning
8 or Friday at mid-day.

9 THE COURT: Go back downstairs to the
10 first floor please.

11 PROSPECTIVE JUROR NO. 5: Thank you.

12 THE CLERK: Cheryl Crawford seat five.

13 THE COURT: Just in case the jury is still
14 deliberating I don't want it to be a problem because
15 you won't be back until the 8th, right?

16 PROSPECTIVE JUROR NO. 5: Correct.

17 THE COURT: May 8th, okay.

18 PROSPECTIVE JUROR NO. 5: Correct. Thank
19 you.

20 THE COURT: What her -- Crawford, Dawn?

21 THE CLERK: Yes.

22 THE COURT: Good afternoon, Ms. Crawford.

23 PROSPECTIVE JUROR NO. 5: Good afternoon.

24 THE COURT: How are you?

25 PROSPECTIVE JUROR NO. 5: I'm fine.

1 THE COURT: Did you hear the issues that
2 we've talked about today?

3 PROSPECTIVE JUROR NO. 5: Yes, I did.

4 THE COURT: Do you see any reason why you
5 would be fair to both sides in this case?

6 PROSPECTIVE JUROR NO. 5: I as well was
7 sexual assaulted when I was 20.

8 THE COURT: All right. Would that affect
9 your ability to be fair?

10 PROSPECTIVE JUROR NO. 5: I really don't
11 know. I have no way of knowing. I have never been
12 put in this position before so it's really hard for
13 me to say, you know, I --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 5: I do think that
16 sexual assault is probably one of the most horrible
17 things that anybody can do but I think --

18 THE COURT: I think everybody would agree
19 with that. The question is have you made an
20 assumption that Mr. Taylor did something wrong
21 simply because he's been accused of this crime?

22 PROSPECTIVE JUROR NO. 5: No, I wouldn't
23 say that.

24 THE COURT: All right. Approach.

25 (At 12:07 p.m. sidebar discussion held off the record)

1 (At 12:08 p.m. sidebar discussion concluded)

2 THE COURT: Ms. Crawford, you should go
3 back downstairs to the first floor, ma'am. There
4 maybe a case less similar to what you went through
5 when you were 20 than what we have here today that
6 would be more appropriate for you.

7 THE CLERK: Linda Jackson seat five.

8 THE COURT: Good morning, good afternoon,
9 Ms. Jackson.

10 PROSPECTIVE JUROR NO. 5: Good afternoon.

11 THE COURT: How are you today?

12 PROSPECTIVE JUROR NO. 5: I'm just
13 marvelous. How about you?

14 THE COURT: I'm good. Thank you for
15 asking. Ms. Jackson, do you see any reason why you
16 would be unable to be fair to both sides in this
17 case?

18 PROSPECTIVE JUROR NO. 5: No, I don't.

19 THE COURT: Did you hear the lawyers when
20 they had their chance to ask questions this morning?

21 PROSPECTIVE JUROR NO. 5: Yes.

22 THE COURT: What community do you live in?

23 PROSPECTIVE JUROR NO. 5: Detroit.

24 THE COURT: And what do you do for a
25 living?

1 PROSPECTIVE JUROR NO. 5: Wife, mother and
2 child care provider.

3 THE COURT: That's a full-time job that
4 never ends and there's no paid vacation. All right.
5 Challenges for cause, if so, please approach?

6 MS. DILLON: None from the People, Judge.

7 MR. BROWN: Pass for cause, Yes, your
8 Honor.

9 THE COURT: Peremptories to the People.

10 MS. DILLON: Your Honor, we would pass at
11 this time.

12 THE COURT: Peremptories to the defense.
13 Can the attorneys approach?

14 (At 12:10 p.m. sidebar discussion held off the record)

15 (At 12:11 p.m. sidebar discussion concluded)

16 THE COURT: Ms. Jackson.

17 PROSPECTIVE JUROR NO. 5: Yes.

18 THE COURT: My understanding is that you
19 on the break you made an indication to one of my
20 deputies that you believed you recognized the
21 prosecutor from some matter that involved someone in
22 your family?

23 PROSPECTIVE JUROR NO. 5: Not a family
24 member but it's a close family friend.

25 THE COURT: How long ago?

1 PROSPECTIVE JUROR NO. 5: It's pending.

2 THE COURT: I can't hear you.

3 PROSPECTIVE JUROR NO. 5: It's a pending
4 case.

5 THE COURT: And you believe that this
6 prosecutor is involved in that same case?

7 PROSPECTIVE JUROR NO. 5: Yes.

8 THE COURT: What is the person accused of?

9 PROSPECTIVE JUROR NO. 5: The same exact
10 thing.

11 THE COURT: Would that affect your ability
12 to be fair to either side in this case?

13 PROSPECTIVE JUROR NO. 5: No.

14 THE COURT: You can set aside whatever is
15 going on with that family friend and make your
16 decision only on the evidence presented here?

17 PROSPECTIVE JUROR NO. 5: Absolutely.

18 THE COURT: All right. Mr. Brown?

19 MR. BROWN: Me for peremptories, right?

20 THE COURT: Well, yeah.

21 MR. BROWN: Is that right, Judge?

22 THE COURT: Yes, yes.

23 MR. BROWN: Okay. Thank you. I'm sorry.
24 Thank you, Judge. We'd pass.

25 THE COURT: All right. Approach.

1 (At 12:12 p.m. sidebar discussion held off the record)

2 (At 12:13 p.m. sidebar discussion concluded)

3 THE COURT: Ms. Dillon?

4 MS. DILLON: Yes, ma'am. Thank you. At
5 this time the People would like to thank and excuse
6 Ms. Jackson in seat number five.

7 THE COURT: Ms. Jackson, you're excused.
8 Please go back downstairs to the first floor. If we
9 could have someone else for seat number five please.

10 THE CLERK: Stephanie Raines seat five.

11 THE COURT: Good afternoon, Ms. Raines.

12 PROSPECTIVE JUROR NO. 5: Good afternoon.

13 THE COURT: How are you today?

14 PROSPECTIVE JUROR NO. 5: I'm doing fine.

15 Thank you.

16 THE COURT: What do you do for a living?

17 PROSPECTIVE JUROR NO. 5: I am, I guess
18 you could say I'm a mortgage underwriting training.

19 THE COURT: And what community do you live
20 in?

21 PROSPECTIVE JUROR NO. 5: I live in
22 Westland.

23 THE COURT: Do you see any reason why you
24 would be unable to serve as a fair and impartial
25 juror in this case?

1 PROSPECTIVE JUROR NO. 5: No.

2 THE COURT: Did you listen to the lawyers
3 when they had their remarks this morning?

4 PROSPECTIVE JUROR NO. 5: Yes, I did.

5 THE COURT: All right. Challenges for
6 cause, if so, please approach?

7 MS. DILLON: No challenges for cause.

8 MR. BROWN: Pass for cause, Judge.

9 THE COURT: Peremptories to the defense.
10 She went first last time.

11 MR. BROWN: Oh okay I understand.

12 THE COURT: Yeah.

13 MR. BROWN: But you understand why I might
14 make a --

15 THE COURT: I do, yes. I do totally.

16 MR. BROWN: It's not age.

17 THE COURT: It's, no. it's not maturity.

18 It's none of that. It could be that it's 12:20
19 though. That could be it. Hungry stomachs.

20 MR. BROWN: We'll pass, your Honor.

21 THE COURT: All right. Ms. Dillon,
22 peremptories to the People.

23 MS. DILLON: Your Honor, at this time the
24 People would pass.

25 THE COURT: All right. Those of you who

1 are seated in the audience your services will not be
2 needed. You can please return downstairs to the
3 first floor and wait for some further instructions.
4 Okay.

5 UNIDENTIFIED JUROR: Your Honor, nice to
6 meet you by the way.

7 THE COURT: Thank you. Have a good day.
8 Members of the jury, I'm going to give you an oath
9 and then I'm going to send you to lunch for an hour
10 okay.

11 Ladies and gentlemen of the jury, you have
12 been chosen to decide a criminal charge made by the
13 State of Michigan against one of your fellow
14 citizens. I will now ask you to stand and swear to
15 perform your duty to try the case justly and to
16 reach a true verdict. If your religious beliefs do
17 not permit you to take an oath you may instead
18 affirm to try the case justly and reach a true
19 verdict.

20 THE CLERK: Raise your right hand. Listen
21 to your verdict. I'm sorry.

22 THE COURT: No, no. Please stand. Here
23 is your oath: Each of you do -- that one.

24 THE CLERK: Do you solemnly swear or
25 affirm that in this action now before the Court you

1 will justly decide the questions submitted to you
2 that unless you are discharged by the Court from
3 further deliberations you will render a true verdict
4 and that you will render your verdict only on the
5 evidence and in accordance -- only on the evidence
6 introduced and in accordance with the instructions
7 of Court?

8 THE JURY: (Answers affirmatively).

9 (At 12:17 p.m. the jury is sworn)

10 THE COURT: All right. Okay, members of
11 the jury, so I'm going to give you your lunch break
12 now. I'll see you back at 1:30. It's about 12:20
13 now so I'll give you a little extra time. I think
14 it gets very hot in here so you're welcome to bring
15 back a beverage of your choosing to help you stay
16 hydrated as long as it's not alcohol because that
17 would be frowned upon and as long as it's not in
18 glass because I don't think they let you bring glass
19 back into the building. It's not allowed, I don't
20 think, but when you come back you'll see in the jury
21 room that there is a two rest -- there are two
22 restrooms. There's a refrigerator and a microwave
23 so if you happen to have some left over ice cream
24 from Cold Stone Creamery that you want to keep cold
25 until you go home, you'll be able to do that. I'll

1 see you all back in just a little over an hour.
2 Come backup to this floor here on the 5th floor and
3 the deputies will bring you in and I think they have
4 badges for you so you can take your stickers off and
5 throw them out and use your clip on badges and you
6 should wear those even if you go to lunch at Five
7 Guys Burgers and Fries or Wal Burgers or Basement
8 Burger Bar, I don't know, any of these places.
9 We've been overtaken by burger bars around here but
10 make sure you keep wearing your jury badge so nobody
11 sits next to you that doesn't realize you're a juror
12 and start talking about this case or another case
13 okay.

14 UNIDENTIFIED JUROR: Your Honor?

15 THE COURT: Yes, is there a question?

16 UNIDENTIFIED JUROR: Can I leave my stuff
17 here?

18 THE COURT: Yes, you can. You can leave
19 whatever you want.

20 (At 12:18 p.m. the jury exits the courtroom)

21 THE COURT: All right. Is there anything
22 for the record?

23 MR. BROWN: Yeah, I think there were a
24 couple things we needed to put on the record, Judge,
25 or no?

1 THE COURT: I know there were some
2 challenges for cause that I denied. There was a
3 Batson challenge that you made because Ms. Dillon
4 excused three African American jurors in a row. I
5 don't remember what else there might have been.

6 MR. BROWN: That's what it was.

7 THE COURT: All right. Is there anything
8 either of you would like to say?

9 MR. BROWN: No, I don't think so.

10 MS. DILLON: No, your Honor.

11 THE COURT: All right. I'll see you all
12 back at 1:30.

13 MR. BROWN: Thank you very much.

14 THE COURT: Mr. Taylor, please go with my
15 deputies, sir, okay. We'll be back to you in about
16 an hour.

17 DEFENDANT TAYLOR: Yes, ma'am.

18 (At 12:20 p.m. off the record)

19 (At 1:37 p.m. back on the record)

20 THE COURT: Is there anything for the
21 record before we bring out the jury?

22 MR. BROWN: I'm not aware of anything,
23 Judge.

24 MS. DILLON: Nothing from the People, your
25 Honor.

1 THE COURT: These are proposed final jury
2 instructions. Baker, go ahead and bring them out
3 because I still have to read them all these
4 instructions, the jury, and Gary can give them their
5 notebooks when they get out here. All rise for the
6 jury please.

7 (At 1:39 p.m. the jury enters the courtroom)

8 THE COURT: You maybe seated. Now I will
9 explain some of the legal principles you will need
10 to know and the procedure we will follow in this
11 trial. A trial follows this procedure: First, the
12 prosecutor makes an opening statement where she
13 gives her theories about the case. The defendant's
14 lawyer does not have to make an opening statement
15 but he may make an opening statement after the
16 prosecutor makes hers or he may wait until later.
17 These statements are not evidence. They are only
18 meant to help you understand how each side views the
19 case.

20 To prove this charges, the prosecutor must
21 prove the following elements beyond a reasonable
22 doubt: The defendant is charged with the crime of
23 first degree criminal sexual conduct. To prove this
24 charge, the prosecutor must prove each of the
25 following elements beyond a reasonable doubt:

1 First, that the defendant engaged in a sexual act
2 that involved entry into Rachael Davis' genital
3 opening by the defendant's penis. Any entry no
4 matter how slight is enough. It does not matter
5 whether the sexual act was completed or whether
6 semen was ejaculated.

7 Second, that the alleged sexual assault
8 occurred under the circumstances that also involved
9 felonious assault. To prove felonious assault the
10 prosecutor must prove each of the following elements
11 beyond a reasonable doubt: First, that the
12 defendant either attempted to commit a battery on
13 Rachael Davis or did an act that would cause a
14 reasonable person to fear or apprehend an immediate
15 battery. A battery is a forceful or violent
16 touching of the person or something closely
17 connected with the person.

18 Second, that the defendant intended either
19 to injure Rachael Davis or to make Rachael Davis
20 reasonably fear an immediate battery.

21 Third, that at the time the defendant had
22 the ability to commit a battery, appear to have the
23 ability or thought he had the ability.

24 Fourth, that the defendant committed the
25 assault with a baseball bat or that the defendant

1 was armed with a weapon, or with any object used or
2 fashioned in a manner to lead Rachael Davis to
3 reasonably believe that it was a weapon, or that the
4 defendant caused personal injury to Rachael Davis
5 and used force or coercion to commit the sexual act.

6 Personal injury means bodily injury,
7 disfigurement, chronic pain, pregnancy, disease,
8 loss or impairment of a sexual or reproductive organ
9 or mental anguish. Mental anguish means extreme
10 pain, extreme distress or extreme suffering either
11 at the time of the event or later as a result of it.
12 Force or coercion means that the defendant either
13 used physical force or did something to make Rachael
14 Davis reasonably afraid of present or future danger.

15 Next, the prosecutor presents her
16 evidence. The prosecutor may call witnesses to
17 testify and may show you exhibits like documents or
18 objects. The defendant's lawyer has the right to
19 cross-examine the prosecutor's witness. After the
20 prosecutor has presented all of her evidence the
21 defendant's attorney may also offer evidence but
22 does not have to. By law, the defendant does not
23 have to prove his innocence or produce any evidence.
24 If the defense does call any witnesses the
25 prosecutor has the right to cross-examine them. The

1 prosecutor may also call witnesses to contradict the
2 testimony of the defense witnesses.

3 After all the evidence has been presented,
4 the prosecutor and the defendant's lawyer will make
5 their closing arguments. Like the opening
6 statements, these are not evidence. They are only
7 meant to help you understand the evidence and the
8 way each side sees the case.

9 You must base your verdict only on the
10 evidence and you have a written copy of the
11 instructions that I have just read to you. They are
12 there available for you to look at if you need to
13 refer to them in that red binder that's right in
14 front of you.

15 My responsibilities as the Judge in this
16 trial are to make sure that the trial is run fairly
17 and efficiently, to make decisions about evidence
18 and to instruct you about the law that applies to
19 this case. You must take the law as I give it to
20 you. Nothing I say is meant to reflect my own
21 opinions about the facts of the case.

22 As jurors, you are the ones who will
23 decide this case. Your responsibility, as jurors,
24 is to decide what the facts of the case are. This
25 is your job and no one else's. You must think about

1 all the evidence and all the testimony and then
2 decide what each piece of evidence means and how
3 important you think it is. This includes how much
4 you believe what each of the witnesses said. What
5 you decide about any fact in this case is final.

6 When it is time for you to decide the case
7 you are only allowed to consider the evidence that
8 was admitted in the case. Evidence includes only
9 the sworn testimony of witnesses, the exhibits
10 admitted into evidence and anything else I tell you
11 to consider as evidence. It is your job to decide
12 what the facts of this case are. You must decide
13 which witnesses you believe and how important you
14 think their testimony is. You do not have to accept
15 or reject everything a witness says. You are free
16 to believe all, none or part of any person's
17 testimony.

18 In deciding which testimony you believe,
19 you should rely on your own common sense and
20 everyday experience, however, in deciding whether
21 you believe a witness' testimony you must set aside
22 any bias or prejudice you have based on the race,
23 gender or national origin of the witness.

24 There is no fixed set of rules for judging
25 whether you believe a witness but it may help you to

1 think about these questions: Was the witness able
2 to see or -- do you need a cough drop or some water?

3 MS. DILLON: No, your Honor. I actually
4 have some. Thank you.

5 THE COURT: Was the witness able to see or
6 hear clearly? How long was the witness watching or
7 listening? Was anything else going on that might
8 have distracted the witness? Does the witness seem
9 to have a good memory? How does the witness look
10 and act while testifying? Does the witness seem to
11 be making an honest effort to tell the truth or does
12 the witness seem to evade the questions or argue
13 with the lawyers? Does the witness' age or maturity
14 affect how you judge his or her testimony? Does the
15 witness have any bias or prejudice or any personal
16 interest in how this case is decided? Have there
17 been any promises, threats, suggestions or other
18 influences that affect how the witness testified?
19 In general, does the witness have any special reason
20 to tell the truth or any special reason to lie? All
21 and all, how reasonable does the witness' testimony
22 seem when you think about all the other evidence in
23 the case?

24 The questions the lawyers ask the
25 witnesses are not evidence. Only the answers are

1 evidence. You should not think that something is
2 true just because one of the lawyers asks questions
3 that assume or suggest that it is. I may ask some
4 of the witnesses questions myself. These questions
5 are not meant to reflect my opinion about the
6 evidence. If I ask questions, my only reason would
7 be to ask about things that may not have been fully
8 explored.

9 During the trial you may think of an
10 important question that would help you understand
11 the facts in this case. You are allowed to ask such
12 questions. You should wait to ask questions until
13 after a witness has finished testifying and both
14 sides have finished their questioning. If you still
15 have an important question after this, do not ask it
16 yourself. Raise your hand, write the question down
17 and pass it to the deputies who will give it to me.
18 Do not show your questions to other jurors. If your
19 question is not asked, it is because I have
20 determined, under the law, that the question should
21 not be asked. Do not speculate about why the
22 question was not asked. In other words, you should
23 draw no conclusions or inferences about the facts of
24 the case nor should you speculate about what the
25 answer might have been. Also in considering the

1 evidence you should not give greater weight to
2 testimony simply because it comes in response to a
3 question submitted by a member of the jury. On the
4 other hand, if you cannot hear what a witness or
5 lawyer says please raise your hand immediately and
6 ask to have the answer or question repeated -- the
7 question or answer repeated.

8 During the trial, the lawyers may object
9 to certain questions or statements made by the other
10 lawyers or witnesses. I will rule on these
11 objections according to the law. My rulings for or
12 against one side or the other are not meant to
13 reflect my opinions about the facts of the case.

14 Sometimes the lawyers and I will have
15 discussions out of your hearing. Also while you're
16 in the jury room I may have to take care of other
17 matters that have nothing to do with this case.
18 Please pay no attention to those interruptions.

19 You must not discuss this case with anyone
20 including your family or friends. You must not even
21 discuss it with the other jurors until the time
22 comes for you to decide the case. When is time for
23 you to decide the case I will send you to the jury
24 room for that purpose and then you should discuss
25 the case among yourselves but only in the jury room

1 and only when all of the jurors are there. When the
2 trial is over you may, if you wish, discuss the case
3 with anyone.

4 If I call for a recess during the trial I
5 will either send you back to the jury room or allow
6 you to leave the courtroom on your own and go about
7 your business but you must not discuss the case with
8 anyone or let anyone discuss it with you or in your
9 presence. If someone tries to do that, leave and
10 report it to the first deputy that you see.

11 You must not talk to the defendant, the
12 lawyers or the witnesses about anything at all even
13 if it had nothing to do with the case. It is very
14 important that you only get information about this
15 case in court when you're acting as the jury and
16 when the defendant, the lawyer and I are all here.
17 If you happen to see the people involved in this
18 case as you go about your business in the courthouse
19 and they don't even look at you they're not trying
20 to be rude. They're just trying not to get in
21 trouble. They can't even say what a nice day it is,
22 I mean, because it would just have what's called to
23 appearance of impropriety because people would see
24 you talking and they would have no way to know that
25 you were talking about something benign so if they

1 see you and they totally ignore you they're just
2 trying not to get in trouble with me or cause a
3 problem for the case.

4 The restrictions I'm about to describe are
5 meant to ensure that the parties get a fair trial.

6 In our judicial system it is crucial that jurors are
7 not influenced by anything or anyone outside the

8 courtroom. Now that many jurors have easy access to
9 information through handheld devices and other

10 technology jurors may be tempted to use these

11 devices to learn more about some aspect of this case

12 but if a juror were to do this it would harm the

13 parties. The party's attorneys would have no way of

14 knowing that a juror has gotten outside information,

15 would have no chance to object if that information

16 was false, untrustworthy or irrelevant. Remember no

17 matter how careful and conscientious news reporters,

18 family members, friends and other people outside the

19 courtroom may be, information about the case from

20 television, radio, the internet and social media

21 will inevitably be incomplete and could be

22 incorrect. Please bear these things in mind as I

23 read the following instructions. The

24 restrictions -- these restrictions apply from this

25 moment until I discharge you from jury service: You

1 must decide this case based solely on the evidence
2 you see and hear in this courtroom as I have already
3 explained. This means that during the trial you
4 must not read, watch or listen to news reports about
5 the case whether in the newspapers, on television,
6 on the radio or on the internet.

7 You also must not research any aspect of
8 the case during the trial. This means research
9 using a cell phone, computer or other electronic
10 device to search the internet as well as research
11 with traditional sources like dictionaries,
12 references manuals, newspapers or magazines. You
13 must not investigate the case on your own or conduct
14 any experiments concerning the case including
15 experiments using the internet, computers, cell
16 phones or other electronic devices.

17 You must not visit the scene of any event
18 at issue in this case. If it is necessary we'll go
19 together as a group under Court supervision.

20 Before your deliberations, you must not
21 discuss this case with anyone as I've already
22 explained to you. Until I have discharged you from
23 jury service you must not share any information
24 about the case by any means including cellular
25 phones or social media. So no going home tonight

1 and getting on Facebook. No going home tonight and
2 getting on Facebook and posting hashtag Courtroom
3 502 jury duty, okay. You can't do that okay. I
4 know that none of you would ever do that but there
5 are some people that just have a tendency to
6 everything they do they live out loud. They put it
7 on Instagram, Snapchat, Facebook. They put
8 everything that goes on in their life on social
9 media. Once a juror who was in front of Judge
10 Richard Skutt who was going home every night
11 discussing the trial that he was sitting on
12 including the verdict that he was prepared to reach
13 and the trial wasn't even over yet. The Court found
14 out because one of his Facebook friends called and
15 snitched on him and it caused a big problem. It
16 caused a mistrial and I believe the juror may have
17 even been held in contempt of court so please do not
18 do it and if you find out that one of your fellow
19 jurors is violating any of my rules you can let the
20 deputies know and we will handle it with that
21 respective juror without -- anonymously without
22 letting them know that you told.

23 You can take notes. You have a notebook
24 for that purpose. Make sure your notes do not
25 distract you from paying attention from what's going

1 on in court. Your notes may help you to remember
2 what happened during your deliberations but please
3 do not let anyone, except the other jurors, see your
4 notes during deliberations and at night they will be
5 locked in my chamber and no one else will be reading
6 them or have access to them and after the trial is
7 over your notes will be collected and destroyed.

8 You can see -- this case has been tried
9 before and during this trial you may hear some
10 references to the first trial. Sometimes a case
11 must be re-tried before a new jury and you should
12 not pay attention to the fact that this is the
13 second trial. Your verdict must be based only on
14 the evidence in this trial. You must decide the
15 facts only from what you, yourself, hear and see.

16 You can see that we have chosen a jury of
17 14. After you have heard all the evidence and my
18 instructions, we will draw lots to see which two of
19 you will be dismissed in order to form a jury of 12.

20 Possible penalty should not influence your
21 decision in any way. It is the duty of the Judge to
22 fix the penalty within the limits provided by law.
23 I may give you more instructions during the trial
24 and, at the end of the trial, I will give you
25 detailed instructions about the law in this case.

1 You should consider all of my instructions -- I'm
2 sorry. You should consider all of my instructions
3 as a connected series, taken altogether, they are
4 the law you must follow. After all the evidence has
5 been presented and the lawyers have given their
6 arguments, I will give you detailed instructions
7 about the rules of law that apply to this case, then
8 you will go to your jury room to decide on your
9 verdict.

10 A verdict must be unanimous, that means
11 that every juror must agree on it and it must
12 reflect the individual decision of each juror. It
13 is important for you to keep an open mind and not
14 make a decision about anything at all until you go
15 to the jury room to decide the case.

16 All right. At this time the lawyers are
17 going to each have 30 minutes to address you.
18 Whenever you're ready, you may began.

19 MS. DILLON: Thank you, your Honor.

20 THE COURT: You're welcome.

21 MS. DILLON: Good afternoon, everyone.

22 THE JURY: Good afternoon.

23 MS. DILLON: The events in this case
24 happened in 1996 and I know we talked earlier ago
25 about that was a long time ago and Rachael Davis is

1 the complainant in this case. You're going to hear
2 from her and she's going to tell you what happened
3 to her in 1996 and she's been waiting a long time
4 for this opportunity so I hope that as we go through
5 the trial and there's a number of witnesses that
6 you'll all pay attention and push through and listen
7 to every single witness that they have in this case.
8 We are going to start with Ms. Davis. She is going
9 to tell you that in July of 1996 she smoked crack
10 and she went to an area where she knew people smoked
11 crack and she went there for that purpose that's why
12 I asked earlier if anybody would have an issue with
13 that as far as with someone going to do something
14 illegal because I think we all know that that's
15 illegal. And she went there for that purpose and in
16 doing so she encountered the defendant, Mr. Taylor.

17 And she's going to tell you that she got
18 into his car and they were going to go smoke crack
19 together. They ended up behind what everyone calls
20 the abandoned K-Mart on Outer Drive in Melvindale
21 and back there she's going to tell you about what
22 happened at that point. How she was ordered out of
23 the vehicle and pushed onto the ground and sexually
24 assaulted by the defendant, and she's also going to
25 tell you that the defendant had a baseball bat and

1 that she was threatened and hit with the baseball
2 bat, and then basically this occurred in the loading
3 dock area behind the abandoned K-Mart. There wasn't
4 anybody else back there and she's going to let you
5 know that after that, the assault happened, that the
6 defendant left and she was basically left there
7 beaten and she made her way out to the front parking
8 lot near Outer Drive and it just so happen that when
9 she was there screaming for help that John Diffatta,
10 who you'll hear from, happened to be driving by and
11 heard a woman screaming.

12 Now John Diffatta also happened to be at
13 the time the inspector to the Melvindale Police
14 Department but she was off-duty. He was out and
15 about and just happened to be driving by and he'll
16 tell you about his call into the Melvindale Police
17 Department and then you will hear from the officers
18 that were on duty and responded at the time and
19 they'll tell you what they saw at the scene, how
20 they processed the scene, the condition of the
21 Rachael Davis when they met with her, how she was.
22 She was hysterical. They couldn't get her name out
23 of her. One of the officers actually had to go
24 through her purse to find out her name because she
25 was screaming and was to hysterical, and she was

1 taken to the hospital.

2 And at the hospital she went through
3 what's called a sexual assault forensic exam and
4 you'll hear from the nurse, her name is Valerie
5 Taylor. Back in 1996 she performed this exam on Ms.
6 Davis, and both Ms. Davis and Ms. Taylor will tell
7 you about the exam and how she was stripped of her
8 clothing, how they actually pulled hair from her
9 head, combed hair, pulled pubic hair and then she
10 endured vaginal exam and the swabs and all of that
11 was put into a sexual assault kit. That kit
12 eventually made its way for DNA analysis, and I say
13 eventually because that didn't happen until later
14 till we're into the 2000s now so it went from 1996
15 into the 2000s, and that kit went through processing
16 and there was a DNA analysis done and an extraction
17 and they found female DNA and I found male DNA
18 during this process. The female DNA is Ms. Davis'
19 and then the male DNA they didn't quite know whose
20 it was at that time. And then that profile you'll
21 hear from the DNA analyst that do this work, they
22 put it into a database and the database searches to
23 see whether or not there's any match, and there was
24 notification that there was a match and the match on
25 that DNA came back to Mr. Taylor.

1 There was some talk during the voir dire
2 about other acts evidence. I anticipate you're also
3 going to hear from another person, her name is Erica
4 Doak okay. And Erica Doak is going to tell you
5 about the time in 1994 that she took a bus and
6 essentially got out of the wrong stop. She wanted
7 to get out of Outer Drive and Schafer but she ended
8 up getting out at Outer Drive and Fort Street and
9 started to walk down Fort Street to get to Schafer
10 or she wanted to get to Fort and Schafer, I'm sorry.
11 And as she was walking down Fort Street she was
12 approached by a man who was wielding a knife, who
13 initially robbed her and then took her into an
14 abandoned house and sexually assaulted her. Erica
15 Doak obviously reported that to the police. She too
16 went to the hospital and you have the same type of
17 forensic exam done. Again, there was a kit and that
18 kit eventually went for testing and the same sort of
19 DNA extraction and DNA analysis came back and that
20 DNA as well in this database hit on the defendant,
21 Mr. Taylor.

22 The reason why Ms. Doak is coming in is to
23 show a common scheme, a common plan. You've got two
24 women. They don't know each other. They're all
25 kind of in that area. One encounter involved the

1 baseball bat, the other encounter involved a knife.
2 You've got a similar style of sexual assault,
3 abandoned properties. You've got penis to vagina
4 sexual assault and in both cases the defendant
5 leaves the individuals at those areas and then they
6 eventually make their way to help.

7 I kind of went through everything
8 chronologically and hopefully we'll be able to
9 present chronologically to you however sometimes
10 with witnesses schedules and in the end we may have
11 to take a witness or two out of order, so I will ask
12 that you pay great attention to the witnesses that
13 testimony even if it seems like oh this guy did work
14 later, why is she calling him before the next person
15 that I would expect to hear from? And that's
16 because I may have to take some witnesses out of
17 order so I just ask that in the end that you
18 consider all of the evidence that you hear and be
19 fair and impartial to the victims in this case and
20 also to the defendant but listen and after all the
21 evidence is presented we'll go through more
22 instruction and that will include the elements and I
23 know you've already become familiar with some of the
24 elements and I'll get an opportunity to speak to you
25 again about the elements and the evidence that was

1 presented and how I believe we will prove all the
2 elements in the case and so, at that time, I will
3 ask you to find the defendant guilty but at this
4 point I'm asking you to continue to be patient. I
5 know we've had a long day so far and just please
6 listen to every witness that comes in front of you
7 and use your reason and I guess I can't really ask
8 for any more than that so thank you very much for
9 your time.

10 THE COURT: All right. Mr. Brown,
11 whenever you're ready.

12 MR. BROWN: Thank you, your Honor. Good
13 afternoon, Ladies and gentlemen.

14 THE JURY: Good afternoon.

15 MR. BROWN: Usually the defense has no
16 obligation to prove anything and I've been
17 practicing, this is not anything, I've been
18 practicing for a while and I usually stand up in a
19 criminal case and say I don't have a burden of
20 proof. I don't have to tell you anything. The
21 prosecutor has to prove and I kind of short and
22 sweet and sit down but that's not the same situation
23 in this case because I have some idea about, some
24 very good ideas about where the Prosecution is going
25 in this case and I have some very good idea about

1 what the complaining witness is going to say and I
2 don't want to go on and on, and on.

3 The prosecutor has laid out her case.
4 She's told you what she's going to prove. I don't
5 think she's going to prove that but I want to
6 explain a couple things. That is, that I always
7 talk about the burden of proof being on the
8 prosecutor. The standard of proof being proof
9 beyond a reasonable doubt and that the judge gives
10 the law, not the prosecutor, and that you've got to
11 use -- it's interesting I think at the end Ms.
12 Dillon said something about I don't think she said
13 use your common sense but whatever the phrase that
14 she used she didn't put that part in it, which I
15 think you hear with your instructions. You got to
16 use your common sense.

17 In this case, this is a case after 20
18 years ago, almost 21 years ago and Ms. Dillon
19 started out in the lead with a weak thing saying
20 that Ms. Rachael Davis smoked crack. I think that's
21 very significant and I'm not here to argue but to
22 tell you that I want you to pay attention because I
23 can't -- my short term memory is not that good, so I
24 don't know that she said she was forced into the car
25 to go smoke crack or she got into the car willingly,

1 and the reason I say that is because we don't know
2 and I don't think that the prosecutor will ever, not
3 the prosecutor, the evidence will ever let you know
4 because the evidence will show you that she said a
5 number of different things and so when people say a
6 number of different things you really have choices:
7 Did you get forced in the car because somebody, you
8 know, pulled, dragged you off the street and took
9 you some where, or -- wait a minute. I'm sorry.
10 Wait a minute. I'm not saying it's like argument.
11 This is what Ms. Davis said. She said on one hand
12 that someone forced -- forced her off the street,
13 pulled her off, you know, like an abduction and then
14 the next thing you find out it's like oh no.
15 somebody had some crack and I thought I'd go smoke
16 crack with them.

17 Now there's also -- so that, that those
18 kinds of things I want you to pay attention to. I
19 always say I want you to listen very carefully and
20 scrutinize the testimony because anybody can say
21 anything, the ceiling is blue; that doesn't make it
22 so. That means that you have to use your common
23 sense and reason and weigh out what they said and
24 how they said it because that's significant in
25 determining or ascertaining whether or not somebody

1 is telling you the truth.

2 Now I want you also to understand that
3 during the course of this trial you're going to hear
4 testimony from Ms. Davis about what she alleges
5 happened at the K-Mart and the K-Mart, I think
6 you're going to hear that the K-Mart is a closed
7 store. It no longer is in operation. It wasn't in
8 operation then and there is, I can't remember which
9 police officer, but one of them talked about the
10 distance from the area behind the K-Mart where she
11 said she was to the to Outer Drive, and you're going
12 to hear that Ms. Davis is going to tell you that she
13 crawled on her hands and knees. I said, "did you
14 limp? Did you limp", you know, I asked questions.
15 She crawled on her hands and knees for that entire,
16 and I think the detective says like 300 feet like a
17 hundred yards like a football field she crawled on
18 the pavement that entire distance is what she said
19 and that she defalcated on herself, and you'd say oh
20 why would you say that? I just want you to pay
21 attention. She said that. She defalcated on
22 herself and she was struck with a baseball bat which
23 the police don't have the baseball bat any more or I
24 don't know what happened to it.

25 But I say these things you'd say what kind

1 of lawyer is this? This is the defense, the
2 defendant's lawyer that's saying this. I'm saying
3 it because I want you to pay attention. I want you
4 really to pay attention to what Ms. Davis is saying
5 and I say that in the context of course now we're
6 here to determine whether or not what the prosecutor
7 can prove rises to proof beyond a reasonable doubt
8 because as Ms. Dillon said, they're going to bring
9 in another witness to say, oh, we have another
10 situation where Mr. Taylor is accused of wrong doing
11 involving a sexual assault. This is, I'm going to
12 sit down because I'm going to say what you should do
13 in these situations is you should follow the
14 instructions given to you by the Court. You should
15 listen very, very carefully to what people say and
16 how they say it because there was a guy -- but I
17 don't want to say that. There's something that
18 people say, keep your on the ball. You know people
19 do this thing like that? Keep your eye on the ball
20 because sometimes you'll get distracted and say,
21 well, if there's some suspicion that there's no case
22 about the other woman, Ms. Doak, but there's
23 suspicion that maybe if this happened then that
24 happened; that's not what we're here for. Don't get
25 fooled. Do not get fooled in doing your job as

1 jurors that you have raised your hand and sworn or
2 affirmed that you would do as jurors. Everybody
3 here said that they would do it. Nobody said I --
4 walked out and said I'm not going to do. I refuse.
5 Everybody said they're going to do it, so I ask you
6 just to follow the law. Listen very, very
7 carefully. Listen carefully because credibility is
8 the primary thing I think in this case in terms of
9 Ms. Davis' testimony, what she says and what --
10 between what she says and what actually happened.
11 And with that I'd ask you to come to the appropriate
12 verdict, which I think that you will do. Thank you
13 very much.

14 THE COURT: All right. Thank you, Mr.
15 Brown. Whenever -- Ms. Dillon, please call your
16 first witness.

17 MS. DILLON: Thank you, your Honor. The
18 People would call Ms. Rachael Davis.

19 THE COURT: All right.

20 MR. BROWN: Judge, Ms. Cadoret is going to
21 assist me.

22 THE COURT: That's fine.

23 MR. BROWN: Just should I let the jury
24 know?

25 THE COURT: Sure.

1 MR. BROWN: Ladies and gentlemen of the
2 jury, this is Ms. Danielle Cadoret, who is an
3 attorney. She's going to be sitting second chair in
4 this case assisting me. No one knows her, right?
5 Okay.

6 THE COURT: Good afternoon, ma'am. Can
7 you please spell your first and last name for me?

8 MS. DAVIS: R-A-C-H-E-L-L, D-A-V-I-S.

9 THE CLERK: Raise your right hand. Do you
10 solemnly swear or affirm to tell the truth?

11 MS. DAVIS: Yes.

12 RACHELL DAVIS

13 (At 2:10 p.m., sworn as a witness, testified as follows)

14 THE CLERK: You maybe seated.

15 MS. DILLON: Thank you, your Honor.

16 D I R E C T E X A M I N A T I O N

17 BY MS. DILLON:

18 Q Good afternoon.

19 A Good afternoon.

20 Q And would you please state your full name for the
21 record?

22 A Rachell Davis.

23 Q And, Ms. Davis, I see you leaning over towards the
24 little microphone there. I don't think you actually
25 need to lean over when you answer. I think it will

1 pick it up and the judge will let us know if that's
2 not the case. But when I ask you questions if you
3 can just please make sure to answer out loud. No
4 shaking the head yes or no and make sure that, if
5 it's a yes or no, that you use yes or no and not
6 Uh-huhs or uh-uhs or yeahs and naws okay?

7 A Yes.

8 Q All right. Ms. Davis, how old are you?

9 A Forty-six.

10 Q And I want to ask you some questions in regards to
11 July of 1996. Where were you living at that time?

12 A 9243 Braile in Detroit.

13 Q Okay. And were you working at that time?

14 A I was staying with my aunt helping her out.

15 Q All right. And where -- so your aunt lived there in
16 Detroit?

17 A Yes.

18 Q Specifically I want to talk to you about July 25,
19 1996. What were you doing that day?

20 A Well we came from Detroit out to Ecorse when my
21 grandmother, and I got family members that live out
22 in Ecorse so I left, leaving the house in Ecorse
23 coming out to see, you know, who was out and what
24 not and I saw Mr. Dexter there.

25 Q Okay.

1 A And he asked me he said, you want to get a buzz,
2 catch a buzz, and I said, yes.

3 Q All right. I want to ask you, you said, "we went
4 out to Ecorse", did you have someone with you that
5 day?

6 A Well my aunt. My aunt brought us out to Ecorse.
7 That's what I meant by we.

8 Q Okay. And when you went out to Ecorse where did you
9 first go when you got to Ecorse?

10 A I stopped by my grandmother house for a minute and
11 then I left there coming down 12th Street to
12 Salliotte and I got to Salliotte.

13 Q Okay. Now when you you said you left there, so you
14 left your grandmother's house?

15 A Yes.

16 Q And were you with someone or were you by yourself?

17 A I was by myself.

18 Q All right. And what was your reason for leaving
19 your grandmother's house?

20 A Because I wanted to get out for a little while and
21 get some air.

22 Q Okay. And where were you heading?

23 A Up to Salliotte way up on Salliotte and 15th Street.

24 THE COURT: I'm sorry. I hate to
25 interrupt but I need you to step into the witness

1 room please, Ms. Davis, and I need every one except
2 for juror number 14 to step into the jury room. I
3 need attorneys approach.

4 COURT OFFICER: All rise for the jury.
5 Leave your note pads in your chairs.

6 THE COURT: Approach.

7 (At 2:14 p.m. sidebar discussion held off the record)

8 (At 2:14 p.m. sidebar discussion concluded)

9 THE COURT: Juror number 14, I need you to
10 slide over to that microphone that's the -- any of
11 the red microphones. Ma'am, I'll remind you you are
12 still under oath okay.

13 JUROR NO. 14: I understand.

14 THE COURT: Now you just had a
15 conversation with one of my deputies, is that true?

16 JUROR NO. 14: Yes.

17 THE COURT: What did you indicate to the
18 deputy?

19 JUROR NO. 14: As I've been sitting here
20 all day and I'm staring at Mr. Taylor and the guy
21 sitting over there. You know I'm older. I'm 60
22 years old I'm like, I know them, because I'm from
23 Ecorse.

24 THE COURT: Well those two people don't
25 know each other. That person in the audience does

1 not know Mr. Taylor.

2 JUROR NO. 14: Okay. He probably don't
3 know him but I've seen him before too. I've seen
4 him and I've been in Ecorse for over 44 years.

5 THE COURT: All right. Well the person in
6 the audience is not affiliated for the defendant or
7 this case at all.

8 JUROR NO. 14: Okay.

9 THE COURT: So you said that you're from
10 Ecorse and you lived in Ecorse?

11 JUROR NO. 14: For 44 years. I still live
12 there.

13 THE COURT: Okay. And you believe that
14 you know the defendant?

15 JUROR NO. 14: Yeah, it seem like I seen
16 him before.

17 THE COURT: You feel like you've seen him
18 before or you know him?

19 JUROR NO. 14: I don't know him but I've
20 seen him before. I don't know him personally, you
21 know, it's just like everybody in Ecorse, southwest
22 Detroit, River Rouge know each other. Just like
23 you're speaking about K-Mart, it's now a faith
24 church now so I just, you know, I've been out there
25 all my life and I'm just like seem like I know him.

1 THE COURT: Well I thought you told my
2 deputy that you knew the defendant and his whole
3 family?

4 JUROR NO. 14: No, I said it seem like I
5 know his family, the Taylor family.

6 THE COURT: Well Taylor is a very common
7 name, ma'am.

8 JUROR NO. 14: Right.

9 THE COURT: So do you know the defendant
10 or not?

11 JUROR NO. 14: No, I don't know him. I
12 said seem like I've seen him before, the Taylor
13 family. I was just wondering is he related to the
14 Taylor family right there in Ecorse on 18th Street.
15 There's a Taylor family and his face looked so
16 familiar to me.

17 THE COURT: Okay. Hold on one moment.
18 Can the attorneys approach please? Mr. Brown. Mr.
19 Brown.

20 (At 2:16 p.m. sidebar discussion held off the record)

21 (At 2:16 p.m. sidebar discussion concluded)

22 THE COURT: All right. Juror number 14,
23 step into the jury room with the rest of the jurors.
24 All right. So here's the situation: She told my
25 deputy that she knows the defendant and she knows

1 his whole family. Now, Mr. Brown, my understanding
2 is you've spoken to your client and your client has
3 indicated that he's not from Ecorse. He doesn't
4 have any family that lives on 18th Street.

5 MR. BROWN: That's right. Is that right?

6 DEFENDANT TAYLOR: Yes.

7 THE COURT: So now although she told her
8 deputy she knows the defendant and she knows his
9 whole family when I asked her under oath she
10 indicated that she thought she knew him, and I
11 should also indicate that I think that, you know, I
12 don't know what's going on. I don't know what to
13 tell you. I can tell you that she said she thought
14 she knew my uncle that's sitting in the audience and
15 she was linking my uncle to who she believed to be
16 the defendant. She was saying, I recognize both of
17 them. I know their family but she's clearly wrong
18 about that because that's my uncle sitting in the
19 audience. He's not related to the defendant and
20 he's not from Ecorse, so I don't know what's going
21 on with this juror. I don't know what to tell you
22 but it is what it is. Is there anything you'd like
23 to say on behalf of the People, Ms. Dillon?

24 MS. DILLON: Your Honor, my only concern
25 is is I don't know. She seems like he wants to

1 believe that she knows the defendant for some reason
2 and I'm concerned whether or not she can be unbiased
3 and actually fairly --

4 THE COURT: Well what's her bias? Because
5 he looks familiar and she thinks she knows somebody
6 from --

7 MS. DILLON: Well I don't know because she
8 wasn't, I mean, prior to this we didn't know that
9 she felt like she knew the defendant. Now we know
10 and I guess she wasn't asked whether or not it had
11 any affect on her ability to remain fair and
12 impartial.

13 THE COURT: But, but she doesn't know him
14 though so how can her not knowing somebody or
15 thinking she knows some Taylor -- I guess the
16 problem was I didn't tell her that the defendant's
17 family is not from 18th Street and they don't -- so
18 it's not the same people. Yes, Mr. Brown, what do
19 you want to say?

20 MR. BROWN: Oh I don't have anything to
21 say. Anything to add I don't believe except she's
22 only 60 years old. She shouldn't be --

23 THE COURT: Well what did the officer --
24 what did the officer just say?

25 MS. DILLON: He just said that I guess

1 with some research that he did that Mr. Taylor has
2 an association with a residence on Fort Street on
3 14th Street in Ecorse.

4 THE COURT: Did she say 14th Street?

5 MR. BROWN: She said 18th.

6 MS. DILLON: 18th Street.

7 MR. BROWN: She said 18th.

8 THE COURT: Listen, I don't know anything
9 about Ecorse. I don't know how close 14th is to
10 18th. I don't know.

11 MS. DILLON: I think they're blocks.

12 MR. BROWN: Four streets over.

13 MS. DILLON: Yeah, they're like four
14 streets over.

15 THE COURT: I mean but to say she knows
16 the Taylor family, I know several Taylor families.

17 MR. BROWN: Right.

18 THE COURT: I think she's just doing her
19 best to be honest and forthcoming and bringing us,
20 making us aware of an issue so that it's not one but
21 I think she's mistaken so if you could bring back
22 out juror number 14.

23 (Where upon the juror enters the courtroom)

24 COURT OFFICER: Have a seat in the chair
25 please.

1 THE COURT: She doesn't even have to. She
2 can just stay right there.

3 COURT OFFICER: You can stand right here.

4 THE COURT: Ma'am, I want you to know that
5 I've had some conversations with every one involved
6 in this case and I think we've reached a conclusion
7 that you're mistaken. The defendant is not
8 affiliated. He's not from Ecorse.

9 JUROR NO. 14: Okay.

10 THE COURT: And he doesn't have any
11 relatives that live on did you say 18th Street.

12 JUROR NO. 14: 18th Street in Ecorse.

13 THE COURT: He doesn't have any relatives
14 that live on 18th Street in Ecorse.

15 JUROR NO. 14: Very good. Okay.

16 THE COURT: So sometimes people have faces
17 that look familiar.

18 JUROR NO. 14: Exactly.

19 THE COURT: You know but Thank you for
20 alerting us to it. It was the right thing to do. I
21 don't want you to think that you did anything wrong.

22 JUROR NO. 14: Okay.

23 THE COURT: But because of the nature of
24 what you brought up we had to make sure and flush it
25 all out okay.

1 JUROR NO. 14: Exactly, yeah.

2 THE COURT: Does any of this affect your
3 ability to be fair?

4 JUROR NO. 14: No.

5 THE COURT: All right. Well Thank you for
6 letting us know okay. All right. You can go to
7 your seat actually. All rise for the jury.

8 COURT OFFICER: All rise for the jury.

9 THE COURT: If you could get your witness
10 please.

11 (At 2:22 p.m. jury enters the courtroom)

12 THE COURT: Okay. So normally I think
13 sometimes people have difficulty staying alert in
14 the afternoon especially have a nice burger and I
15 give you candy to help you with a little sugar jolt
16 to keep your energy up but I think someone has been
17 eating the candy because it's slim pickens back
18 there so I'm going to have to get to the store to
19 get you some more but he's going to look and see
20 what we have. I apologize for the interruption.
21 You may continue, Ms. Dillon.

22 MS. DILLON: Thank you, your Honor.

23 BY MS. DILLON, continuing:

24 Q Okay. Ms. Davis, we were talking about you had left
25 your grandmother's house?

1 A Yes.

2 Q Okay. Do you recall about what time day this was?

3 A I'm not really sure. I know it was day light. It
4 was really day light. It was sunny outside. It was
5 day light.

6 Q Do you think it was in the morning or in the
7 afternoon?

8 A Like in the afternoon.

9 Q All right. So you left your grandmother's house and
10 where were you headed?

11 A Down on Salliotte. Salliotte and 15th Street.

12 Q And what was in that area?

13 A Well in that area a lot of people go in that area to
14 get high and hangout.

15 Q Okay. And is that why you went there?

16 A Yes.

17 Q All right. And when you talk about getting high and
18 hanging out what in 1996 would you use to get high?

19 A I was using crack.

20 Q All right. How often?

21 A Like on the weekend, every blue moon.

22 Q Okay. And so were you walking?

23 A Yes.

24 Q All right. And where did you walk to?

25 A I walked to 15th and Salliotte. It's a building

1 they used to call Better World.

2 Q All right. And what is Better World?

3 A It's like a hotel where people live at though. They
4 live -- they used to live inside, inside the
5 building.

6 Q Okay. So in 1996 was it a place where people lived?
7 It was not an abandoned hotel?

8 A No.

9 Q It was an actual residence?

10 A Yes.

11 Q Okay. So you were headed to this place called the
12 Better World?

13 A Yes.

14 Q All right. And did you get there?

15 A Yes.

16 Q What happened when you got there?

17 A When I got there I happened to see a guy in a
18 burgundy car and he was like, "what's going on? You
19 want to get a buzz", and I said, "yeah", so I got in
20 the car, but I had seen him previous at previous
21 places hanging out getting high.

22 Q Okay. So when you said that she was in a car, so
23 did the person drive up to you in the vehicle?

24 A He pulled over.

25 Q Okay. And did you wave him over?

1 A No, he pulled over. I saw him.

2 Q Did the person get out of the vehicle?

3 A No.

4 Q And so you said he asked you if you wanted to get a
5 buzz?

6 A Yes.

7 Q What did they mean to you?

8 A Like do you want to get high.

9 Q And you knew this person or you didn't know this
10 person?

11 A I didn't really know him like that. I would see him
12 different places up on Salliotte, on 14th Street and
13 Visger where people would go where if you're not at
14 home you could go some where were people get high
15 at. When you couldn't go home you could go to other
16 people where they get high and hangout and get high.
17 They would let you come in their house and get high
18 or what not so I have seen him in pretty odd places
19 like that but he never said anything to me and I
20 never said anything to him.

21 Q Okay. So you didn't have a friendship or any sort
22 of a prior relationship with him?

23 A No.

24 Q Okay. And so you indicated that you got into the
25 car?

1 A Yes.

2 Q And voluntarily you got into the car?

3 A Yes.

4 Q All right. Where was it -- did you have any
5 conversation with the person once you got in the
6 car?

7 A We was expecting to get high. I was expecting for
8 us to get high.

9 Q Okay.

10 A There was no indication of nothing else but just get
11 high.

12 Q Okay. And the area that you were at, Salliotte and
13 is that here in Wayne County?

14 A Yes, it's in, yeah, Wayne County in Ecorse.

15 Q Okay. And so you got in the car, did you stay right
16 there and smoke crack in the car?

17 A No, he pulled down the street. He proceeded to go
18 to 15th to Outer Drive. He turned down Outer Drive
19 and then that's when he started going a little fast
20 so I'm like why you going fast and then it didn't
21 dawn on I was like maybe he was just anxious and
22 ready to get high so as he proceeded down Outer
23 Drive getting to Outer Drive he turned over to
24 K-Mart, where the K-Marts used to be, and he drove
25 behind K-Marts. When he stopped he said, "bitch get

1 out the car".

2 Q Okay. Now you said that he went to K-Mart where
3 K-Mart used to be?

4 A It's a church now.

5 Q But at the time in 1996 was a building still there?

6 A Yes.

7 Q Okay. But it wasn't operating?

8 A Yes.

9 Q Is that what you mean by where K-Mart used to be?

10 A Yes, it wasn't operating.

11 Q So this is essentially a store?

12 A Yes.

13 Q All right. And so you said he went behind the
14 K-Mart. Can you tell us where exactly he drove?

15 A He drove behind the K-Marts where I guess it be like
16 where you dump the trash and what not at. It was a
17 little thing that you can drive down in but where
18 they keep the dumpster, I guess, the trash at.

19 Q Okay. Was it kind of like a loading dock area?

20 A Yes.

21 Q All right. Was anybody back there?

22 A No.

23 Q So no people standing around?

24 A No.

25 Q No other cars that you noticed?

1 A No.

2 Q All right. And at this time did you, did you
3 realize at that time that you either had you had any
4 conversation with the defendant leading up to that
5 point?

6 A We was just saying we was going to get a buzz. I
7 was expecting that we was going to get high. I'm
8 not thinking that he was going to flip out on me and
9 tell me to get out of the car and push me down and
10 rip my clothes off.

11 Q Okay.

12 A And rape me.

13 Q Okay. So when you said when you got behind the
14 loading dock, did he keep driving? Did he stop the
15 car?

16 A He stopped and parked the car and said, "bitch get
17 out my car", and I jumped out. I jumped out so
18 quick my flip flops, the shoes that I had on, came
19 off. By then time he done got out his car. He done
20 pushed me down, ripped my shirt, pulled my pants
21 down and penetrated me.

22 Q Okay. Ms. Davis, you just talked about your shoes.
23 Can you remember? Do you remember what type of
24 shoes you were wearing back then?

25 A They was they go between your toes. I'm not sure if

1 it was the white ones or the black ones, but I had
2 two pair alike, but they had a little Diamond in the
3 middle part of the toe, around it was a little gold
4 or silver heel on the heel.

5 Q Okay. And what about your clothing? What were you
6 wearing that day?

7 A I was wearing a white shirt with blue stars on it
8 and some navy blue shorts.

9 Q Okay. And the shirt that you were wearing, what
10 type of shirt was it? Did it have sleeves? Was it
11 a pull over? What type of shirt?

12 A It was a button up. It didn't have no sleeves. It
13 was a button up with just little stars on it, little
14 blue stars.

15 Q All right. And do you remember as far as your the
16 bottom half of your clothing what color were the
17 shorts?

18 A Navy blue.

19 Q Okay. And so he said, "bitch get out the car"?

20 A Yes.

21 Q How did -- how -- was what your reaction at that
22 point?

23 A I just jumped out the car real quick and before I
24 could run or anything he done pushed me down. By
25 this time he done ripped my shirt off. He pulled my

1 pants down and penetrated me and then he grabbed a
2 bat some kind of way and he started hitting me with
3 it so I froze and when I discovered he was gone
4 that's when I got up and like crawled to the front
5 and ran to the front where the cars were coming
6 where it was down Outer Drive.

7 Q Okay.

8 A And I laid there to call for help.

9 Q I'm going to slow you down a little bit okay.

10 A Okay.

11 Q You got out of the car and you said that -- when you
12 got out of the car where were you at in relation to
13 it? Were you on the passenger side? The driver
14 side, do you recall?

15 A I went around the other way. I'm not -- I'm trying
16 to remember. I was in the driver seat, I mean, on
17 the passenger side, got out the car, came around and
18 by this time he done opened his car door up and
19 that's when he pushed me and tore my shirt and
20 ripped my and pulled my pants down and penetrated
21 me.

22 Q All right. And you're moving a lot while you're
23 sitting up there?

24 A I'm sorry.

25 Q So that's okay but we need to make sure that it's

1 clear. Now you said that he pushed you, how did he
2 push you? What did he push you with?

3 A His hands.

4 Q Okay. And where did he touch you at that time?

5 A He touched me up here. He ripped my shirt off.

6 Q When you say he touched me up here, are you saying
7 your shoulders or?

8 A Yeah, up by my shirt my collar part because it was
9 ripped. It was tore.

10 Q Okay. And what was the ground like there?

11 A It was trash and --

12 Q Was it grass? Was it a hard surface?

13 A It was like concrete. It was concrete but it was
14 trash.

15 Q Okay.

16 A You know paper like paper trash all back there.

17 Q And now when you were pushed down or how were where
18 did you land or what happened when you got pushed?

19 A I landed on my back. I was just -- I was afraid
20 that he might kill me or anything, you know, so
21 after he pushed me and he ripped my clothes off and
22 he pulled my pants down and he penetrated me and
23 then he grabbed a bat. He hit me with a bat. I
24 grabbed it because I told them at the hospital that
25 I grabbed the bat that he had be and it might have

1 my fingerprints or something on it when I was at the
2 hospital.

3 Q Okay. Now when you say that he took your clothes
4 off at this point do you recall you said you were
5 laying on your back?

6 A Yes.

7 Q And this is on the ground?

8 A Yes.

9 Q All right. And you keep saying he penetrated you so
10 what penetrated you?

11 A After he pulled my pants down he stuck his penis
12 inside my vagina which he gave me trichomonas.

13 Q Okay. And at this point when this was happening
14 what were you doing? Were you pushing back?
15 Fighting back?

16 A I was just everything just happened at a stand I was
17 just like I just wanted it just to end. Just wanted
18 it to end.

19 Q Okay.

20 A I didn't know if I was going to live or die.

21 Q Now did this person say anything to you at that
22 time?

23 A I think he said bitch, I should have killed you.
24 I'm not. I can't really remember but I just froze
25 stiff until I thought he was gone. When if opened

1 my eyes backup he was gone so I proceeded to get up
2 and go to the front where I could find somebody to
3 get me help.

4 Q Okay. I want to talk to you about what happened
5 after his penis was in your vagina. How did that
6 end?

7 A What do you mean?

8 Q Well did you -- did he get off you some how? I mean
9 how did that end?

10 A He got off of me and he grabbed the bat and he hit
11 me with the bat a couple times and I froze my body
12 up, closed my eyes real, real tight.

13 Q All right. Where did -- where did he get the bat
14 from?

15 A He got it from the car.

16 Q Had you seen it in the car?

17 A I didn't see it, no. I didn't see it but he did hit
18 me with it.

19 Q All right. And what do you remember where you were
20 hit with the bat?

21 A I was hit on my I think on my shoulders and some
22 parts of my legs because I had bruises and little
23 scrapes and stuff on my legs and on my shoulder.

24 Q And at this point you kind of talked about it but
25 what was going through your mind at this point?

1 A When it happened?

2 Q Uh-huh.

3 A I was like I got in the wrong car and I didn't know
4 he would be such a person of that nature of seeing
5 him out in the public with other people I would have
6 never thought that he would be the person that he
7 was. I wouldn't have never even got in the car with
8 him if I had thought he was going to betray and do
9 me like that. I trusted him because I got in the
10 car with him.

11 Q And, Ms. Davis, you said you had seen the person
12 around before?

13 A Yes.

14 Q And so you kind of recognized him when you got in
15 the car?

16 A Yes.

17 Q Do you see that person in the courtroom here today?

18 A Over there.

19 Q Okay. I see that you just pointed, so is that a yes
20 to my question?

21 A Yes.

22 Q And can you tell us where the person is seated and
23 what the person is wearing?

24 A He's wearing a white shirt with a black tie and
25 black pants and black shoes.

1 MS. DILLON: Your Honor, I would ask that
2 the record reflect that the witness has identified
3 the defendant.

4 THE COURT: The record shall so reflect.

5 MS. DILLON: Thank you.

6 BY MS. DILLON, continuing:

7 Q Now in regards to after do you, do you remember at
8 all how many times you were hit with the baseball
9 bat?

10 A I can't remember how many times but it was a few
11 times.

12 Q Okay.

13 A It was more than one.

14 Q And did the defendant say anything to you before he
15 left?

16 A If I'm not mistaken I think he said bitch I should
17 have killed your ass if I'm not mistaken, you know,
18 because everything happened so I just closed my eyes
19 so tight because I just knew I could have been dead.

20 Q Okay. So you said you closed your eyes. Did you
21 see the defendant leave?

22 A I heard the car pull off because I had still had my
23 eyes closed like but I heard the car pull off and
24 when I discovered the car was pulling off that's
25 when I proceeded to get up and put on my clothes and

1 go up to the front of Outer Drive for help.

2 Q Now after the defendant left in the car and you're
3 back there you're till by yourself at this point?

4 A Yes.

5 Q All right. And you said you got your clothes back
6 together?

7 A Yes.

8 Q All right. You said your shirt buttoned?

9 A Yes.

10 Q Were you able to button it backup?

11 A A little halfway because up here by the shoulder
12 part like I think was ripped, no just tore.

13 Q And physically how did your body feel at this point?

14 A Numb.

15 Q And do you remember if you had any, I know you had
16 said earlier you thought you had some scrapes and
17 bruises, do you remember where?

18 A I think it was on my arm. I think I had a knot on
19 my head too if I'm not mistaken but they got all the
20 things. They got everything at the hospital.

21 What --

22 Q Okay. But I'm just asking what you remember okay.

23 And so you mentioned that you made your way to Outer
24 Drive?

25 A Yes.

1 Q Okay. How, how did you get to Outer Drive? Were
2 you able to walk or?

3 A I hopped, I crawled, I hopped. I got there. As
4 long as I got there that was my determination to get
5 there so I could get help.

6 Q Okay. And did you see anybody on your way to Outer
7 Drive?

8 A I was cars just coming pass, pass but the ambulance
9 and the police had came so somebody must have saw.

10 Q Okay. When you were making your way from behind the
11 old K-Mart out to Outer Drive were you saying
12 anything? Were you just quietly --

13 A I was saying help, somebody help me. Help.

14 Q Okay. And so do you remember who the first was that
15 you saw out there?

16 A I don't remember.

17 Q You don't okay. But you said that there was --

18 A But the ambulance came, the paramedics came, and the
19 police came.

20 Q Okay. And once they were all there what happened?

21 A They took me to Dearborn Oakwood Hospital.

22 Q Okay. And how did you get to the hospital?

23 A The ambulance.

24 Q All right. Did anyone go with you to the hospital?

25 A No.

1 Q Do you remember meeting with people at the hospital?

2 A I remember talking to a few doctors. They did a
3 swab where they swab your vagina and everything.

4 Q Okay. Let's talk about what happened when you first
5 got to the hospital. All right. Do you remember
6 did you give a statement? Did they interview you?
7 Do you remember the steps that you went through?

8 A I'm not sure. I think I talked to somebody. I told
9 them that I was hanging out and trying to get high.
10 We was getting high, finna get high and the guy
11 raped me, if I'm not mistaken.

12 Q Did they keep you in your clothes?

13 A I think they kept my clothes. They kept me clothes.
14 They kept them.

15 Q And you said that they did swabs, so what type of
16 exam did you go through?

17 A I did a rape exam. They did a rape exam kit on me.

18 Q Okay.

19 A And then they came back they did a mother swab and I
20 told me I had trichomonas.

21 Q And so did they just take one swab from you that
22 day?

23 A Two.

24 Q Okay. What about your hair? Did they do anything
25 in regards to your hair, do you remember anything?

1 A I can't remember if they did or didn't.

2 Q Okay. Do you remember how long you were at the
3 hospital?

4 A I think I was there for a day, overnight.

5 Q How were you feeling at that point while you were at
6 the hospital?

7 A Terrible. It was terrible. I didn't know that
8 somebody would do me like that. I wasn't going to
9 hurt nobody. I ain't trying to hurt nobody but I
10 got hurt.

11 Q And you had said that you had seen the defendant
12 before?

13 A Yes.

14 Q Prior to that day but you had never gone out with
15 him?

16 A No.

17 Q So you weren't friends with him?

18 A I had seen him in places that people go to hangout
19 and get high but as far as me sitting down at the
20 table with him, kicking it with him and stuff like
21 that, naw. I would see him and hi and bye whatever
22 and keep it going but this particular time when I
23 saw him that day he was like, you want to catch a
24 buzz, and I said, yeah, and that's why I got in the
25 car. I would have never got in the car with him had

1 I knew he was going to do what he did.

2 Q Okay. Now as far as this case goes did the police
3 officers work with you or anything in 1996? Did
4 anything happen with this case back then?

5 A Well I guess they lost contact with me because I had
6 moved from my aunt house because I was moving from
7 place to place. She had a sickly son and by me
8 contracting that disease he didn't feel comfortable
9 so I end up leaving going to my other aunt house.

10 Q Okay. When was the next time anyone contacted you
11 about this case?

12 A Last year.

13 Q And who contacted you?

14 A Detective Tuski.

15 Q Detective Tuski?

16 A Yeah.

17 Q Okay. And at that time did you meet with Officer
18 Tuski?

19 A Yes.

20 Q Okay. And what was the purpose of you meeting with
21 him?

22 A He told me that I was a victim 20 years ago and that
23 they had got DNA and that the State of Michigan or
24 Wayne County would like for me to go to court
25 because they had all these rape kits and I was one

1 of them that was picked out of 30,000 people from 20
2 years ago.

3 Q And when you met with Officer Tuski did he show you
4 a photo lineup at that time?

5 A Yes.

6 Q And at that time were you able to identify anyone?

7 A Yes.

8 Q So you recall meeting with Officer Tuski?

9 A Yes.

10 Q Okay. And when he met with you who else was with
11 you?

12 A Wasn't nobody with me inside my house with me when
13 he came to my door.

14 Q Okay. Well did you meet with him only at your home?

15 A No, I went to the Detroit Safe House.

16 Q Okay. And was it anyone with you at that time?

17 A The rape advocates was there.

18 Q All right. And what about anyone else besides
19 Officer Tuski?

20 A You was there and the other lady the advocate lady,
21 the Safe House lady advocate.

22 Q And when Officer Tuski --

23 MS. DILLON: Excuse me for just one
24 moment, Judge.

25 BY MS. DILLON, continuing:

1 Q Ms. Davis, Officer Tuski when he went to show you a
2 photo lineup did he indicate to you that there was
3 anyone in the lineup that you should recognize?

4 A No, not that I can remember.

5 Q Okay. And he didn't tell you to pick a certain
6 person in the lineup did he?

7 A No.

8 Q All right. And were you shown any photos by anybody
9 prior to Officer Tuski showing you the lineup?

10 A No.

11 MS. DILLON: Your Honor, may I approach?

12 THE COURT: You may.

13 BY MS. DILLON, continuing:

14 Q Ms. Davis, I'm going to show you what's been
15 previously marked as People's proposed exhibit 18.
16 Can you take a look at that document?

17 A Yes.

18 Q Do you recognize that document? I'm asking if you
19 recognize the document?

20 A Yes.

21 Q Okay. What do you recognize that document to be?

22 A The lineup. The photo lineup.

23 Q Okay. Do you recognize this to be the lineup that
24 Officer Tuski showed you back when he met with you?

25 A Yes, I think. I'm not sure.

1 Q Okay. So let me ask you this, at the time that you
2 met with Officer Tuski, are you certain that you
3 picked someone out in the photo lineup?

4 A Yes, I was like it's been 20 years ago so I don't
5 know what he could be looking like now from 20 years
6 ago but on the photo that I pointed out --

7 Q Okay. But as you sit here today and you recall the
8 events from 1996 and you looked at the defendant
9 sitting there you recognized him?

10 A Yes.

11 Q And you recognize --

12 A By the hair texture.

13 Q Okay. When you say that what does that mean?

14 A Because he had little, little hair I could remember
15 back 20 years ago from the time that he did what he
16 did.

17 Q Okay. Now --

18 A I can remember the hair texture.

19 Q After July of 1996 did you see the defendant again?

20 A No.

21 Q So you didn't have an occasion to be with the
22 defendant again?

23 A No.

24 Q Okay. Ms. Davis, I asked you about the injuries and
25 you indicated that, you know, it was recorded at the

1 hospital but do you recall what type of injuries you
2 had and where they were?

3 A I had some abrasions on my shoulders I believe and
4 my legs, scratches, and if I can't recall I think I
5 had a knot like on my forehead.

6 Q Okay. And then you've also indicated that you
7 contracted some sort of --

8 A Yes, disease, trichomonas.

9 Q Okay. And did you receive treatment for that?

10 A Yes.

11 Q All right. Did you receive any other sort of
12 treatment while you were at the hospital?

13 A Swabs for the rape kit.

14 Q Okay. Any other medications?

15 A No.

16 Q What about for your lacerations or your bruises,
17 anything there?

18 A No.

19 MS. DILLON: I have no further questions
20 at this time, your Honor.

21 THE COURT: Cross.

22 MR. BROWN: Thank you.

23 C R O S S - E X A M I N A T I O N

24 BY MR. BROWN:

25 Q Good afternoon, Ms. Davis.

1 THE COURT: Wait. Before you start your
2 cross we're going to take a quick break. Members of
3 the jury, leave your notebooks in your chairs.
4 Return to the jury room.

5 COURT OFFICER: All rise for the jury.

6 (At 2:50 p.m. jury exits the courtroom)

7 THE COURT: You need to leave your
8 notebooks in your chairs, members of the jury. One
9 of the jurors took their notebooks.

10 COURT OFFICER: Leave your notebook out
11 here, man.

12 THE COURT: Juror number five.

13 COURT OFFICER: I'll put it in the chair.
14 You may be seated.

15 (At 2:51 p.m. off the record)

16 (Proceedings continued but were not recorded therefore
17 the remainder could not be transcribed)

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1 C E R T I F I C A T E

2

3 STATE OF MICHIGAN)

4)ss

5 COUNTY OF WAYNE)

6

7 I, Bromeaica McBride, certify that this transcript
8 consisting of 191 pages is a complete, true and correct
9 transcript of the proceedings and testimony taken in this
10 case on April 26, 2017.

11

12

13

14 3-1-18 _____[BROMEAICA] [MCBRIDE]_____

15 Date BROMEAICA MCBRIDE, CSR 7279
16 Lincoln Hall of Justice
17 1025 East Forest, Room 105
18 Detroit, Michigan 48207
19 (313) 833-0787

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Appendix H – Jury Trial Transcript, April 27, 2017

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-01

DEXTER TAYLOR

Defendant.

_____ /

JURY TRIAL

BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE

Detroit, Michigan - Wednesday, April 27, 2016

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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1 Detroit, Michigan

2 Wednesday, April 27, 2016

3 At approximately 9:45 a.m.

4 - - -

5 THE COURT: This is case number
6 16-007780-01-FC. People of the State of Michigan
7 versus Dexter Burrell Taylor here today for
8 continuation of a jury trial. Your appearances for
9 the record please.

10 MS. DILLON: Good morning, your Honor.
11 Susan Dillon on behalf of the People with
12 Officer-in-charge, Ron Tuski.

13 THE COURT: Good morning.

14 MR. BROWN: Good morning, your Honor. May
15 it please the Court, Mark Brown appearing on behalf
16 of Mr. Taylor who is seated before me.

17 THE COURT: Good morning to you both,
18 gentleman.

19 DEFENDANT TAYLOR: Good morning.

20 THE COURT: The jury is not in. We should
21 indicate for the record that there was one juror who
22 was late and he followed Mr. Brown into the
23 courtroom and Mr. Brown indicated to him you can't
24 come in they'll give you instructions. He didn't
25 listen to Mr. Brown. He came in any way but at any

1 rate, the record should reflect that that did happen
2 and Mr. Brown brought it to the Court's attention
3 that he had that minimal conversation with the juror
4 and I don't find that that was problematic. Is
5 there anything else before we continue?

6 MR. BROWN: Not that I'm aware of, Judge.

7 MS. DILLON: No.

8 THE COURT: All right. Bring out the
9 jury.

10 COURT OFFICER: All rise for the jury.

11 (At 9:47 a.m. the jury enters the courtroom)

12 THE COURT: You want to get your witness.
13 Good morning, members of the jury.

14 THE JURY: Good morning.

15 COURT OFFICER: You maybe seated. You're
16 still under oath from yesterday. It still counts.
17 All right. Ms. Dillon, were you done?

18 MS. DILLON: Yes, ma'am.

19 THE COURT: All right. Mr. Brown, you
20 may.

21 MR. BROWN: Thank you very much, Judge.

22 THE COURT: You're welcome.

23 C R O S S - E X A M I N A T I O N

24 BY MR. BROWN:

25 Q Good morning, Ms. Davis.

1 A Good morning.

2 Q Okay. Ms. Davis, you and I have met on at least two
3 prior occasions; is that correct?

4 A Correct.

5 Q And both times you were under oath and you were
6 sworn to tell the truth on those occasions, right?

7 A Yes.

8 Q And you're under oath --

9 THE COURT: Mr. Brown, the microphone is
10 not picking her up. You need to speak up a little
11 bit okay.

12 THE WITNESS: Yes. Okay.

13 THE COURT: It's picking up her voice now.

14 MR. BROWN: Thank you very much.

15 BY MR. BROWN, continuing:

16 Q And so today you're under oath? You're sworn to
17 tell the truth?

18 A Yes.

19 Q Okay. You knew Mr. Taylor back in 1996 and when I
20 say you knew him you didn't date him or anything did
21 you?

22 A No.

23 Q But you certainly knew him from smoking crack,
24 right?

25 A Yes.

1 Q And you had smoked crack with him before July the,
2 whatever day this is, the 25th I think it is, yeah?
3 Before July 25, 1996 you had smoked crack in the
4 company of Mr. Taylor; is that correct?

5 A Yes, I had seen him around.

6 Q Yeah, I know. I didn't ask you whether you had seen
7 him around?

8 A Yes.

9 Q I said -- okay. You had smoked crack with him
10 before; is that correct?

11 A Yes.

12 Q Okay. And at Better World?

13 A On 14th and Visger.

14 Q Is that at -- no. I'm sorry. My question wasn't
15 clear. You smoked crack with him at Better World,
16 do you know what I'm talking about?

17 A No.

18 Q Okay. You know what Better World is? I think you
19 talked about it the other day, what is that?

20 A Yes, it was a hotel where people go hangout and get
21 high at.

22 Q Okay. You ever heard the term smoke house?

23 A Yes.

24 Q What is that?

25 A Where people go to smoke and get high.

1 Q Okay. So Better World is a smoke house, right?

2 A Yes.

3 Q And also there's a place a couple blocks over
4 Tommie's, right?

5 A Yes.

6 Q Smoke house?

7 A Yes.

8 Q You've been there to smoke?

9 A Yes.

10 Q And you saw and smoked crack with Mr. Taylor at both
11 places?

12 A Yes, not at Better World but at 14th and Visger.

13 Q Okay. All right. So at any rate on the 25th of --
14 oh let me establish something too. After this
15 incident you talked -- did you ever talk to Mr.
16 Tuski here? Did you ever talk to him?

17 A Not that I can remember.

18 Q Never?

19 A Last year when he came to my door.

20 Q Okay. And you talked to to a number of different
21 police officers, Officer Taft, I can't remember all
22 the names but a number of different police officers,
23 right?

24 MS. DILLON: Judge, there's no time frames
25 there.

1 THE COURT: Is there an objection?

2 MS. DILLON: Yes, I would object to the
3 form of the question because it's confusing because
4 there's no time frame.

5 THE COURT: Well if the witness is
6 confused she'll say she's confused and you can
7 redirect. Overruled. You may continue, Mr. Brown.

8 BY MR. BROWN, continuing:

9 Q Do you understand what I'm saying? About this
10 incident you talked to a number of police officers,
11 right?

12 A When the incident happened.

13 Q Yes, ma'am. And that would be back in 1996 you
14 talked to -- you didn't just talk to one police
15 officer? You talked to several police officers,
16 right?

17 A That I can remember.

18 Q Yeah, I'm not asking you to name them and I
19 apologize. I didn't mean to cut you off. I'm not
20 asking you to tell me the names of the police
21 officers. I just want you to tell me that you did
22 talk to police officers, right?

23 A Yes.

24 Q And while you're talking to the police officers
25 they're writing down what you say, right?

1 A Yes.

2 Q Okay. And you also talked to a nurse, I can't
3 remember her name, but there's a nurse at Oakwood
4 that you talked to about what happened, right?

5 A Yes.

6 Q And every time you talked to people were you --
7 strike that. Were you high when you talked to them?

8 A No.

9 Q You were not high?

10 A No.

11 Q You weren't high when you talked to them? You had
12 been smoking crack just before you talked to the
13 police, right?

14 A I had went out that day. I had a little but I was
15 not high when I got raped.

16 Q Okay. I think my question might be confusing and I
17 apologize. I asked I wanted to know whether you
18 were high when you talked to the police officers and
19 or the nurse, that's really what my question is, the
20 one? I got another one right after that?

21 A No.

22 Q You were not?

23 A No.

24 Q Okay. And before you met Mr. Taylor, we're going to
25 talk about how you met him, on that day you had just

1 smoked like within an hour or hour and a half,
2 right?

3 A Yes.

4 Q Okay. And when I say smoke you smoked crack?

5 A Yes.

6 Q You got a buzz or got high or whatever it is, right?

7 A Yes.

8 Q And then low and behold as you talk to one of the
9 police officers you were walking in the area of 13th
10 Street and Salliotte in the city of Ecorse, right?

11 A Yes, and 15th Street and Salliotte.

12 Q Okay. Well did you tell --

13 A They're combined by each other.

14 Q I'm sorry.

15 A Excuse me. You have to say that again.

16 Q Okay.

17 A You're confusing me.

18 Q I said you were walking in the area of 13th Street
19 and Salliotte in the city of Ecorse that's what you
20 told some police officer at some point, right?

21 A If I can remember. Probably. I can't remember that
22 part. 13th? I know 15th Street I was on 15th and
23 Salliotte.

24 Q Okay. So you're walking, let's use that then.

25 You're walking on 15th and Salliotte. Walking were

1 you working when you were walking there?

2 A No.

3 Q Okay. And then you said the suspect -- before I go
4 on. Mr. Taylor -- you and I met last year I think
5 it was in September the first time we had an
6 interaction, right?

7 A Excuse me?

8 Q I think it was last year in September in Taylor
9 District Court is that where we was? Oh no, no.
10 Allen Park District Court. Do you remember coming
11 to court in Allen Park?

12 A No.

13 THE COURT: Do you remember going to a
14 court and testifying other than this court?

15 THE WITNESS: No.

16 BY MR. BROWN, continuing:

17 Q No, no, no. what street is that? Southfield?
18 South of 94 in Allen Park? It was a courtroom. The
19 judge is in a wheelchair?

20 A No, I don't remember.

21 Q Do you have any problems with memory? That was last
22 year. Yes, ma'am?

23 A I don't remember.

24 Q Okay. I'll move right along. Any way, at that
25 point in time I asked you whether or not you

1 recognized anybody in the courtroom that was
2 involved in this incident we've been talking about,
3 didn't I ask you that question?

4 A Yes.

5 Q And you told me you didn't, is that right?

6 A Yes.

7 Q Yeah. You told me you said I -- Mr. Taylor was
8 sitting right -- this same person right here was
9 sitting in that courtroom, right?

10 A Yes.

11 Q Okay. You said you didn't recognize him, right?

12 A Yes.

13 THE COURT: Do you remember that
14 happening?

15 THE WITNESS: The rape?

16 THE COURT: No. do you remember what he's
17 talking to you about being in another courtroom?
18 Him asking you if you recognized anybody and you
19 saying no?

20 THE WITNESS: I don't remember. I don't
21 remember Allen Park. The only thing I remember is
22 being here last year in court.

23 BY MR. BROWN, continuing:

24 Q Okay. All right. We'll just move onto the next
25 thing. That's fine. Okay. Any way. And then last

1 year, do you remember last year when you got here
2 last year you said I think I recognize him by the
3 texture of his hair, do you remember that?

4 A Yes.

5 Q And that's you had some fuzziness about the memory
6 of Mr. Taylor?

7 A Yes.

8 Q Why?

9 A I just remembered the texture of his hair. I didn't
10 really see the complex, the complex of his skin.

11 Q All right. So you went to 15th and Salliotte,
12 you're walking on the street and then you told the
13 police officer at some point in time that you
14 thought you knew the person who pulled up and asked
15 you if you needed a ride?

16 A I don't remember.

17 Q You don't remember? Do you remember what happened
18 when you first came in contact with Mr. Taylor on
19 that day?

20 A He pulled up and said, hey you want to catch a buzz,
21 and I said, yeah, and I got in the car.

22 Q Okay. And you told the police officer you had to
23 get in the back seat due to the fact of a empty baby
24 car seat was in the front seat?

25 A I know it was a baby car seat. I don't know if it

1 was -- I can't remember if it was in the front or
2 the back but I know it was a baby seat in the car.

3 Q So you don't know? You don't know whether you got
4 in the front seat, the passenger seat?

5 A I can't remember.

6 Q Okay. You're fuzzy on that, do you understand what
7 I mean?

8 A I got in the car.

9 Q Yes, ma'am. My question is do you understand what I
10 mean when I say you're fuzzy on whether or not you
11 got in the front seat or the back seat, is that
12 right?

13 A It's been 20 years ago.

14 Q Yes, ma'am, I understand that. We all know this
15 happened in 1996 and I'm not trying to be sarcastic
16 with you so, you know, you don't have to keep
17 telling me 20 years ago. I'm asking you whether you
18 know that you got in the front seat of the car or
19 the back seat of the car?

20 A I got in the front.

21 Q Okay. So then when you told the police officer that
22 you got in the back seat was that a lie? Was that
23 the truth or was that a mistake?

24 A I don't know. Might have been a mistake.

25 Q Okay. And I'm going to use that from now on

1 probably with you. Usually when people tell
2 something, if you know, they can tell a lie, in
3 other words they can say something that they know is
4 not true; they can tell the truth, they can say
5 something that they believe is true, or they can
6 make a mistake that they thought so, would you say
7 that's pretty much fair about how you can re count
8 activities, do you know what I'm saying?

9 A Repeat that again.

10 Q Okay. I usually think there are three things people
11 can do. They can tell the truth, they can tell a
12 lie or they can make a mistake, is that pretty fair
13 about what people can do when they're talking about
14 something?

15 A Yes.

16 Q Okay. And so back to what I was asking you about
17 getting in the car, the telling the police officer
18 that you got in the back seat that was? What was
19 that? The truth, a lie or a mistake?

20 A The car seat was in the back I believe if I'm not
21 mistaken, but I know it was a baby car seat in
22 there.

23 Q Okay. Would you agree with me that, you know, as
24 you get older sometimes you remember things
25 differently later on than they really happen, is

1 that fair to say?

2 A I guess.

3 Q Okay. So and you also would you agree with me that
4 if you if something happened like yesterday, like
5 when we were in court yesterday or something, it
6 would be much more much clearer in your mind than
7 something that happened 20 years ago?

8 A Yes.

9 Q So the further things are away sometimes we get back
10 to my word fuzzy, do you understand what I'm saying?

11 A Yes.

12 Q Okay. And so when you get in this car willingly, is
13 that right?

14 A Yes.

15 Q Not there's nobody threatening you? Nobody saying,
16 bitch, get in the car, or anything like that?
17 Nobody said anything like that?

18 A No.

19 Q Okay. And you have to sometimes I'm going to use
20 words like bitch and fuck words like that because
21 they're words that's involved in this case, is that
22 all right with you?

23 A It's okay.

24 Q Okay. So nobody said that to you, right?

25 A No.

1 Q You got in the car willingly? You're riding along
2 and you're riding along kind of happy because you're
3 getting ready to smoke a rock, right?

4 A Yes.

5 Q Okay. And you go back to either it's K-Mart, used
6 to be K-Mart, St. Vincent DePaul, church or whatever
7 it is; that building over on Outer Drive or
8 something, right?

9 A Yes.

10 Q And you go back there? You're not alarmed by
11 anything, right?

12 A No.

13 Q Yeah, because you're going to get or smoke a rock,
14 right?

15 A Yes.

16 Q And I asked you last time, I don't know whether you
17 remember this, but, you didn't stop at the Lamp
18 Lighter did you?

19 A No.

20 Q Was there a discussion about -- what is the Lamp
21 Lighter?

22 A The Lamp Lighter is on Dix.

23 Q What is it?

24 A It's a motel.

25 Q Yeah. Was there a discussion about the Lamp

1 Lighter?

2 A No.

3 Q Okay. Now we'll just pull over here by the K-Mart
4 in the back and take care of our business; that's
5 the discussion, right?

6 A The discussion was to get high.

7 Q I understand. But the discussion was we're going to
8 just pull over in the back of K-Mart and take care
9 of our business getting high, is what you're saying?

10 A That's what I thought.

11 Q Okay. And after you got in the back did you ever
12 smoke the rock?

13 A No, never got a chance to.

14 Q Never got a chance to. And you described yesterday
15 you were wearing -- the last time we were in court
16 you identified certain clothing, right?

17 A Yes.

18 Q You talked about a white -- describe that top that
19 you talked about?

20 A I had a white shirt. A white half shirt with navy
21 blue stars on it and navy blue shorts.

22 Q Okay. The last time we were here you had jeans.
23 Remember those blue jeans that you looked at and
24 examined and said, yes, the jeans you were wearing,
25 you don't remember that?

1 A No.

2 Q Like --

3 MS. DILLON: Your Honor, I'm going to
4 object to the question. I think counsel is, well,
5 strike my objection.

6 MR. BROWN: I'm sorry. Okay.

7 BY MR. BROWN, continuing:

8 Q Do you recall that we had a pair of jeans that the
9 police officers took out of the package and we
10 brought it --

11 MR. BROWN: May I approach?

12 THE COURT: Yes.

13 BY MR. BROWN, continuing:

14 Q And the police officer took out a package and
15 brought it up for you to look at and you held it up
16 and said, yeah, that's the pants I had on, do you
17 remember that?

18 A No.

19 Q Oh okay. Do you remember looking at your shirt?

20 A Yes, no, I don't remember looking at a shirt. They
21 asked me what did I have on and I described what I
22 had on.

23 Q Okay. Well you agree with me that the police
24 certainly took your clothing and put it on evidence?
25 No, no, strike that. The police certainly took your

1 clothing?

2 A Yes.

3 Q And whatever it is that you had on you didn't get it
4 back from the police?

5 A No.

6 Q Okay. So you go back behind K-Mart and the K-Mart
7 is not open any more, right? It's closed down?

8 A Yes.

9 Q So it's a big building that's closed down?

10 A Yes.

11 Q A big building with a big parking lot in front of
12 it, right?

13 A Yes.

14 Q Okay. And when you get in the back then that's when
15 he says, "bitch get out the car" or whatever? That
16 expression came along then?

17 A Yes. When he pulled to the back he said, "get out,
18 bitch" and I got out. I jumped out real fast
19 because I --

20 Q Do you need some tissue or something? Pardon me? I
21 can get some?

22 A No.

23 Q Okay. And so you got out of the car and did you --
24 Mr. Taylor was driving the car, right?

25 A Yes.

1 Q Okay. He's driving and either you're in the front
2 passenger seat or the back seat, one of the two,
3 right?

4 A Yes.

5 Q Which one?

6 A I'm not sure if was I in the front or the back.

7 Q Okay. But you get out of the car?

8 A I can't remember.

9 Q I'm sorry.

10 A I don't remember.

11 Q Yes, ma'am. Thank you. You get out of the
12 passenger side of the car, right?

13 A Yes.

14 Q And Mr. Taylor gets out of the driver side of the
15 car, right?

16 A Yes.

17 Q And then comes around to have sex with you?

18 A He pushed me.

19 Q Okay. I'm not trying to cut out anything.

20 Yesterday you talked about it and you talked about
21 it before that Mr. Taylor pushed you right some
22 where up there by your collar bone? Pushed you down
23 and you fell down on the ground on your back, right?

24 A Yes.

25 Q And then you had sex with him?

1 A Yeah, he --

2 THE COURT: Mr. Brown.

3 MR. BROWN: Yes, ma'am.

4 THE COURT: No, that's a -- you need to
5 rephrase that question.

6 MR. BROWN: May we approach.

7 THE COURT: Okay sure. You can approach.

8 (At 10:03 a.m. sidebar discussion held off the record)

9 (At 10:04 a.m. sidebar discussion concluded)

10 BY MR. BROWN, continuing:

11 Q Okay. Ms. Davis, I want to clear up a couple things
12 but I don't want you to think I'm being unfair.
13 Number one, last time, my mistake. You did not look
14 at your clothing here; is that correct?

15 A No.

16 Q Okay. Apologize. I thought you did. I'm old. I
17 can't remember things. The second thing is, when I
18 said he pushed you down and then you had sex with
19 him, let me change the words. He pushed you down
20 then he had sex with you?

21 A Yes.

22 Q You didn't agree to that, right?

23 A No.

24 Q And then it would be fair to say that you had sex,
25 you talked about being struck with a bat, is that

1 what you said?

2 A Yes.

3 Q Now the first time I talked to you you said do you
4 remember you said you weren't hit in the head with
5 the bat, right?

6 A Yes.

7 Q Yes, okay. And so you said you were hit, I'm trying
8 to remember, you said I think on my shoulder, right?
9 Remember that?

10 A Yes.

11 Q And my arm?

12 A Yes.

13 Q Right? And you said you had some scratches on your
14 legs?

15 A Yes.

16 Q Right? Scratches or your knees?

17 A On my legs right here like under my knees.

18 Q You're indicating, for the record she's indicating
19 her knee area?

20 A Yes.

21 Q That's where the scratches were?

22 A On my leg right under my knees.

23 Q On your chin?

24 A Yes.

25 Q All right. Where did those scratches come from?

1 A From him pushing me down.

2 Q Didn't you say you got pushed down on your bat?

3 A Yes. But when he got the bat he swung it and I was
4 moving and like I said, I just closed my eyes tight.
5 He could have killed me and when I discovered he was
6 gone that's when I went to the front to get some
7 help.

8 Q Okay. Let's talk about you going to the front. You
9 said you're in the back of K-Mart and you know how
10 K-Mart it's pretty much a regular K-Mart, right?

11 A Yes.

12 Q And that's a K-Mart with a parking lot --

13 A He did me wrong.

14 Q I'm sorry.

15 A I'm sorry. Excuse me.

16 Q Let me know when you're ready to go on. Okay.

17 A Go ahead.

18 Q That's a big K-Mart parking lot that really is like
19 unused so it's just like grass is kind of going up
20 in there but there's asphalt on the parking lot?

21 A It was still like sidewalk.

22 Q Like concrete cement?

23 A Yeah.

24 Q And remember when I talked to you before what you
25 told me was that you, first of all, you grabbed the

1 bat, do you remember saying that?

2 A I remember telling the officer, I think I told the
3 officer or the nurse I grabbed the bat and I told
4 them if they find him to look on the bat because my
5 print probably could still be on the bat.

6 Q Did you take the bat, did you pickup the bat by
7 the -- remember the officers you told them you
8 picked up the bat by the top of it so you wouldn't
9 have your prints on it, do you remember that?

10 A No, I didn't tell them I wouldn't have my prints on
11 it. I said my prints should have been on it.

12 Q Okay. But you talked about picking it up by the top
13 of the bat, right?

14 A The head of the bat, yes.

15 Q No, I'm talking about what you told the police
16 officers?

17 A I don't remember.

18 Q Okay all right. You don't remember that? Okay.
19 And do you remember that you talked to me about
20 coming from the back of the K-Mart by the loading
21 dock all the way to the front all the way out to the
22 street, do you remember that?

23 A Yes.

24 Q And you said my leg was hurt, I couldn't even hardly
25 walk, first thing you said, right?

1 A Yes.

2 Q And then you said I was limping, I said you limped,
3 you said, no, I didn't even limp. What did you tell
4 me you did all the way from the back of the K-Mart
5 to the street, what did you tell me?

6 A At some part of limped, crawled, I limped, crawled.

7 Q No, no, no, excuse me. I'm interrupting you.

8 A At some part.

9 Q Tell me what you told me. You know exactly what I'm
10 talking about.

11 A When I discovered he was gone I got up pulled my
12 pants up and pulled my top together and I went to
13 the front. I remember hopping or crawling, however
14 I got to the front.

15 Q I know but we're talking about what you told me.
16 You told me that you crawled all the way on your
17 knees to the front, did you tell me that on your
18 under oath and said you were going to tell the
19 truth?

20 A I don't remember.

21 Q Okay.

22 A But I know I got to the front.

23 Q Okay. So you did crawl or you didn't crawl?

24 A I was hurt.

25 Q Yes, ma'am, I understand that?

1 A I was hurt. I was hurt okay.

2 Q Yes, ma'am.

3 A I was hurt. I got up and I hopped, and limped and

4 crawled till I got to the front.

5 Q Okay. Are you finished with your answer?

6 A Yes.

7 Q Okay. You were wearing shorts, right?

8 A Yes.

9 Q Okay. Just so I'm clear you were never wearing blue

10 jeans?

11 A No.

12 Q Never ever?

13 A No.

14 Q And the police never got any blue jeans from you?

15 A No.

16 Q Never ever?

17 A No.

18 Q And your blouse was ripped off of you, right?

19 A It was ripped --

20 Q You see how I'm holding?

21 A It was ripped at the top.

22 Q And you said -- no, no. I understand. You said he

23 tore off my clothes?

24 A It buttons in the front so it ripped when he tore

25 it.

- 1 Q Was it ripped off of you, ma'am?
- 2 A It was busted open.
- 3 Q It was busted open?
- 4 A When he ripped it it just popped open.
- 5 Q Oh popped your buttons off? I'm sorry?
- 6 A I don't know if the buttons were off on not.
- 7 Q Okay. And you talked to the nurse, I asked you this
- 8 before but I'm asking, you talked to the nurse about
- 9 what happened, right?
- 10 A Yes.
- 11 Q At the hospital, right?
- 12 A Yes.
- 13 Q And did you have an opportunity to calm down a
- 14 little bit then?
- 15 A Yes.
- 16 Q Yes, you had, okay. So then you come out in the
- 17 front crawling or whatever it is that you do to get
- 18 to the front and you come into contact with a police
- 19 officer or more than one police officer?
- 20 A It was the EMS and I remember a police officer and
- 21 the ambulance came.
- 22 Q Yes, ma'am. The EMS came after the police officers
- 23 got there, right?
- 24 A If I can remember they both came at the same time.
- 25 Q Okay. And then you talked to them? You talked them

1 about what happened?

2 A Yes.

3 Q You told them about where something happened behind
4 the K-Mart, right?

5 A Yes.

6 Q And you told them, actually you told them that you
7 had -- you had a bowel movement, didn't you?

8 A I don't remember.

9 Q You don't remember that? Didn't you tell them you
10 had a bowel movement and you stained your clothes
11 from the bowel movement, you don't remember that?

12 A I don't remember.

13 Q You don't remember what? Telling them that or you
14 don't remember where that happened?

15 A I don't remember when it happened.

16 Q When it happened or that it did happen?

17 A That it did happen. I don't remember a bowel
18 movement.

19 Q You don't remember anything about that?

20 A No.

21 Q Okay.

22 MR. BROWN: Excuse me. Your Honor, can I
23 approach please?

24 THE COURT: Certainly.

25 (At 10:13 a.m. sidebar discussion held off the record) be

1 (At 10:15 a.m. sidebar discussion concluded)

2 BY MR. BROWN, continuing:

3 Q Mr., or Ms., I'm sorry. Ms. Davis, was there ever
4 exchange of money between you and Mr. Taylor at all?

5 A No.

6 Q You never gave him any money, he never gave you any
7 money?

8 A No.

9 Q Was there ever an expectation that he was going to
10 give you some money?

11 A No. We never did indicate anything about no money.
12 It was just getting high.

13 Q Oh okay. I'm on page 25 of the preliminary
14 examination. I'm going to ask you a question. I
15 just want to clarify something. You there's a
16 question about where you hop, hopping or crawling or
17 whatever, you talked about that before when we were
18 at the other court, do you remember that at all?

19 A No.

20 Q Okay. And you told me then that you crawled to the
21 front, all the way to the front, do you recall that?

22 A No.

23 Q Okay.

24 A I told you I sort of crawled, limped, hopped just as
25 long as I got to the front to get some help. I had

1 to get some help from somebody.

2 Q Do you need some more tissue, Ms. Davis? Oh you
3 have some there.

4 MR. BROWN: May I approach?

5 THE COURT: Yes.

6 BY MR. BROWN, continuing:

7 Q I'm going to direct your attention to something on
8 page 25 of the preliminary examination transcript
9 from September 22, 2016.

10 MR. BROWN: Is that correct?

11 MS. DILLON: It's September 6, 2016.

12 BY MR. BROWN, continuing:

13 Q And you can read this. If you want the rest of the
14 transcript I can bring the entire thing. I'm sorry.

15 MR. BROWN: I'm referring specifically,
16 counsel, to lines 19 through the end of the page.

17 BY MR. BROWN, continuing:

18 Q But you can read any part of the transcript and I
19 can bring you any other part that you like or all of
20 it. Just read that to yourself and let me know when
21 you've had the opportunity to read it. Have you had
22 an opportunity to read that?

23 A (No verbal response).

24 Q Okay. I want you to tell me if I'm reading this
25 correctly. I'm going to start online 19:

1 "And when you called out for help you were
2 back in the" -- excuse me.

3 THE COURT: You have to say question.

4 MR. BROWN: Thank you, Judge. I
5 apologize.

6 BY MR. BROWN, continuing:

7 Q I think this is my question, Ms. Davis:

8 "And when you called out for help you back
9 in the front by the front of the building"?

10 THE COURT: Mr. Brown, you have to say
11 question. I can't do it. You have to do.

12 MR. BROWN: Oh I'm sorry. I thought I --
13 I apologize. Thank you very much.

14 BY MR. BROWN, continuing:

15 Q It says, "QUESTION: And when you called for help
16 you back in the front by the front of the building?"
17 Did I read that correctly?

18 A Yes.

19 Q And then your response is: "ANSWER: Because I
20 crawled to the front"?

21 A Yes.

22 Q Is that right?

23 A Yes.

24 Q Did I read it correctly? Then the next question:
25 "on your knees all the way around"? Did I read that

1 correctly?

2 A Yes.

3 Q Tell me what your answer was to that question?

4 A All the way. All the way to the front.

5 Q Okay. All the way to the front, right?

6 A Yes.

7 Q So I just want to clarify, this is a transcript of

8 when we had interaction you were telling the truth

9 before, right?

10 A Yes.

11 Q And you crawled all the way from the back to the

12 front on your knees, right?

13 A I crawled some and, like I said, I was just so

14 scared I just wanted to get help.

15 Q Okay. Excuse me just for a second. Okay. So then

16 when you got out of the car you hadn't seen any

17 baseball bat, right?

18 A No.

19 Q You never saw a baseball bat in the car?

20 A No.

21 Q Okay. And so Mr. Taylor didn't put the car in park

22 and grab the baseball bat while he was in the car,

23 right?

24 A No.

25 Q Okay. So you told us when you were testifying

1 yesterday that he went back to the car and got a
2 baseball bat, right?

3 A After he pushed me down and raped me he got a bat
4 and he started hitting me with it and I froze and
5 closed my eyes up real, real tight till I just know
6 he was gone.

7 Q Okay. Did you said Mr. Taylor tore off your pants?

8 A Yes, he did.

9 Q Did you tell --

10 A He pulled my pants down.

11 Q I'm sorry. Did you tell the nurse he said, "bitch
12 unbuckle your pants and bring them to your knees"?

13 A He might have did say that. I can't remember
14 telling her that but I know what he did to me. He
15 hurt me. He raped me.

16 Q Yes, ma'am. Did -- but you were telling the nurse
17 what happened right then, right?

18 A Yes.

19 Q And when you told her you said, "bitch", unbuckle
20 your pants and bring them to your knees. Lay down.
21 Hurry up. Lay down. Hurry up, right?

22 A I guess that's what he said.

23 Q And you said -- no, I don't want you to guess. I
24 mean do you know or? This is a simple question, do
25 you know or don't you know?

1 A I'm answering you the best way I know how.

2 Q Yes, ma'am. I appreciate that.

3 A He pulled my pants down.

4 Q Okay. So you didn't pull them down?

5 A No.

6 Q Okay. And you didn't pull them down because he had

7 a baseball bat in his hand, did you?

8 A No.

9 Q Because he didn't have a baseball bat in his hand

10 when your pants came down, right?

11 A No.

12 Q And so you wouldn't have no reason to tell the nurse

13 that, right?

14 A No.

15 Q Okay. You wouldn't tell the nurse, "I laid down on

16 my back and pulled my pants down. He had sexual

17 intercourse"? You have no reason to tell her that

18 because that didn't happen, right?

19 A He pushed me down.

20 Q No, ma'am, just see if you can answer my question.

21 A I can't remember what I told her but I'm trying to

22 remember all the things that happened to me.

23 Q I understand. I'm trying to get an understanding of

24 what you told the nurse. If you don't remember you

25 don't remember?

1 A I don't remember.

2 Q Okay. But you did talk to the nurse then, right?

3 A Yeah, I did but I don't remember all the words that

4 I said.

5 Q Yes, ma'am, I understand that. But you certainly

6 were not trying to lie to the nurse, were you?

7 A No.

8 Q Okay. And you didn't know the nurse, right?

9 A No.

10 Q It's not like you knew the nurse and you had some

11 problem with her, right?

12 A No.

13 Q So she you wouldn't think there's any reason she'd

14 had, that you know of, to write down something that

15 you didn't say?

16 A Okay.

17 Q I'm asking you? Is there some reason that you'd

18 know she'd write down something you didn't say?

19 A No.

20 Q Okay. You said, "he sat the bat down on the ground.

21 I said please don't hit me with the baseball bat.

22 I'll do anything you want me to do", did you tell

23 the nurse that?

24 A No.

25 Q That didn't happen?

1 A I told her, please don't hit me no more and then he
2 swung it and I closed my eyes real tight until I
3 noticed that he was gone and then that's when I got
4 up to go get help.

5 THE COURT: No, Ms. Ma'am, what Mr. Brown
6 is asking you is do you remember saying those things
7 to the nurse?

8 THE WITNESS: No, I don't remember.

9 MR. BROWN: Okay.

10 BY MR. BROWN, continuing:

11 Q Okay. And then just so -- you went to a lineup?
12 Yesterday you were talking about picking someone out
13 of the lineup?

14 A No, I went in for pictures.

15 Q Yes, ma'am.

16 A They showed me pictures.

17 Q Like six pictures?

18 A Yes.

19 Q And you picked out one or you didn't pick out one?

20 A I had picked out one.

21 Q Oh did you?

22 A Yeah.

23 Q Who was there when you did that?

24 A Mr. Tuski.

25 Q Is that right? He was there?

1 A Yes.

2 Q And you told him this is the person that I'm talking
3 about?

4 A Yes.

5 Q Okay. So that happened last year, right?

6 A Yes.

7 Q And then after that, after you're telling us that
8 you picked out somebody in the lineup, after that
9 happened then you came to court and you didn't, you
10 didn't say that the person was him, right? I'm just
11 talking about what you said, right?

12 A The pictures that he showed me was back 20 years ago
13 from now.

14 Q Yeah, I understand. You know what, we're in court
15 now because Mr. Taylor is a person that you had sex
16 with, and I say had sex, there's was some sexual
17 contact between you and Mr. Taylor, right? There's
18 no question about that, right?

19 A Yes.

20 Q So when we were in court before in Allen Park you
21 said you -- this man was there with me and her, her
22 being the prosecutor, and you said that's not -- you
23 didn't recognize that guy as the guy, do you
24 remember you said that?

25 A I don't remember.

1 Q Okay. All right. Just a moment.

2 THE COURT: Mr. Brown, I hate to interrupt
3 but I need to take a break.

4 MR. BROWN: Okay. Thank you very much. I
5 appreciate it.

6 THE COURT: Members of the jury, if you
7 could please leave your notebooks in your chairs and
8 return to your jury room.

9 COURT OFFICER: All rise for the jury.
10 All rise for the jury, ladies. You can be seated.

11 (At 10:28 a.m. off the record)

12 (At 10:37 a.m. back on the record)

13 (Jurors are present)

14 THE COURT: Okay. You may.

15 MR. BROWN: Thank you.

16 BY MR. BROWN, continuing:

17 Q Just I'm going back to that preliminary examination
18 transcript from September 6, 2016 in Allen Park
19 District Court. You remember Ms. Dillon was also
20 there, right?

21 A Yes. I'm sorry. I thought you were talking about.
22 I went to the Safe House but now I remember we did
23 go to court in Allen Park.

24 Q Okay. Is there some reason you remember that
25 between after the break?

1 A Excuse me?

2 Q Is there some reason that you suddenly remembered
3 that after the break?

4 A Yes, because I thought about it.

5 Q Okay.

6 A He didn't give me the lineup until we got to the
7 Safe House. You had confused me when you said the
8 lineup and the court. I was thinking about the Safe
9 House and not the court.

10 Q Now I'm confused. I apologize. Okay. Let me see
11 if I can clarify. Before you just told me, the
12 jury, everybody else that you don't remember going
13 to Allen Park where we had a preliminary
14 examination --

15 A I apologize for that.

16 Q Wait, wait. Please let me finish. I apologize if I
17 cut you off. You said you didn't remember that,
18 right?

19 A Yes.

20 Q So I'm not talking about the lineup. I'm talking
21 about where we went to a preliminary examination
22 which is a court hearing where it's a judge and this
23 prosecutor, Mr. Taylor and myself are there and you
24 testified under oath?

25 A Yes.

1 Q You remember that?

2 A Yes.

3 Q Now you remember?

4 A Yes.

5 Q And you remember after taking a break here this
6 morning now you remember that happening?

7 A Yes.

8 Q Okay. Before the break you didn't remember it,
9 right?

10 A Well I had to think about it because you confused me
11 when you asked me about the pictures and the court.
12 I got confused.

13 Q Okay.

14 A I apologize.

15 Q No problem. But let's go to page, just so I'm clear
16 about this. I asked you whether you, at the
17 preliminary examination September 6th of last year,
18 whether you remembered saying -- let me backup.
19 Saying that you didn't recognize anyone in the
20 courtroom back then like in September?

21 A Yes.

22 Q We're clear? You said --

23 A Yes.

24 Q -- No you didn't recognize anybody?

25 A Yes.

1 Q And just so we're also clear this is the same Mr.
2 Taylor? He was there then, right?

3 A Yes.

4 Q Okay. I was there?

5 A Yes.

6 Q And the prosecutor and you were there, right?

7 A Yes.

8 Q And you said I didn't recognize him, right?

9 A Yes.

10 Q And then some how in the intervening time between
11 September and the next time we were in court then
12 you recognized him, right?

13 A Yes, because, yes.

14 Q Because what?

15 A I went to the Safe House and they showed me the
16 pictures, the lineup.

17 Q Okay. So you went to the Safe House --

18 A After court.

19 Q I'm sorry. I apologize. I didn't want to interrupt
20 you. Go ahead finish.

21 A After the court Allen Park I remember going to the
22 Safe House and they showed me six pictures.

23 Q Okay. I'm not trying to I just want to tell you we
24 were in Allen Park not Highland Park. You know
25 Highland Park is over by Woodward?

1 A The Safe House.

2 Q No, not the Safe House. I don't even want to know
3 where it is?

4 A Okay.

5 Q But I'm telling you this, we went to Allen Park and
6 that's where we had a preliminary examination where
7 you testified and a reporter took down what you
8 testified --

9 THE COURT: She said Allen Park.

10 MR. BROWN: I didn't hear her. I'm sorry.

11 THE COURT: Yeah, she didn't say Highland
12 Park. She said Allen Park.

13 MR. BROWN: She said Allen Park? I'm
14 sorry.

15 THE WITNESS: Yes.

16 MR. BROWN: I apologize. I'm very sorry.

17 BY MR. BROWN, continuing:

18 Q But at any rate, did you -- do you recall talking
19 about what you were wearing? I know I talked to you
20 about that before I just want to make sure?

21 A In Allen Park?

22 Q Whenever? Let's just say --

23 A Yes.

24 Q You remember what you were wearing?

25 A Yes.

- 1 Q You told you me you were wearing a white top?
- 2 A Yes, I remember what I was wearing.
- 3 Q The blue shorts?
- 4 A It was a white top with blue stars on it.
- 5 Q Okay. And silver or black, silver flip flops?
- 6 A They were either -- I'm not sure because I got two
- 7 pair alike. They were either the white on the black
- 8 ones. They had a silver stone in the middle of them
- 9 and they go between the toes like little flip flops
- 10 but they had the little heel on them with the bow
- 11 tie.
- 12 Q Yes, ma'am. So there would be no reason, there's no
- 13 reason that -- no, strike that. When you got picked
- 14 up by the ambulance that's what you were wearing?
- 15 A I don't think I had my shoes on.
- 16 Q Okay.
- 17 A I don't remember having the shoes.
- 18 Q But you were wearing the top and the shorts, right?
- 19 A Yes.
- 20 Q And then you were taken to the hospital?
- 21 A Yes.
- 22 Q In between going from the K-Mart to the hospital you
- 23 didn't change clothes?
- 24 A No.
- 25 Q Never did you change clothes while you're out there,

1 going out there going to the hospital, right?

2 A No.

3 Q None of that?

4 A No.

5 Q So you never had on any blue jeans, right?

6 A No.

7 Q And the nurse who examined you did she examine
8 you -- she examined you the same day, right?

9 A Yes.

10 Q And I don't mean like chronological day because it
11 may have been into the next day but within hours of
12 when you were with Mr. Taylor behind the K-Mart?

13 A Yes.

14 Q Okay. And one pair of dark blue jeans, that's not
15 what you were wearing?

16 A No, I had on navy blue shorts.

17 Q Were they jeans?

18 A Yeah, they were jean shorts.

19 Q Oh okay. One pair of dark blue jeans not -- and so
20 you didn't bring any clothes later onto the police
21 and say these are clothes that are connected to this
22 case?

23 A No, not that I can remember.

24 Q All right. Now did there come a time after incident
25 at K-Mart where you -- let me rephrase it. You

1 certainly went back down to 13th or 15th, or
2 whatever and Salliotte in Ecorse after this
3 incident?

4 A No.

5 Q You never?

6 A I didn't go back out there for a while.

7 Q No, no, no. I said did you ever go back out there?

8 A while could be like two days, a month or whatever
9 but you went back down there, right?

10 A It's been a minute. It had been a minute before I
11 went back out there.

12 THE COURT: So your answer, ma'am, is yes?

13 THE WITNESS: Yes.

14 BY MR. BROWN, continuing:

15 Q Okay, you went back down there?

16 A Yes.

17 Q And when you went back down to that area you would
18 agree with me on several occasions you saw Mr.
19 Taylor?

20 A Not that I can remember.

21 Q You didn't see him at Better World?

22 A No.

23 Q You didn't see him at Tommy's?

24 A Before the incident happened, yes.

25 Q Yes, ma'am. I'm talking about afterwards?

- 1 A No, afterwards, no.
- 2 Q Okay. And remember we were talking last time about
- 3 a guy named Mike, do you remember that?
- 4 A No.
- 5 Q With the red drop top car?
- 6 A Do you mean Al?
- 7 Q No, I mean Mike?
- 8 A No, I don't know no Mike.
- 9 Q Okay. Al had the red drop top car?
- 10 A Al had a red drop top car.
- 11 Q Oh and that was on where like 14th and Salliotte?
- 12 A 14th and Salliotte.
- 13 Q And do you remember seeing Mr. Taylor any where on
- 14 14th, this is after the incident, seeing Mr. Taylor
- 15 like right across the street sitting on the porch
- 16 while you were over there with Al?
- 17 A No.
- 18 Q That didn't happen?
- 19 A No.
- 20 Q Okay. I think I'm almost finished. Just let me
- 21 look over my notes and I maybe finished okay?
- 22 A Okay.
- 23 Q Oh the car is a burgundy car that you got into?
- 24 A Yes.
- 25 Q You saw that car over on 14th and Salliotte, right?

- 1 A No, I don't remember.
- 2 Q No or you don't remember? Which one?
- 3 A I don't remember seeing him over there on 14th
- 4 Street. Before this incident I use to see him on
- 5 14th and Visger at Tommie house.
- 6 Q Did you talk to anybody while we were on break?
- 7 A No.
- 8 Q And the bat that you said you saw there, would that
- 9 bat be a like one of those do you know what a
- 10 souvenir bat is?
- 11 A I can't remember was it like the little league bat
- 12 or a big bat. All I know is he was swinging it and
- 13 he hit me a couple times when I closed my eyes.
- 14 Q And that was a couple times on your shoulder and
- 15 your arm?
- 16 A Yes.
- 17 Q Not on your legs?
- 18 A No, not that I can remember. I was I froze up.
- 19 Q All right. And knot on your -- did you say
- 20 something the other day about having a big knot on
- 21 your head from being hit on the head?
- 22 A I did.
- 23 Q But that wasn't there. There's no, you know, you
- 24 looked in the report?
- 25 A In can't really remember quite now. Some things

1 coming back to me. I think I had a knot on my
2 forehead but they have it in the hospital report.
3 They should have it in the hospital report.

4 Q Right. And if there's no -- not noted in the
5 hospital report that means you didn't have a knot to
6 you, is that right?

7 A If it's not noted in there.

8 Q Okay. Because you didn't get hit in the head?

9 A I had a knot I think.

10 MR. BROWN: Okay. I think that's all my
11 questions at this point in time. Thank you, Judge.

12 THE COURT: You may.

13 MS. DILLON: Thank you, Judge.

14 R E D I R E C T E X A M I N A T I O N

15 BY MS. DILLON:

16 Q Ms. Davis, Attorney Brown asked you a question in
17 regards to when you testified in Allen Park?

18 A Yes.

19 Q About whether or not you recall being able to
20 identify Mr. Taylor in court?

21 A Yes.

22 Q And at that time you were not able to identify him
23 in court, isn't that true?

24 A Yes, yes.

25 Q Yesterday while you were here and you testified you

1 said you recognized Mr. Taylor as the man who
2 assaulted you in 1996, is that true?

3 A Yes, yes.

4 Q Is there any doubt in your mind that you recognize
5 Mr. Taylor as the man who assaulted you in 1996?

6 A No.

7 MS. DILLON: I have no further questions.

8 MR. BROWN: Nor do I. Thank you.

9 THE COURT: Members of the jury, do you
10 have any question for this witness? If so, please
11 raise your hand. For the record, no one has
12 indicated they have any questions. Ma'am, you may
13 step down. You're excused. Call your next witness.
14 Good morning, ma'am. Can you please spell your
15 first and last name for me?

16 MS. DOAK: Erica, E-R-I-C-A, Doak,
17 D-O-A-K.

18 THE CLERK: Raise your right hand. Do you
19 solemnly swear or affirm to tell the truth?

20 MS. DOAK: Yes.

21 ERICA DOAK

22 (At 10:49 a.m., sworn as a witness, testified as follows)

23 THE CLERK: You maybe seated.

24 D I R E C T E X A M I N A T I O N

25 BY MS. DILLON:

1 Q Good morning, ma'am. I know you just stated your
2 name but I'm going to ask you to please state your
3 name again for the record?

4 A Erica Doak.

5 Q And I'm also going to ask you do speak up a little
6 bit. Everything in this courtroom is recorded. We
7 don't have a court reporter any more so I want to
8 make sure that everybody can hear you and also make
9 sure that we use yes or no as opposed to uh-huhs or
10 uh-uhs, okay, and shaking of the head in order to
11 answer questions.

12 A Yes.

13 Q Thank you. Ms. Doak, how old are you?

14 A Forty-three.

15 Q I want to you to talk to you about February 1994 all
16 right, and where were you living at that time?

17 A I was living in Detroit. I was living on the corner
18 of Cass off the Fisher Freeway in an apartment
19 building.

20 Q Okay. And how long had you lived there?

21 A I am not really for sure.

22 Q All right. And were you living with anybody at that
23 time?

24 A I was living with my boyfriend at that time.

25 Q Okay. And did you have any medical conditions at

1 that time?

2 A I was pregnant.

3 Q How far along were you?

4 A Approximately six months.

5 Q And in want to talk to you about an incident,
6 February 17, 1994, do you remember that day?

7 A Yes, I do.

8 Q What were you doing that morning?

9 A I left to go to my mother's house. She was staying
10 out in Melvindale and I had taken a bus to go to her
11 house.

12 Q Okay. Where did you get on the bus at?

13 A I got on the bus downtown Detroit where the bus
14 depot used to be.

15 Q And so where did you get off the bus?

16 A On the corner of Outer Drive and Fort Street.

17 Q Okay. And is this a bus that you were used to
18 taking?

19 A No, it was not.

20 Q All right. And so you got off at Outer Drive and
21 Fort Street?

22 A Uh-huh.

23 Q Were you traveling with anyone that day? Did anyone
24 go with you?

25 A No, they did not.

1 Q All right. Now is that where you intended to get
2 off the bus at?

3 A No, it was not.

4 Q Where did you want to get off the bus at?

5 A I was supposed to be let off on the corner of
6 Schafer and Fort Street.

7 Q And you said you were supposed to be let off, what
8 happened?

9 A I had got on the bus and I had usually taken the
10 Smart Bus system to go down to my doctor's
11 appointment so when it came to pick me up I asked
12 them if they would be able to let me off. It wasn't
13 until after I was on the bus that the driver
14 explained to me that they would not be able to
15 because it was inside the Detroit city limit,
16 therefore they had to take me down to Outer Drive
17 and let me off.

18 Q All right. Do you know how far it is between Outer
19 Drive and Fort and Schafer and Fort where you had
20 wanted to get off?

21 A No, I do not.

22 Q Is it a walkable distance?

23 A It was at that time, yes.

24 Q All right. So when you got off the bus at Outer
25 Drive and Fort street, what did you do?

1 A I started to walk down Fort Street headed back
2 toward Schafer so that I could go down to Schafer
3 and go down Schafer to where my mother was staying
4 at the time.

5 Q Okay. And how long did that walk take you?

6 A I am not sure.

7 Q Okay. Did you make any stops on your way?

8 A I did not.

9 Q Were you -- were you carrying anything? Did you
10 have anything with you?

11 A I did. I had my purse with me.

12 Q Did there come a time on your walk where you met up
13 with anyone or you were talking with anyone?

14 A No, not at all.

15 Q Okay. At any time, so you didn't -- did you see
16 anybody that you knew on your way?

17 A No, I did not.

18 Q And did you -- did there come a time on your way to
19 Schafer did you actually make it to Schafer Street
20 to the area you were going?

21 A No, I did not.

22 Q All right. What stopped you?

23 A There was somebody who approached me from behind and
24 they had a knife with them.

25 Q All right. Was it a male or a female?

1 A It was a male.

2 Q And you said they approached you from behind?

3 A Yes.

4 Q So how is it you were alerted there was someone

5 behind you?

6 A I did not know until he was right behind me.

7 Q Okay. And then what happened when he was behind

8 you?

9 A He put the knife to my side.

10 Q Could you see it?

11 A I could, yes.

12 Q Okay. What did it look like?

13 A It was a pocket knife.

14 Q All right. And did the person say anything to you?

15 A I don't recall at that time.

16 Q Okay. Do you remember what the person looked like

17 at all?

18 A I do not.

19 Q Okay. Now you don't remember if the person said

20 anything to you?

21 A No.

22 Q What was the first thing that happened then once you

23 felt and saw that this person had a knife? What

24 happened?

25 A I just remember us walking. He had me go with him.

1 We walked over. There was a house that had an open
2 basement. There was a mattress in the basement
3 there and we went --

4 Q Now I'm going to slow you down.

5 A Okay.

6 Q So when you say he had you walk, you were on Fort
7 Street when this person approached you?

8 A Yes.

9 Q Do you remember were you at a cross street or were
10 you close --

11 A We were actually like more like in the middle of the
12 street.

13 Q Okay.

14 A It was -- it was -- I don't know the exact area but
15 it was some where between there's a little market
16 over there and then there's a little white church on
17 the corner. It was some where in that area.

18 Q Okay. Do you know how far you were from Schafer?

19 A I believe it's approximately two to three blocks
20 away from Schafer.

21 Q Okay. Now did this person say anything to you to
22 make you walk with them?

23 A I believe he just told me to walk with him. We
24 just -- because I had told him at that time that I
25 was pregnant.

1 Q Okay. So you did have some sort of conversation if
2 you can call it that?

3 A Yes.

4 Q Okay. What do you recall saying?

5 A I just recall telling him that I was pregnant and I
6 didn't want to be hurt and so that's when he led me
7 away and we went to the house.

8 Q Okay. Now you said he led you away, I mean
9 obviously did you go voluntarily? I mean what were
10 you feeling at this point?

11 A Just more nervous than anything. He was beside me
12 the entire time with the knife there.

13 Q Okay. And how old were you at this time? Twenty?

14 A Yes.

15 Q And how far away was this house that you were led
16 to?

17 A It was just on either side of the alley.

18 Q And did you see anybody while you were walking
19 with --

20 A I did not.

21 Q Okay. Did you yell or scream or anything?

22 A I did not.

23 Q Okay. And so you said there was was it a house off
24 an alley?

25 A I'm not sure if it was a house or an apartment or

1 what it was because we were behind it. We went to
2 the back of it off of the alley.

3 Q And were there any people in this house or this
4 dwelling?

5 A There was nobody where we were.

6 Q Was there furniture in this house? What did --

7 A It was a basement. Like it was a back basement. We
8 walked downstairs and it was just an open basement.

9 Q Kind of like a cellar door entrance kind of?

10 A Yes.

11 Q Okay. Was there anybody in there when you got
12 there?

13 A No.

14 Q What did you see when you got in there?

15 A It was just a mattress and some other random things
16 in the room.

17 Q Did it look like somebody lived there?

18 A I'm not sure.

19 Q Now once -- how did -- was the door open? How did
20 you get in there?

21 A The door was open.

22 Q Okay. And once you were in there did this person
23 say anything to you?

24 A He just told me to lay down.

25 Q And what did you do?

1 A I did.

2 Q All right. And where did you lay down?

3 A On the mattress.

4 Q Do you remember what you were wearing that day?

5 A I was wearing a pair of sweat pants and a T-shirt
6 and a blue jean jacket.

7 Q And once you lay down on the mattress what happened?

8 A He took my sweat pants off and he proceeded to rape
9 me.

10 Q Okay. When you say he took your sweat pants off,
11 did you struggle with him?

12 A I did not.

13 Q Why not?

14 A Because as I stated I was six months pregnant and he
15 had a knife.

16 Q All right. Did you see the knife when you were in
17 the basement?

18 A Yes, I do. He laid it on the floor right beside the
19 mattress.

20 Q Okay. And once your sweat pants were off, what did
21 that person do?

22 A He raped me.

23 Q Okay. Did he touch you?

24 A No.

25 Q Well did any part of his body touch any part of your

1 body?

2 A Yes.

3 Q And what was that?

4 A He stuck his penis inside of my vagina.

5 Q Did you want that to happen?

6 A No.

7 Q Did you even know this person?

8 A No.

9 Q And when this was happening, what were you doing?

10 Did you try to fight back? Did you struggle?

11 A No, I was laying there with my eyes closed waiting

12 for it to be over.

13 Q And how did that end?

14 A He finished what he was doing. He got up and he

15 left. He told me not to come out of the basement.

16 Q Do you remember exactly what he said to you?

17 A He told me to stay there. He told me not to leave

18 and he told me not to contact anybody.

19 Q And then he left?

20 A Yes.

21 Q Okay. How long did you stay in that basement?

22 A I'm not sure exactly how long. I waited until I

23 didn't hear anything.

24 Q Okay. Did anyone else come into that basement while

25 you were there?

1 A No.

2 Q And what did you do at that point?

3 A I left the basement and I went, there is an auto
4 place next door that rented U-Hauls and stuff and I
5 went there to try and use there phone to contact
6 somebody to come get me.

7 Q Did they let you use the phone?

8 A No, they did not.

9 Q Then what did you do?

10 A I ended up using the pay phone that used to be right
11 in front of there to call my best friend's father.

12 Q Okay.

13 A Who was the only person I was able to get a hold of.

14 Q Did you try to get a hold of other people?

15 A I tried to get a hold of my mother.

16 Q And were you able to reach her?

17 A I was not.

18 Q Okay. And was there a reason why you called your
19 best friend's father?

20 A Because it was the only other number that I could
21 find. I wasn't sure of any other numbers and he was
22 a -- he was a business person so I was able to get a
23 phone back from the business and look up his phone
24 number to call him.

25 Q Okay. So they wouldn't let you use their phone but

1 they allowed you to use their phone book?

2 A Yes.

3 Q Now, Erica, you had stated that you when that you
4 had on sweat pants, a T-shirt and a jean jacket?

5 A Yes.

6 Q Okay. Did you still have your jean jacket when you
7 left the basement?

8 A No, I did not.

9 Q What happened to it?

10 A He took it with him.

11 Q And did he take anything else?

12 A Yes, I used to have a set of silver bracelets that I
13 wore on my wrist that he took with him as well.

14 Q Okay. Anything else that you recall?

15 A It was a small sum of money maybe ten or 15 dollars
16 in my purse.

17 Q And was that taken as well?

18 A Yes.

19 Q Okay. So after you made the phone call what
20 happened?

21 A I waited at the pay phone and my best friend's dad
22 came to get me.

23 Q Okay. And where did you go from there?

24 A He went to Oakwood Hospital.

25 Q And did you meet with anyone else at Oakwood

1 Hospital?

2 A The police met me there.

3 Q All right. And what happened at the hospital?

4 A At the hospital they had to do all the testing to
5 make sure that everything was okay and they took a
6 report.

7 Q Now you said they did testing to make sure that
8 everything was okay, okay with what?

9 A Okay with me, okay with the baby. They did tests to
10 make sure that nothing was wrong with me and that I
11 didn't have any kind of diseases or anything from
12 the incident.

13 Q Okay. Did they do an exam?

14 A Yes, they did.

15 Q All right. Do you remember anything about that
16 exam?

17 A Not much.

18 Q Okay. Tell us what you do remember about it?

19 A They just checked everything to make sure everything
20 was okay.

21 Q Did they take your clothing?

22 A I didn't think they actually took my clothing. I
23 think they took may underwear.

24 Q Okay.

25 A And they took samples of fluids that were inside of

1 me.

2 Q How did they do that?

3 A With the exam.

4 Q But I mean how did they actually take the samples
5 from you?

6 A By doing a vaginal exam.

7 Q Okay. So did they use swabs?

8 A Yes.

9 Q Okay. And you said you met with the police, did you
10 meet with me at the hospital?

11 A Yes, I did. There were two officers that came to
12 the hospital.

13 Q Do you remember how long you were at the hospital?

14 A I'm not sure.

15 Q Did you go --

16 A I know it took awhile.

17 Q And how did you feel? How were you feeling when all
18 of this was going on?

19 A Nervous.

20 Q Okay. When you -- when you met with the police was
21 there anything you did after you met with the
22 police?

23 A They brought me out here and I talked to more
24 officers, after I talked to those officers we went
25 back to the house where it had happened.

- 1 Q Okay. So you actually took them to the location?
- 2 A Yes, I did.
- 3 Q Okay. And what happened when you were back at that
- 4 house?
- 5 A They went into the basement to look for the knife
- 6 because it had been left behind beside the mattress
- 7 on the floor.
- 8 Q And did they find it?
- 9 A Yes, they did.
- 10 Q Did you touch the knife at all?
- 11 A I did not.
- 12 Q And what if anything else happened as far as your
- 13 interaction with the police or anything after that
- 14 time?
- 15 A They drove me back to where I was staying? Where
- 16 they actually drove me back to Melvindale to my
- 17 mother's house to get my stuff where I was
- 18 originally going and then they drove me back to my
- 19 apartment where I was staying.
- 20 Q Okay. Now the location, the house where that
- 21 happened and where you took the police back, was
- 22 that actually within the city of Detroit?
- 23 A I believe so.
- 24 Q But it was in Wayne County, is that right?
- 25 A Yes, it was.

1 Q Okay. And did the police ever ask you to come and
2 identify anyone or get a further statement from you
3 back then in 194?

4 A No, they did not.

5 Q All right. And, Erica, I'm going to ask you to look
6 around the courtroom and let us know if you
7 recognize anyone from the incident back in 1994?
8 It's been a long time but just take a look and let
9 us know. You're shaking your head.

10 A No.

11 Q So you don't recognize anyone?

12 A No.

13 Q Okay. Back in 1994, did you know anyone by the name
14 of Dexter Taylor?

15 A No.

16 Q Do you know anyone by the name of Dexter Taylor now?

17 A No.

18 Q And I'm going to ask you to take a look at the man
19 that's sitting here in the white shirt and the tie,
20 do you recognize him?

21 A No, I do not.

22 Q Okay. And so he's not a friend of yours? He's no
23 one you've ever had a relationship with?

24 A No, he's not.

25 Q And you've never had consensual sex with that man,

1 is that true?

2 A No, I have not.

3 MS. DILLON: I have no further questions.

4 THE COURT: Cross.

5 MR. BROWN: Thank you.

6 C R O S S - E X A M I N A T I O N

7 BY MR. BROWN:

8 Q Good morning, Ms. Doak.

9 A Good morning.

10 Q My name is Mark Brown. I represent Mr. Taylor in
11 this case. I'm going to ask you some questions and
12 I apologize because I know it's uncomfortable
13 situation but if you don't understand my question
14 will you let me know that and I'll try to rephrase
15 it?

16 A Yeah.

17 Q Thank you. And just caught my attention, you said
18 you lived on Cass and the Fisher Freeway?

19 A Yes, I do.

20 Q Okay. That's not like a student apartment building,
21 is it?

22 A No, it's not.

23 Q It's like a transient type of people?

24 A No, at the time it was a regular apartment building.
25 We're talking 27 years ago.

1 Q Yes, ma'am. I mean well, you know, that area now
2 they call it Midtown, you know that, right?

3 A I'm not sure.

4 Q Yeah. Before they called that that Cass Corridor,
5 right?

6 A They did, yes.

7 Q Yeah, and the Cass Corridor is a place that's known
8 for drugs, right?

9 A Yes, it was.

10 Q Lots of drugs like in 1994 that's like when crack
11 was all around every where and particular down in
12 the Cass Corridor, right?

13 A It may have been.

14 Q Oh you didn't know?

15 A I didn't go out much in the area. I wasn't from the
16 area so I didn't choose to walk around the
17 neighborhood. It was a little store across the
18 street. I went outside to go to the store. I
19 stayed in my apartment most of the time.

20 Q Okay. The store is right there on the Service Drive
21 it's still there?

22 A It is, yes, it's still there today.

23 Q Okay. And were you familiar with the area down like
24 Schafer and Fort Street that area?

25 A Not particularly.

1 Q You said your mother lived down in that area?

2 A My mother lived in Melvindale off of Schafer and I
3 don't remember the other crossroad.

4 Q Do you know what's meant when people refer to
5 something as the stroll down what that means?

6 A No.

7 Q Do you know what it means to trick?

8 A Yes, I do.

9 Q What does it mean?

10 A It reasons that you're referring to a prostitute
11 picking up a trick.

12 Q Referring to a prostitute? Tricking is when people
13 engage in sex or money?

14 A Okay.

15 Q I'm asking you?

16 A Yes.

17 Q And a lot of that happened in the area of Cass and
18 the Fisher Freeway, right?

19 A Like I said, I did not go outside of the apartment
20 much.

21 Q Okay.

22 A I did not have a need to.

23 Q Yes, ma'am. A lot of that happened down on Fort and
24 Outer Drive too, right?

25 A I'm not sure. I was born and raised in Wyandotte.

1 I didn't go outside of the area much.

2 Q Yes, ma'am.

3 A So I was not familiar with that area at that time.

4 Q Oh okay. Were you, in any way, and obviously it's
5 an injury to be raped, but were you in any other way
6 injured?

7 A I was not.

8 Q Okay. You weren't like pulled into a building or
9 anything like that? The injury was in the fact gnat
10 you were raped, right?

11 A Yes.

12 Q Okay. This happened in the afternoon?

13 A Yes, it did.

14 Q Like about 2:00 in the afternoon?

15 A Yes.

16 Q Right. And so in the day light?

17 A Yes.

18 Q Is it winter time?

19 A It had started to get a little bit warmer outside
20 but, yes, it was still winter time.

21 Q February, yeah. So you went to that -- what did you
22 say? Did you call it a tire shop you went to?

23 A I don't exactly know what it was. I know they used
24 to rent U-Hauls. It's a little shop right there on
25 the corner across the street.

1 Q All right. So you're -- I'm sorry. You're a year
2 old young lady and you're pregnant? Are you
3 obviously pregnant?

4 A Yes.

5 Q Okay. And you go to this U-Haul place and they
6 don't let you use their telephone?

7 A No.

8 Q Okay. They gave you a book but they didn't let you
9 come inside?

10 A I was inside. I was inside of their store because
11 you have to walk inside to get in there to talk to
12 the people but they would not let me use my phone,
13 or their phone, because people were not allowed to
14 use their phone.

15 Q Okay. Did you ask them to call the police?

16 A I did not.

17 MR. BROWN: Okay. All right. I have no
18 further questions. Thank you very much.

19 THE COURT: Redirect.

20 MS. DILLON: I have no further questions,
21 your Honor.

22 THE COURT: Members of the jury, do you
23 have any question for this witness? If so, please
24 raise your hand. For the record, no one has
25 indicated they have any questions. Ma'am, you may

1 step down. You're excused. Call your next witness.
2 Who's the next witness?

3 MS. DILLON: Your Honor, the People would
4 call John Difatta. Where

5 THE COURT: Good morning, sir.

6 Mr. DIFATTA: Good morning.

7 THE COURT: Can you please spell your
8 first and last name for the record?

9 Mr. DIFATTA: John, J-O-H-N, Difatta,
10 D-I-F-A-T-T-A.

11 THE COURT: Can you raise your right hand?
12 Do you solemnly swear or affirm that the testimony
13 you will now give in the cause pending before this
14 Court will be the truth, the whole truth and nothing
15 but the truth?

16 MR. DIFATTA: Yes.

17 JOHN DIFATTA

18 (At 11:13 a.m., sworn as a witness, testified as follows)

19 THE COURT: You maybe seated. Whenever
20 you're ready, Ms. Dillon.

21 MS. DILLON: Thank you very much.

22 THE COURT: You're welcome.

23 D I R E C T E X A M I N A T I O N

24 BY MS. DILLON:

25 Q Good morning.

1 A Good morning.

2 Q I know you just gave your name to the Judge. Would
3 you just please state your name for the record?

4 A John Diffatta.

5 Q Okay. And, Mr. Diffatta, you're a retired
6 individual?

7 A Yes, I am.

8 Q And where did you retire from?

9 A The Melvindale Police Department, City of
10 Melvindale.

11 Q And how many years did you work there?

12 A Total of 28 and a half.

13 Q Okay. I want to talk to you about July 25, 1996,
14 were you working that day?

15 A No, I was not.

16 Q And what do you remember what you were doing that
17 day?

18 A I believe I was headed home from Lincoln Park to my
19 home in Melvindale.

20 Q Okay. And you said you were headed home so were you
21 in a car? Were you walking?

22 A I was in a private owned vehicle with my son.

23 Q Okay. And so you lived in Melvindale at the time?

24 A Yes.

25 Q From Lincoln Park to your home what route would you

1 have taken?

2 A Generally I would take Outer Drive from Fort Street
3 area.

4 Q And is that what you did on that day?

5 A Yes.

6 Q When I know you were off-duty that day, did
7 something happen, though, that you had the occasion
8 to actually call the Melvindale Police Department?

9 A Yes, it did.

10 Q And do you remember about what time?

11 A It was late evening, close to dark, maybe dark.

12 Q All right. And what was it that got your attention?

13 A There was a female that was screaming for help,
14 crying.

15 Q All right. Did you see somebody?

16 A Yes, I saw a black female in the parking area coming
17 down it would be from I had passed under a railroad
18 viaduct and there's a K-Mart parking lot area and
19 she was coming out of that down the hill towards the
20 Outer Drive.

21 Q Okay. Now you said you could hear the person so
22 were your windows down or?

23 A I don't know. I know she was in distress.

24 Q So when you heard that -- you heard someone in
25 distress, you mentioned the K-Mart?

1 A Right.

2 Q Obviously as an officer you're probably familiar
3 with that K-Mart in Melvindale at that time?

4 A Yes.

5 Q Was it a functioning K-Mart?

6 A At that time I'm not sure. I remember the address
7 but any way I do know that patrol-wise it was part
8 of the city's patrol front and back.

9 Q Now after you heard the female in distress, what did
10 you do?

11 A I got on my cell phone and contacted the police
12 station.

13 Q And do you recall what the call was that you made?

14 A The call I made was that there was a woman in
15 distress in the K-Mart parking lot Outer Drive area.

16 Q And did you just leave it at that and go on your
17 way?

18 A I advised the officer at the desk that I was going
19 to turn around and return back to the area probably
20 to assist if I could or to see what was going on.

21 Q Okay. So did you make the turn around?

22 A I made a Michigan turn around, yes.

23 Q Okay. So you had to go down and make a left in
24 order to go back?

25 A Had to go down, make a left, head back which would

1 be I think east bound and then turn around again in
2 order to be going in the same direction in which I
3 was originally was.

4 Q Okay. And so did you you made that turn?

5 A Yes, I did.

6 Q All right. Now when you got back to the original ly
7 occasion where you heard the female in distress,
8 what did you do at that point?

9 A At that point I observed the patrol officers that
10 were obviously dispatched to the area coming into
11 the area to assist the woman.

12 Q Okay. So you saw squad cars coming?

13 A Correct.

14 Q Did you stop?

15 A I believe I did pull in the parking lot just to
16 ensure everything was okay.

17 Q So did you take any part in the investigation in the
18 all?

19 A No, I did not.

20 Q And were you there for any length of time?

21 A I just checked with the officers that were there and
22 then I left the scene.

23 Q Okay. And so did you have any contact with the
24 person that you heard screaming that day?

25 A No, other than visual.

1 Q Do you remember at all what she looked like?

2 A Black female, obviously crying, obvious in some type
3 of distress of some type calling for help.

4 Q Do you remember anything else about her appearance?

5 A Not really.

6 Q So in this case you actually didn't work on this
7 case as a police officer? You happened to just be a
8 passer by?

9 A Correct but with knowledge that I recognized that
10 the woman was in distress.

11 Q And you made the call?

12 A Yes.

13 MS. DILLON: I have no further questions,
14 your Honor.

15 THE COURT: Cross.

16 MR. BROWN: May I approach?

17 THE COURT: Certainly.

18 C R O S S - E X A M I N A T I O N

19 BY MR. BROWN:

20 Q Is it officer? Were you an officer at that time?

21 A At that time my rank was inspector.

22 Q Inspector okay. You were -- but I can call you Mr.
23 now? Mr. Difatta?

24 A Difatta.

25 Q Did you author a report in connection with this

1 incident?

2 A The only -- this was not written by me. My name is
3 on the bottom probably more than likely because I
4 was the notifier to the police department.

5 Q Is that your signature down there or?

6 A Which one? Where.

7 Q This one? Is it hand written your name?

8 A My name is typed right here. That looks like
9 Officer D Taft.

10 Q Taft, all right. Thank you. So you didn't author
11 any reports?

12 A Can you repeat that please?

13 Q You did not author any reports in connection with
14 this incident?

15 A As in writing, no.

16 Q Yes, sir. And so you have there's nothing I could
17 refresh your recollection about what happened that
18 you wrote, fair to say?

19 A Correct.

20 Q Okay. But you do know that you saw a woman who when
21 you saw her she was walking down the hill from the
22 K-Mart parking lot down towards the the street,
23 correct?

24 A Yes.

25 Q She wasn't crawling?

1 A No.

2 Q And he was hysterical like, you know, waving her
3 arming or doing so? What was she doing? You tell
4 us?

5 A She was crying, he was waving her arms. She was
6 yelling for help, somebody please help me, something
7 of that nature.

8 Q Yes, sir. She was not crawling on her knees?

9 A Not when I first saw her.

10 Q And at no time did you see her crawl on her knees,
11 right?

12 A I did not but again I had driven past. The speed
13 limit was 35 miles an hour.

14 Q Right and when you came back she was standing there
15 right?

16 A The officers were there at the scene and I saw her
17 standing there, yes.

18 Q Would you agree, do you know anything about a bat?

19 A No.

20 Q No you do not?

21 A No, I don't.

22 Q So you don't know anything about her holding or
23 picking up a bat at the top so that she wouldn't
24 disturb fingerprints on the handle of the bat, you
25 don't no anything about that?

1 A No, I do not.

2 Q Okay. And you never had a conversation so you
3 wouldn't be able to say how she recounted the
4 events?

5 A Correct.

6 Q You never went to the hospital?

7 A I went home.

8 MR. BROWN: Okay. Thank you. I have no
9 further questions.

10 THE COURT: Redirect.

11 MS. DILLON: No questions, your Honor.

12 THE COURT: Members of the jury, do you
13 have any question for this witness? If so, please
14 raise your hand. All right. Write down your
15 questions and Corporal McDougall will be over to
16 collect them. Sir, this question is coming to you
17 from a member of the jury so if you could look at
18 them when you answer okay. "why did you first pass
19 the K-Mart and have to return"?

20 THE WITNESS: I was in route home and that
21 was the route that I took to go home. I returned to
22 the scene because I was at that time a police
23 officer and saw a woman in distress. The management
24 of my involvement was based on a couple different
25 things: One, I did call the station because I

1 recognized that she was in distress of some type.
2 Two, I made the U-turn in order to be able to see if
3 I could assist because I wasn't aware of what the
4 circumstances were, and the other concern that I had
5 as to why I didn't stay at the scene and I continued
6 on home is the fact that I had a family member in
7 the car that I felt did not need to partake in the
8 investigation and incident.

9 THE COURT: Anything else, members of the
10 jury? If so, please raise your hands. Any
11 questions based on the juror's questions, Ms.
12 Dillon?

13 MS. DILLON: No, Judge.

14 THE COURT: Mr. Brown?

15 MR. BROWN: None, Thank you, Judge.

16 THE COURT: Sir, you are excused. Please
17 call your next witness.

18 MS. DILLON: Your Honor, the People would
19 be calling Valerie Taylor.

20 THE COURT: Good morning, ma'am.

21 MS. TAYLOR: Good morning.

22 THE COURT: Can you please spell your
23 first and last name for the record?

24 MS. TAYLOR: V-A-L-E-R-I-E, T-A-Y-L-O-R.

25 THE CLERK: Raise your right hand. Do you

1 solemnly swear or affirm to tell the truth?

2 MS. TAYLOR: I do.

3 VALERIE TAYLOR

4 (At 11:25 a.m., sworn as a witness, testified as follows)

5 THE CLERK: You can be seated.

6 THE COURT: You may.

7 MS. DILLON: Thank you, Judge.

8 THE COURT: You're welcome.

9 D I R E C T E X A M I N A T I O N

10 BY MS. DILLON:

11 Q Good morning.

12 A Good morning.

13 Q Would you please state your full name for the
14 record?

15 A Valerie Taylor.

16 Q And, Ms. Taylor, what is your occupation?

17 A I'm a registered nurse.

18 Q And how long have you been a registered nurse?

19 A Since 1986.

20 Q And were you working in 1996?

21 A Yes.

22 Q Where were you working at?

23 A Oakwood Hospital in Dearborn.

24 Q Do you work there now?

25 A No.

1 Q Back there in 1996 did you have a different last
2 name?

3 A Yes.

4 Q What was that?

5 A Johns.

6 Q So when you practiced you practiced under the name
7 of Valerie Johns?

8 A Yes.

9 Q And what was your position with Oakwood Hospital?

10 A It was an Emergency Department Nurse.

11 Q And what types of things did you do?

12 A Direct patient care, triage, charge nurse.

13 Q Pretty much anything that walked to through the
14 door?

15 A Pretty much.

16 Q And back in 1996 what degrees did you hold at that
17 time?

18 A I had an associates degree in nursing.

19 Q And when did you earn that degree?

20 A 1986.

21 Q Did you have, I know you were working in the ER, did
22 you have any sort of area of specialty of practice
23 in 1996?

24 A No.

25 Q And did you do sexual assault exams as a nurse in

1 1996?

2 A Yes.

3 Q What type of training did you go through in regards
4 to a sexual assault exam?

5 A In 1996 it was just like being precepted by someone.
6 It wasn't anything specialized then.

7 Q And when you say preSeptemberred what do you mean by
8 that?

9 A Like another nurse would show you how to pretty
10 much, you know, do your job.

11 Q Is this after 1996 was there any sort of specialized
12 training?

13 A Yes.

14 Q And what was the name of that training?

15 A Sexual Assault Nurse Examiner.

16 Q Did you go through that training?

17 A Yes, I did.

18 Q And what you learned in that training was it
19 basically the same as what you were doing in 1996?

20 A Yes, it was as far as what came in the assault kits.
21 With that training though the nurse, the sexual
22 assault nurse examiner would actually do the pelvic
23 exam.

24 Q Okay. In 1996 who would do the actual pelvic exam?

25 A The doctor.

1 Q And would you be present for that?

2 A Yes, ma'am.

3 Q Now how many sexual assault forensic exams have you
4 conducted?

5 A I'd say 15 to 20. I can't remember off the top of
6 my head.

7 Q And as far as being an expert in the field of sexual
8 assault examinations, have you ever been qualified
9 as an expert in court?

10 A Yes.

11 Q How many times?

12 A Twice.

13 Q And do you remember what courts?

14 A The one here and in Washtenaw County.

15 Q Okay. So both in Michigan?

16 A Yes.

17 Q And at those proceedings were you a witness for the
18 Prosecution or for the defense?

19 A For the oh for the defense. For the Prosecution,
20 I'm sorry. For the Prosecution.

21 Q That's okay. I don't want to make you're nervous
22 okay.

23 MS. DILLON: Your Honor, at this time I
24 would tender her as an expert as far as sexual
25 assault forensic exams.

1 THE COURT: We have to first pass her for
2 voir dire for the defense before we move to qualify.

3 MR. BROWN: I'll stipulate to her
4 qualifications.

5 THE COURT: All right.

6 MR. BROWN: Thank you.

7 THE COURT: So you so move?

8 MS. DILLON: Yes, ma'am.

9 THE COURT: And in what area to qualify?

10 MS. DILLON: For sexual assault nurse
11 examination forensic exam.

12 THE COURT: All right. Members of the
13 jury, this witness is being offered to you by
14 stipulation of the parties as an expert in the
15 fields of forensic sexual assault nurse examination,
16 did I say that right?

17 MS. DILLON: Sexual assault forensic exam.

18 THE COURT: Sexual assault forensic
19 examinations. That means that she can give you
20 opinions about things that are within her field of
21 expertise. You can choose to accept or reject her
22 opinions but she will be allowed to testify to her
23 opinion. You may.

24 MS. DILLON: Thank you, your Honor.

25 THE COURT: You're welcome.

1 BY MS. DILLON, continuing:

2 Q What is a sexual assault examination?

3 A Sexual assault examination is an examination that's
4 done on any individual that comes into the Emergency
5 Department that alleges sexual assault.

6 Q Can you describe the general nature of a sexual
7 assault forensic exam? What it is?

8 A There's a kit that the Michigan State Police have in
9 Michigan, I'm not sure about any other state, but in
10 that kit are testing materials for the patient that
11 comes in that alleges an assault so we open the kit
12 and go through the kit and do the examination on the
13 appropriate complaints of the patient.

14 Q How long does an exam like that generally take?

15 A Three hours.

16 Q And what is the priority of that exam?

17 A The priority of the exam is the patient, just to
18 make sure that the patient is okay and to make sure
19 that all the evidence is obtained.

20 Q Okay. And when you say priority is the patient, so
21 are you doing more than just obtaining samples with
22 the patient?

23 A The patient is medically cleared by the doctor
24 before we do the exam.

25 Q Now did there come a time in July of 1996 when you

1 performed a sexual assault forensic exam on a
2 Rachael Davis?

3 A Yes.

4 Q And do you remember that just out of memory or is it
5 because there's records that support that?

6 A It's the records.

7 Q Can you describe for us what specific steps you took
8 with this exam of Rachael Davis? Like what was the
9 first thing that was done?

10 A The first thing is the patient comes in and you, we
11 call it triage. You like ask health history
12 questions, all letter gees, medications after you get
13 the chief complaint of why you're there.

14 Q Okay. Now you said after you get the chief
15 complaint so do you actually ask the patient?

16 A Yes.

17 Q What happened?

18 A You asked the patient what their chief complaint is.
19 Usually it's, you know, most of them will say I got
20 raped.

21 Q Do you go beyond that statement as far as getting
22 information?

23 A At that point they are put in a room, the patient is
24 in a room, and now that's your only patient.

25 Q Okay. Now with Rachael Davis can you tell us, you

1 said that you the first thing you do is kind of a
2 triage and determine why she's there?

3 A Right.

4 Q So in this case you determined why she was there?

5 A Yes.

6 Q And what did she tell you why she was there?

7 A She told me that she was assaulted.

8 Q Okay. So then at that point once you know that what
9 was the next thing that you did with your exam?

10 A The patient goes into the room, someone else is now
11 going to now take all my the rest of my patients in
12 the Emergency Department and I'll be one on one with
13 that patient.

14 Q Okay. So you were one on one with Rachael Davis?

15 A Yes.

16 Q All right. What was the first thing that you did?

17 A Well I have somebody else call for a victim's
18 advocate to start so that someone else would be
19 there for her.

20 Q Okay.

21 A And then the first thing is to get one of the
22 assault kits, which comes in a box, open it and then
23 I take out the paperwork and then I literally go
24 down the paperwork.

25 Q Okay. So this kit not only contains what you need

1 to take evidence or samples but it also contains
2 basically the protocol that you're supposed to
3 follow?

4 A Yes.

5 MS. DILLON: Okay. Your Honor, may I
6 approach?

7 THE COURT: You may.

8 BY MS. DILLON, continuing:

9 Q Ms. Taylor, I'm going to hand you what's been
10 previously marked as People's proposed exhibit
11 number 11.

12 A Okay.

13 Q If you could take a look at that and let me know do
14 you recognize those documents?

15 A Yes.

16 Q What do you recognize that to be?

17 A This is the the paperwork that comes out of the
18 assault kit.

19 Q Okay. And so is that the paperwork that you follow
20 or followed when you did your exam of Rachael Davis?

21 A Yes.

22 Q Okay. Now there's a couple things there. There's
23 four pages, what is the top page?

24 A Her giving me the date and I put in like the time of
25 the interview and then her signing saying that she

1 gives us permission to interview and do the exam.

2 Q Okay. The first page?

3 A Oh this one? Sorry.

4 Q I'm sorry.

5 A I thought you meant number one page.

6 Q No.

7 A This is nurse's notes that come from the hospital.

8 Q Okay. Now nurse's note in this case are these your

9 notes?

10 A Yes.

11 Q All right. And when were these notes done?

12 A At the time of the exam.

13 Q So July 25, 1996?

14 A Yes.

15 Q And I see that Rachael Davis' name is on there?

16 A Yes.

17 Q And so at the top under the date there's a 2210?

18 A Right.

19 Q Do you see that?

20 A Yes.

21 Q What does that indicate?

22 A The time.

23 Q Okay. And what time is that?

24 A 10:10 at night.

25 Q So is that the time that you met with her or she

1 came in?

2 A That's the time that she came into the Emergency
3 Department.

4 Q All right. So when you're taking these nurse's
5 notes is this something that you do up front or was
6 this --

7 A No, this is a continuance of the paperwork from the
8 assault kit.

9 Q Okay. So did you go through the assault kit first?

10 A I went through the assault kit when I had her in the
11 room.

12 Q All right. And okay, so the first thing that --
13 tell us, again, you said the first thing that you
14 did is once you realized what it was about you put
15 her in a room and then you were one on one with her?

16 A Yes.

17 Q Okay. So what type of room is this?

18 A It's an examining room in the Emergency Department.

19 Q Okay. So it's like a doctor's --

20 A Regular ER room.

21 Q Okay. And what once you were isolated with her what
22 was the first thing that you did?

23 A The first thing that I did was obtain the consent
24 from her. She signed the consent and then the first
25 part of the kit I actually move the patient we put a

1 white sheet on the floor and I have the patient
2 stand on the sheet and then they strip down all
3 their clothes. It all gets dropped onto the sheet.
4 The sheet gets rolled up so all their belongings go
5 in a bag.

6 Q Okay. So at that point you collected her clothing?

7 A Yes.

8 Q Now once you have her clothing and it's -- is it
9 then set aside? You said it goes in a bag?

10 A It goes in a brown paperwork.

11 Q Okay. And then what happened after that?

12 A She -- I give her a gown as I'm doing all that. She
13 get into a gown and then because I have a chance to
14 see any injuries or anything like that, then I
15 document.

16 Q Okay. And where do you document the injuries?

17 A On page two.

18 Q So you document on that form?

19 A Yes.

20 Q From the kit?

21 A Yes.

22 Q Okay. Now in this case of Rachael Davis were there
23 any injuries noted?

24 A Yes.

25 Q And I guess, first of all, let me do this: When you

1 look at that does that appear to be a true and
2 accurate copy of the report that you did when you
3 met with Rachael Davis?

4 A Yes.

5 Q Okay. And is your signature on there?

6 A Yes.

7 Q And is that your handwriting on there?

8 A Yes.

9 MS. DILLON: Judge, at this time I would
10 ask to admit People's proposed exhibit number 11.

11 THE COURT: Any objection?

12 MR. BROWN: No objection. No, ma'am.

13 THE COURT: Exhibit 11 which is the sexual
14 assault report will be admitted into evidence.

15 MS. DILLON: Thank you, your Honor.

16 THE COURT: You're welcome.

17 BY MS. DILLON, continuing:

18 Q Okay. So you had mentioned that if you saw any
19 injuries that they would be noted on the report?

20 A Yes.

21 Q And what did you note on this report for Rachael
22 Davis?

23 A That she had an abrasion and an evulsion on her
24 right knee, abrasion on her back, both posterior
25 shoulders and left shoulder pain.

1 Q And so when you're saying posterior you're saying on
2 the back of her shoulders?

3 A Yes.

4 Q Okay. And those are detailed in the diagram on your
5 report?

6 A Yes.

7 Q Okay. Now was there any other injuries noted for
8 Ms. Davis on the report?

9 A I think the doctor had a abrasion on her left or
10 right upper buttock.

11 Q And you say you think, is that because you see it
12 noted?

13 A Well I see it on the report, yes.

14 Q Okay. So there is a notation for an abrasion on the
15 buttock?

16 A Yes.

17 Q Now at this point when you're noting the injuries
18 had you gotten any, any of the details of what
19 happened to Ms. Davis from her?

20 A Not until I asked her. She has to like in her
21 narrative describe what happened.

22 Q Okay. Now did she do that for you before or after
23 you noted the injuries, do you remember?

24 A During.

25 Q Okay.

1 A It's kind of the same.

2 Q So the injuries that you noted did they seem
3 consistent with the events that she described to
4 you?

5 A Yes.

6 Q I'm sorry?

7 A Yes.

8 Q So it sounds like the first thing after you take off
9 the clothes then you kind of do a visual inspection?

10 A Yes.

11 Q Then what was next?

12 A Then next the clothing gets itemized. That was
13 already in the bag, that's on this sheet, and then
14 her description of the assault.

15 Q Okay. And what clothing did you itemize in this
16 case?

17 A One shirt, black white print, that was dirty with
18 dirt and leaf pieces, one pair of dark blue jeans,
19 dirty with grass and leaves and one pair of
20 underpants, the crotch area dirty and a small amount
21 of brown drainage on that area.

22 Q Okay. And so you noted that then what was next?

23 A Next I asked her to tell me in her own words what
24 happened.

25 Q And you took that down?

1 A Yes.

2 Q Okay. Now did you record that otherwise or you just
3 made notes?

4 A I recorded that on number 24 and then it continues
5 onto the nurse's notes.

6 Q But you wrote it down?

7 A Yes.

8 Q So it wasn't audio?

9 A No.

10 Q Okay. And okay so she told you what happened and
11 then what was next with the exam?

12 A Then we do the it's the doctor comes in and does the
13 vaginal exam.

14 Q Now during the time that you were talking with
15 Rachael Davis, obtaining her clothing, noting the
16 abrasions and then getting her recollection of the
17 events, was anyone else in the room with you?

18 A No.

19 Q And now you said the doctor comes in and does the
20 actual exam?

21 A Yes.

22 Q Do you leave the room at that point?

23 A No.

24 Q Okay. Because what is your purpose while the doctor
25 is doing the exam?

1 A I'm helping him. I'm holding onto the -- in the kit
2 there are envelope and they're all marked premarked
3 with specific areas and the evidence that's going to
4 go into that envelope. I actually hold the
5 envelopes and then help him when he does the swabs
6 and make sure that all the right swabs go in the
7 right envelopes.

8 Q Okay. Now in order for the doctor to do this exam
9 where is Ms. Davis at this time, I mean, how is she
10 positioned?

11 A She's positioned in stirrups. It's kind of like a
12 bed in a gynecological office.

13 Q Okay. And then what type of instrument does the
14 doctor use?

15 A He uses a speculum.

16 Q Which is what?

17 A It's a instrument that you use to be able to open
18 the vagina to be able to visualize the cervix and
19 get your samples.

20 Q Okay. So it's something that was inserted in Ms.
21 Davis?

22 A Yes.

23 Q And in this case what samples were taken?

24 A Air dried cotton swabs from her vagina, two of them,
25 and then off of those swabs you like wipe them on

1 slides that are not stained. They're just like
2 slides that would go under a microscope, so you have
3 two swabs, two slides, combings, oh that's, and then
4 the rest of it I do after he's done.

5 Q Okay. So the doctor basically is there to take the
6 vaginal swabs?

7 A Yes.

8 Q Okay. And then you said the rest of it you do after
9 he's done?

10 A Yes.

11 Q So what was the rest of it that you did in this
12 case?

13 A The rest of it is you do combings from the patient's
14 head, so there's in the kit there's a white paper
15 sheet that comes so I have the patient put their
16 head over the sheet and then there's a comb that
17 comes in the kit so you comb down their hair and it
18 goes on the sheet. The comb gets tossed on the
19 sheet. It gets wrapped up and stuck in an envelope.

20 Q Okay.

21 A That has that marking on it. The envelope says
22 that.

23 Q All right. And what else was next?

24 A And then she got we do the exam same thing with the
25 pubic area. We have her -- there's another white

1 sheet that comes in that little envelope. You pull
2 it out and then you comb through the pubic hair and
3 that gets, the comb gets dropped and that gets
4 wrapped in that white paper sheet and that gets put
5 into the appropriate envelope.

6 Q Okay.

7 A And then you pull 12 strands of pubic hair and put
8 them in the envelope that's marked for that. You
9 pull 12 strands of her head hair and put that in the
10 envelope that gets marked with that and there's a
11 tube of blood drawn.

12 Q Okay. So all of those samples were taken from
13 Rachael back in July of '96?

14 A Yes.

15 Q Okay. Now once all of those samples are taken
16 what's done with them?

17 A They are put -- the envelopes are sealed with either
18 paper towel or something wet that you seal the
19 envelope, per sticker gets put on it and then
20 there's another evidence sticker with my initials on
21 it so that it all stays sealed with the same seal.
22 Everything gets put into the kit, the sexual assault
23 kit, the box itself. The box gets closed and
24 there's a red evidence seal that goes on the box
25 that gets initialed.

1 Q Okay. And you said the box gets initialed, do you
2 actually initial it?

3 A I put my initials on the seal.

4 MS. DILLON: Okay. May I approach, your
5 Honor?

6 THE COURT: Yes.

7 MS. DILLON: Thank you.

8 BY MS. DILLON, continuing:

9 Q I'm going to show you what's been previously marked
10 as People's proposed exhibit number nine. Do you
11 recognize that?

12 A Yes.

13 Q What do you recognize that to be?

14 A The kit, the sexual assault kit that I did.

15 Q Okay. Now how do you know?

16 A Because my name is on it, her name is on it and my
17 initials or on the evidence sticker.

18 Q Okay. So because it says "Sealed by Valerie Johns"?

19 A Yes.

20 Q Okay. So you sealed this?

21 A Yes.

22 Q Okay. Now once it's sealed where does it go from
23 there?

24 A That we call the Police Department, the jurisdiction
25 that it occurred in, and at that point I put that

1 box and the bag with her clothes in a patient
2 belonging bag and I carry that with me until the
3 police officer comes and picks it up.

4 MS. DILLON: Okay. Your Honor, at this
5 time I would move to admit People's exhibit number
6 nine.

7 THE COURT: Any objection?

8 MR. BROWN: No, your Honor.

9 THE COURT: Exhibit nine will be admitted.

10 MS. DILLON: Thank you.

11 BY MS. DILLON, continuing:

12 Q So do the police, do you recall, I don't know if you
13 recall in this incident or not, are they immediate
14 to come and get that from you?

15 A Not always.

16 Q Okay.

17 A I don't recall in this incident specifically.

18 MS. DILLON: Okay. I have no further
19 questions, your Honor.

20 THE COURT: All right. Members of the
21 jury -- can the attorneys approach?

22 (At 11:48 a.m. sidebar discussion held off the record)

23 (At 11:48 a.m. sidebar discussion concluded)

24 C R O S S - E X A M I N A T I O N

25 BY MR. BROWN:

1 Q Good morning.

2 A Good morning.

3 Q Ms. Taylor?

4 A Yes.

5 Q Okay. We've met before, right?

6 A Yes.

7 Q Because you testified before in this same incident,
8 right?

9 A Yes, sir.

10 Q And I hope I won't be long. I know I kind of just
11 wander around a lot but I hope it won't be too long.
12 I just want to get to things that are in your notes
13 and ask you questions about them okay?

14 A Yes.

15 Q And if I don't you already know if my question
16 doesn't make sense, sometimes it doesn't, you'll
17 tell me about it, right?

18 A Yes.

19 Q All right. So the first thing I want to go to is
20 that you it says time of interview on the first page
21 of your assault victim medical report release of
22 information and evidence, is that what that is? The
23 first page of this or is it something else?

24 A Yes.

25 Q Okay. And that's exhibit 11 that you have? I might

1 have it in a different order. Is the first page you
2 have there your notes on top? The one you have in
3 your left hand?

4 A Oh yes.

5 Q The first page is notes and then this?

6 A Yes.

7 Q Okay.

8 A Yeah, the first -- I have the first page as my
9 nurse's notes which would have been at the end and
10 then I this is what I have.

11 Q All right. Thank you very much.

12 A The next page.

13 Q So then I'm going to the first page and that's the
14 thing you characterize as the consent on that page
15 and there you have Ms. Davis sign it and then you
16 signed it as a witness; is that correct?

17 A Yes.

18 Q Okay. And then down at the bottom, there are three
19 sections at the bottom third, it says "signature of
20 medical person releasing articles", whose signature
21 is that?

22 A Mine.

23 Q And you released it to who?

24 A The Police Department.

25 Q And that would have been the same day?

1 A Yes.

2 Q All right. And then on the next page, page two of
3 that three page form, that's where you talked about
4 your observations; is that correct?

5 A Yes.

6 Q And let's start with the clothing there. You wrote
7 down the clothing that she was wearing; is that
8 correct?

9 A Yes.

10 Q And a shirt, a dirty shirt, a pair of dark blue
11 jeans that were dirty with glass leaves, right?

12 A Yes.

13 Q And I can't read the last thing there?

14 A One pair of underpants, crotch area dirty and small
15 amount of brown drainage on the crotch area.

16 Q Okay. Did you recall or observe any feces on any of
17 the clothing?

18 A I don't remember.

19 Q Okay. But you certainly would have noted that?

20 A Yes.

21 Q And did you recall any rips or tears on any of the
22 clothing?

23 A I don't remember.

24 Q Would you have noted that?

25 A I would probably have.

1 Q Okay. Why?

2 A Because it may have been pertinent to where she was

3 at the time.

4 Q And what happened?

5 A Her position.

6 Q And what happened, is that correct?

7 A Yes.

8 Q And then you had her describe to you what happened?

9 A Yes.

10 Q Right? And just so we're real clear, you didn't

11 know Ms. Davis, right?

12 A No.

13 Q You hadn't had any prior relationship or association

14 with her?

15 A No.

16 Q You didn't have any reason to slant or add your own

17 words or editorialize, right?

18 A Right.

19 Q So you just whatever she said you wrote down?

20 A Right.

21 Q You're not a court reporter but you tried to write

22 down what she said in her words; is that correct?

23 A Yes.

24 Q Okay. She told you that she was walking down the

25 street when a man in a burgundy four door car said,

1 hey come here?

2 A Yes.

3 Q And then she walked to the car and tried to be -- it
4 says "tried to be friendly", I'm assuming that's the
5 man, and actually I misread because it's a black
6 man, the man tried to be friendly?

7 A I don't recall if it was her on the man.

8 Q Okay. So --

9 A It's just in her quotes.

10 Q Yeah, okay. Try to be friendly. When he got to the
11 car the man said he was going to the gas station,
12 right?

13 A Yes.

14 Q Okay. Now the next thing I'm having a little
15 difficulty reading my thing it says she, it doesn't
16 say she but it's talking about her, "got into the
17 back seat"?

18 A Yes.

19 Q Does it explain why she got in the back seat?

20 A Further on it says because there was a baby seat in
21 the front.

22 Q Okay. That's what she told you, right?

23 A Yes.

24 Q You didn't know her? You hadn't seen her riding in
25 the back seat of the car, you didn't make that up,

1 right?

2 A Right.

3 Q And then there's something in here about going to it
4 looks like St. Vincent DePaul?

5 A That's the -- that's the place of assault.

6 Q Okay. All right. And you don't know but there's
7 also an address, 29201 West Outer Drive?

8 A Yes.

9 Q Melvindale, Michigan?

10 A Yes.

11 Q Right. So you don't know whether it's a St. Vincent
12 DePaul or a K-Mart? You just wrote what she told
13 you?

14 A Yes.

15 Q Now is there any where in your notes or your report
16 where Ms. Davis indicated that she was struck in the
17 head? You can take your time and look at the notes.

18 A Not in my notes.

19 Q Okay. When you say not in your notes, is it some
20 where else?

21 A No.

22 Q Okay. And certainly if she indicated to you that he
23 had been struck in the head you would have indicated
24 that on your report some where?

25 A Yes.

1 Q And is there any where in the report that indicates
2 she has a knot on her, I'm pointing to the forehead
3 but on her head?

4 A No.

5 Q That's not in there?

6 A No.

7 Q You didn't observe that?

8 A No.

9 Q You would have had an opportunity to look at her and
10 if there's a knot on her head like something that's
11 caused by being struck in the head you would have
12 written it down?

13 A Yes.

14 Q You didn't write it down?

15 A No.

16 Q So it wasn't there?

17 A I can't tell you that. I didn't write it down.

18 Q But you can tell me what your practice is to write
19 down injuries?

20 A Right.

21 Q Right. Then you recall that there was an evulsion
22 which is some scraping of the skin and abrasions?

23 A Right.

24 Q On the back shoulders and on the back buttocks, the
25 doctor might have observed those things, all those

1 things you documented?

2 A Yes.

3 Q You or the doctor documented it, right?

4 A Yes.

5 Q But no where is there a document or anything about

6 any injury to her head?

7 A No.

8 Q Okay. There is on I guess it's in part of 27

9 something some indication that she was slapped and

10 pushed?

11 A Yes.

12 Q Did you write that down?

13 A Yes.

14 Q Is there -- it says foreign object or weapon used?

15 A Yes.

16 Q That's checked?

17 A Yes.

18 Q What was the foreign object or weapon?

19 A A bat.

20 Q Did you write that down?

21 A On the --

22 Q May I see your copy please?

23 A Yeah.

24 Q Okay. Did you write the word bat on here?

25 A In the nurse's notes.

- 1 Q No. On 27?
- 2 A I don't know.
- 3 Q Yeah. The reason I ask is because you know that
- 4 that's not the same writing or ink or something as
- 5 the other part of there's a check mark with an X
- 6 that's in dark ink as there is the word bat? It's
- 7 not in the same writing as the rest of the stuff on
- 8 the page, right?
- 9 A Right.
- 10 Q So you don't know whether you put that down or
- 11 somebody else put it down?
- 12 A Right.
- 13 Q Okay. And then there's no -- she didn't advise you
- 14 of any significant past medical history, right?
- 15 A I guess can you --
- 16 Q On mine I think it's on number 29 on the --
- 17 A Oh none, right.
- 18 Q Yeah. There's recent treatment for gonorrhea,
- 19 syphilis and HIV?
- 20 A Yes.
- 21 Q Okay. And her demeanor is she's visibly upset,
- 22 crying upon arrival to the ER, right?
- 23 A Yes.
- 24 Q Was she visibly upset and crying when she was
- 25 talking to you?

1 A Yes.

2 Q Okay. And what is it 32? What does she do in terms
3 of cleansing or any way altering the condition of
4 her vaginal area after the assault?

5 A She -- this is her writing or this is what she told
6 me that she wiped her crotch area with paper found
7 on the ground.

8 Q Okay. And then the very last number 33 it says,
9 "Previous coitis", what does that mean?

10 A That's the last time that she had intercourse prior
11 to this incident.

12 Q Okay. When was that?

13 A 7/24/96.

14 Q It was the day before?

15 A The day before or two days before? Yep, the day
16 before.

17 Q Okay. Then if we flip over to page three, page
18 three is a page that contains diagrams of the front
19 anatomical position of the body like this, hands out
20 to the side?

21 A Yes.

22 Q And then the back of the body and also the genital
23 area, is that right?

24 A Yes.

25 Q Okay. And you indicated on that diagram where the

1 injuries and or abrasions were?

2 A Yes.

3 Q Correct?

4 A Yes.

5 Q Okay. That would be the shoulders, both shoulders,
6 right?

7 A Yes.

8 Q That would be where there's areas of abrasion?

9 "Abrased areas" that's what it says?

10 A Yes.

11 Q And then the right knee it says abrasion and
12 evulsion, right?

13 A Yes.

14 Q That means there was some skin off the, I mean, some
15 skin was off; is that correct?

16 A Yes.

17 Q Did you observe -- I don't know if I asked -- I
18 apologize if I asked this. Did you observe any
19 tears on the knees of those pants?

20 A Not that I noted.

21 Q And you would make a distinction between whether she
22 had on pants or shorts; is that correct?

23 A Yes.

24 Q Did she have on shorts?

25 A According to my thing she had a pair of jeans.

1 Q Not jean shorts?

2 A No.

3 Q If they were jean shorts you would certainly have
4 noted that, right?

5 A Yes.

6 Q Okay. And then were there any photographs taken of
7 her injuries?

8 A No.

9 Q Is that part of the SANE, SANE meaning Sexual
10 Assault Nurse Examination is there any a protocol
11 that's in that examination?

12 A It is once you're a SANE nurse. This is prior to my
13 being a SANE nurse.

14 Q Okay. And were there any injuries noted or found or
15 observed in her vaginal area?

16 A I can't attest to that because I didn't see it.

17 Q Okay. Are there any indicated any where?

18 A According to the doctor the cervix is pink and
19 friable.

20 THE COURT: What does that mean?

21 MR. BROWN: Yeah, please. Thank you.

22 THE WITNESS: Friable means it's like
23 think. Like it's easily abraded.

24 BY MR. BROWN, continuing:

25 Q Easily abraded?

- 1 A Uh-huh.
- 2 Q But there's no indication that it was abraded?
- 3 A Not that I can see on his notes.
- 4 Q His notes? Are his notes on this sheet?
- 5 A That's the two where it's number 37 is his.
- 6 Q Yes. It says "Cervix pink and pliable". Pliable,
7 is that what you said?
- 8 A I can't tell. To me -- the handwriting is bad so it
9 almost looks like friable but I'm not sure.
- 10 Q But what does that word -- I've never heard that
11 word before. Pliable I've heard but friable I've
12 never heard that? Maybe I misheard because I can't
13 hear. We already know that now. Sorry.
- 14 A That's okay. I would say that that says friable.
- 15 Q Fry -- spell it.
- 16 A Friable, F-R-I-A-B-L-E.
- 17 Q Okay. That's a word that means what?
- 18 A Friable it's easily abraded, thin, thin cervix.
- 19 Q Okay. But if it's easily abraded there would
20 certainly be an indication if there were abrasions
21 in her vaginal area; is that correct?
- 22 A I can't attest to that. I didn't see it.
- 23 Q Oh you never saw her vaginal area?
- 24 A No.
- 25 Q But without -- you're a nurse, right?

1 A Right, but this is inside the speculum.

2 Q I understand but as a nurse you certainly would
3 think that any medical practitioner making
4 observations would certainly, that would be a
5 significant observations in a alleged sexual
6 assault?

7 A That's up to the doctor, that's not me charting any
8 of it.

9 Q Okay. All right.

10 A So I can't speak for him.

11 Q Who is the doctor?

12 A According to this I think his name was Ross, last
13 name. Richard Ross.

14 Q Okay. Yeah, in -- I'm sorry. Did you note any
15 sexually transmitted diseases in the course of your
16 examination on the records that you observed?

17 A No.

18 Q Okay. So the friable thing is a friable cervix
19 defined as a condition where the cervix becomes
20 irritated due to infection obtained from HPV or
21 other sexually transmitted diseases? I'm asking you
22 a question. Is that what it is?

23 A I guess. I honestly don't. All I know is that
24 friable means it's easily like it can be easily
25 abraded or.

1 Q That would be consistent with the findings on page
2 two of prior treatment or gonorrhea, syphilis and
3 HIV?

4 THE COURT: Mr. Brown, is that a question?

5 MR. BROWN: Yes, ma'am.

6 THE WITNESS: Oh I'm sorry. I don't know
7 it was a question.

8 BY MR. BROWN, continuing:

9 Q I'm asking you I said that would be, I actually
10 changed the order. Would that be consistent with
11 the prior treatment for gonorrhea, syphilis and HIV?

12 THE COURT: I don't think she can answer
13 that question because she's saying all she knows
14 friable to mean is easily torn.

15 MR. BROWN: Is what now?

16 THE COURT: Easily torn or abrasions.

17 MR. BROWN: She didn't say anything about
18 torn, Judge. She didn't use that word.

19 THE COURT: Yes, she did.

20 MR. BROWN: She didn't.

21 THE COURT: What word did you say friable
22 means?

23 THE WITNESS: It's friable is easily
24 abraded or it's thin, thin, a thin cervix.

25 MR. BROWN: Okay. I'll move on, Judge.

1 Thank you very much.

2 BY MR. BROWN, continuing:

3 Q Okay. In the recounting of the incident that went
4 over to your nurse's notes, Ms. Davis told you that
5 she laid down on her back and pulled her pants down?
6 That's about five lines up from the bottom?

7 A Yes.

8 Q Okay. Not she didn't say the man ripped off her
9 pants or tore her pants off or anything, right?

10 A I charted what she told me.

11 Q Yes, ma'am. So I'm saying that's not on the part on
12 this, on your notes any where where the man tore her
13 pants off?

14 A No.

15 Q Okay. And then there's a I think it says, "The man
16 put his penis in and fucked me until he busted a nut
17 and then he sat the bat down", not then he, "He sat
18 the bat down on the ground".

19 A Yes.

20 Q Okay. Nothing about waving the bat around after
21 that happened, the intercourse, is that right?

22 A Nothing in there.

23 Q Okay. Is there any way, to your knowledge, that the
24 clothing that is associated with Ms. Davis could
25 have been mixed up with someone else's?

1 A No.

2 Q Okay. And there's no medical personnel would not in
3 any way alter the clothing, well, let me backup.
4 Sometimes there's a cutting of the panties taken,
5 right? Cutting of a section inside the panties
6 crotch?

7 A Not that I've ever done.

8 MR. BROWN: All right. I have no further
9 questions. Thank you very much.

10 THE COURT: Redirect.

11 MS. DILLON: Judge, I have no further
12 questions.

13 THE COURT: Members of the jury, do you
14 have any question for this witness? If so, please
15 raise your hands. For the record, no one has
16 indicated they have any questions. Ma'am, I have
17 some questions for you. During the course of the
18 sexual assault examination that you performed are
19 any medications given to the patient?

20 THE WITNESS: At the end she's offered the
21 prophylactic pregnancy like Plan B and any
22 treatment, like prophylactic treatment for an STD.

23 THE COURT: And do you know if any of that
24 was done in this incident?

25 THE WITNESS: I don't.

1 THE COURT: All right. Any questions
2 based on the Court's questions?

3 MS. DILLON: None.

4 MR. BROWN: No, your Honor. Thank you.

5 THE COURT: All right. You may step down.
6 You're excused. Members of the jury, I'm going to
7 send you for your lunch break now. I have some
8 other things that I have to take care of that have
9 nothing to do with this case so you'll get a little
10 extra time. I'll see you back at 1:30. Leave your
11 notebooks in your chairs, return to the jury room
12 and knock on the door when you're ready to go.
13 Remember that you cannot discuss this case with
14 anyone. You can't get anyone discuss it with you.

15 COURT OFFICER: All rise for the jury.

16 (At 12:08 p.m. off the record)

17 (At 1:38 p.m. back on the record)

18 THE COURT: Welcome back, Members of the
19 jury. You may be seated. Sir, if you could please
20 come forward. Can you please spell your first and
21 last name for me?

22 MR. ARREY: First name is Benedict,
23 B-E-N-E-D-I-C-T, Benedict. The last name Arrey,
24 A-R-R-E-Y.

25 THE COURT: Can you raise your right hand.

1 Do you solemnly swear or affirm that the testimony
2 you will now give in the cause pending before this
3 Court will be the truth, the whole truth and nothing
4 but the truth?

5 MR. ARREY: Yes.

6 BENEDICT ARREY

7 (At 1:40 p.m., sworn as a witness, testified as follows)

8 THE COURT: You maybe seated. Whenever
9 you're ready, Ms. Dillon, you may begin.

10 MS. DILLON: Thank you, your Honor.

11 D I R E C T E X A M I N A T I O N

12 BY MS. DILLON:

13 Q If you would please state your name for the record?

14 A First name Benedict, B-E-N-E-D-I-C-T.

15 THE COURT: Just say it not spell it.

16 THE WITNESS: Benedict Arrey.

17 THE COURT: Benedict Arrey.

18 THE WITNESS: All right.

19 BY MS. DILLON, continuing:

20 Q And what -- where are you employed?

21 A Currently I'm employed with the State of Virginia
22 with the Department of Forensic Sciences.

23 Q And what is your occupation?

24 A I am a forensic toxicologist currently and
25 (inaudible).

1 Q And were you employed in 2004?

2 A Yes, I was.

3 Q Okay. And who were you employed with?

4 A I was employed with Fairfax Identity Laboratory in
5 Fairfax, Virginia.

6 Q And what was your position with them?

7 A I was a forensic analyst.

8 Q And how long were you in that position?

9 A I was there for six years.

10 Q Okay. And was there a reason why you left that
11 position?

12 A Yes. The department decided to relocate to
13 Richmond, Virginia which is South of Fairfax and at
14 the time I wasn't ready to relocate so I didn't make
15 the move from there.

16 Q Okay. Now what were your responsibilities as a
17 forensic analyst?

18 A As a forensic analyst I was responsible for the
19 evidence accounting, DNA analysis, the data and
20 drawing conclusions as well as submitting forensic
21 reports to the submitting agencies.

22 Q Okay. What is your educational background?

23 A I have a bachelors degree in molecular biology with
24 a minor in chemistry. I have a post baccalaureate
25 certification with the American Society for

1 Pathology as a clinical lab science. I have a
2 Masters Degree in biology and I have a doctorate
3 degree in forensic sciences.

4 Q Okay. Now in regards to your position as a forensic
5 analyst, were there any specific requirements in
6 order for you to have that position?

7 A Yes. The requirement at the time was a minimum of
8 bachelors degree and courses in the area of
9 genetics, population genetics, chemistry, biology,
10 bio statistics, bio chemistry.

11 Q And did you have the course work in those areas?

12 A Yes, I did.

13 Q And have you had any continuing education in regards
14 to the area of DNA analysis?

15 A Yes. One of the requirements is at least 12 credit
16 hours every year in the area of forensic biology and
17 DNA testing. Most of the workshops were organized
18 by the Federal Bureau of Investigation, the FBI, and
19 during that time we have technical sessions where we
20 went to intense training in that area of DNA
21 analysis.

22 Q And so that would be some of the outside training
23 that you had in that area?

24 A That is correct.

25 Q And in the work that you did with Fairfax Identity

1 Lab can you tell us how many samples you worked on,
2 if you can, in the six years you were with them?

3 A The samples I would say the samples without a
4 suspect, without no suspect cases, I processed at
5 least 3,000 and for those with suspects known, for
6 those type of cases, I would say about 500.

7 Q Okay. What, what sorts of cases did you do DNA
8 analysis, DNA typing techniques on?

9 A I did several cases on sexual assault, on the
10 missing persons. I did cases where you have to
11 determine the paternity of individuals. I did cases
12 where they found murder weapons on crime scenes so
13 those are some of the cases using DNA.

14 Q Now when you were Fairfax were you required to
15 undergo any type of proficiency testing?

16 A Yes. Every 180 days were supposed to have a
17 proficiency test done so we do at least two every
18 year.

19 Q Okay. And so what is a proficiency testing? Can
20 you describe what that process is?

21 A A proficiency test is basically we have seven
22 designated agencies that will submit material that's
23 similar to what we do on a daily basis as evidence
24 and all we know is that the evidence is in-house but
25 we did not know the results prior to the analysis.

1 Now upon processing the evidence we submit that to
2 the agency and they can compare to see whether the
3 results were correct or not.

4 Q So for the proficiency testing they basically give
5 you a sample that's already been processed and
6 verified and then you're tested to see if you come
7 up with the same results?

8 A Yes, but we don't know what the results are prior to
9 that.

10 Q Right. And how often did you have to do that?

11 A Every 180 days at least, I mean, at most so we did
12 every six months we're supposed to proficiency
13 testing.

14 Q And did you pass those tests when you were with
15 Fairfax?

16 A Yes, I did.

17 Q Okay. Was Fairfax an accredited forensic
18 laboratory?

19 A Yes. It has accreditation with the National of
20 Forensic Science and Technology Center. They had
21 accreditation because when they submitted testing as
22 well so we had accreditation with the AABB so
23 American Association for Blood Banks. We also had
24 accreditation with KAP which is College of American
25 Pathology.

1 Q Okay. In your capacity as a forensic analyst have
2 you ever testified in court before?

3 A Yes, I have.

4 Q How many times?

5 A I would say between 10 to 20 times.

6 Q And do you know which -- can you tell us which
7 jurisdictions?

8 A I've testified here in Michigan. I've testified in
9 the state of Kentucky. I also testified in the
10 state of Maryland.

11 MS. DILLON: Your Honor, at this time I
12 would tender this witness to counsel for voir dire
13 in regards to his expertise in this area.

14 THE COURT: His qualifications?

15 MS. DILLON: Yes.

16 THE COURT: Mr. Brown?

17 MR. BROWN: What are you qualifying him
18 for?

19 MS. DILLON: For expert in DNA analysis.

20 MR. BROWN: And I would stipulate to that.

21 THE COURT: All right. So moved?

22 MS. DILLON: I'm sorry?

23 THE COURT: So moved?

24 MS. DILLON: Yes, I would move for that.

25 THE COURT: Members of the jury, this

1 witness is being offered to you by stipulation of
2 the parties as an expert in the field of DNA
3 analysis. That means he can give you opinions about
4 things that are within his field of expertise like
5 the nurse that you heard from earlier today. You
6 can choose to kept or reject his opinion but he will
7 be allowed to give opinions. You may.

8 MS. DILLON: Thank you, your Honor.

9 BY MS. DILLON, continuing:

10 Q Dr. Arrey, regarding this matter did you receive
11 samples from a sexual assault kit for an individual
12 named Rachael Davis?

13 A Yes, I did.

14 Q And do you recall when that those samples came to
15 you?

16 A That was January 14, 2004 when the evidence came.

17 Q And that's when you were with Fairfax Laboratories,
18 is that right?

19 A Yes, I was still there.

20 Q Okay. And where did those samples come from?

21 A They came from the Michigan State Police, yeah.

22 Q Now was it normal at that time for samples to come
23 from out of state to Fairfax?

24 A Yes.

25 Q And why would that happen?

1 A We had a contract with the state of Michigan and
2 some other states. I will mention Kentucky, the
3 state of Kentucky as well as Maryland and since we
4 had a contract that was to do what they normally do
5 so basically process the evidence and submit our
6 findings to them.

7 Q So they basically would outsource the materials to
8 you?

9 A Yes.

10 Q Once a kit would come in, or the samples would come
11 in to Fairfax, what's the first thing that would
12 happen with that?

13 A Upon receive the evidence is kept in a locked
14 facility, in a locked room depending on the time of
15 the day when it was delivered and then we make a
16 record of receipt basically by Fed-EX, and we'd hold
17 the evidence until we're ready to assign it into our
18 complete information system as well as our log book.

19 Q Okay. So when this kit, these samples, came into
20 Fairfax Identity Lab, what was the first contact
21 that you had with that, the samples regarding
22 Rachael Davis?

23 A My first contact with the evidence was when it had
24 to be asessioned so at that point we do an inventory
25 of everything that was sent pertaining to that

1 particular case and by our procedures we're supposed
2 to have at least a witness at the time and also we
3 want to make sure that what we receive is exactly
4 what the State Police have sent so we asession that
5 and then we generate an inventory of the evidence.

6 Q Okay. So once the samples are inventoried what do
7 you do with it then?

8 A Typically the evidence is resealed. Understand we
9 untape and initial and then the witness will also
10 initial in the log back and then we put the evidence
11 back into locked room and also at the appropriate
12 temperature depending on what they sent at the time.

13 Q Now you just mentioned that the kit would be
14 resealed, so in this case when you receive this kit
15 from the Michigan State Police what condition is it
16 in when you received it?

17 A Most of it came, if I can remember, room temperature
18 is how it came because it wasn't been from long time
19 storage, but when we received it we kept it at about
20 40 degrees.

21 Q Okay. But in regards to how the samples were
22 contained, were they sealed?

23 A They were sealed in individual envelopes, about
24 small sized envelopes, three by two or so, so they
25 were sealed separately. So one of them was a

1 bloodstain that came in a separate envelope, and it
2 was a vaginal swab that came separately as well. It
3 came in a big huge box and individually sealed, yes.

4 Q Okay. Now after you do the inventory and then you
5 said you put it back into storage, what's the next
6 step then?

7 A When we're ready to process the evidence the
8 evidence is retrieved from the storage room and then
9 in the presence of a witness the tech, I don't want
10 to call them (inaudible) but portions of the
11 evidence to be tested depends on the witness. We
12 normally start with extractions what we call DNA
13 extraction procedures.

14 Q The procedures that you go through with the evidence
15 that you received in this case, did you document
16 that?

17 A Yes.

18 Q And how is that documented?

19 A So every step of the procedure is witnessed. No
20 matter if we'll start with say a lysis solution
21 basically that part is witnessed. We make sure it's
22 witnessed so it's not just the technician working on
23 it but as well as a witness and when you go to the
24 next step it's also documented so we go through the
25 whole procedure like that.

1 Q And then at the end do you come up with a report?

2 A At the end we don't generate a report at that point
3 because our here first is to get DNA parts of the
4 evidence that has been submitted.

5 Q Okay.

6 A It could be, yeah.

7 Q In this case what was the evidence that you worked
8 with?

9 A I had a bloodstain which was a reference of Ms.
10 Davis but also there were vaginal swabs that came
11 with the evidence and typically we start with the
12 vaginal swabs because the bloodstain is just a
13 reference for a known individual and we go to a
14 procedure where you would call differential
15 extraction so if you look at it this way that
16 swabbing a female is just a physical contact and
17 mostly we have what we call epithelial cells, which
18 are the cells of the body and we know DNA is every
19 where in our body for every individual, so our first
20 goal is to take to separate those epithelial cells
21 from any sperm cells that could be present and then
22 we go to the extraction process separately because
23 we have seven procedures for getting DNA out of
24 spermatozoa which is different DNA from epithelial
25 cells.

1 Q Okay. So in this case you received the vaginal
2 swab?

3 A Right.

4 Q And did you do that extraction?

5 A Yes.

6 Q And once that extraction is done what do you do with
7 your two different groups?

8 A Now the next step we'll go to what we call the
9 quantitation so you want to see how much DNA you
10 have and whether it's of the best quality for the
11 next step which we call the PCR.

12 Q Okay.

13 A So would go through quantitation to make sure we
14 have enough of that, and after that then we can do
15 what we call the PCR or polymerase chain reaction.

16 Q What is involved with the quantitation step?

17 A The quantitation we call it the procedure we'll call
18 quantity blood, so it's specific for human DNA.

19 Q Uh-huh.

20 A And we are able to generate the standard of care
21 that will give you a quantitation vile.

22 Q Okay. I'm going to ask you to repeat last because I
23 did not understand what you just said?

24 A Okay. So we have a procedure called quantity blood.

25 Q Okay.

1 A And this is specific for human DNA and we are able
2 to use that procedure to determine how much DNA we
3 have and that would guide us as to whether we should
4 do PCR on that.

5 Q Okay. So in this case you did that step?

6 A Correct.

7 Q Okay. And what was your determination?

8 A There was good DNA from the spermatozoa, which we'll
9 call it the male fraction.

10 THE COURT: Did you say spermatozoa?

11 THE WITNESS: Spermatozoa.

12 THE COURT: Okay.

13 THE WITNESS: As well as from the female
14 fraction which they have particular cells. They had
15 good DNA on both fractions.

16 BY MS. DILLON, continuing:

17 Q So when you did that extraction you basically, from
18 what you're saying now, is you had female DNA on one
19 side and male DNA on the other?

20 A Supposedly because we can't see at that point until
21 we go to the next step.

22 Q Okay. But you separated out the cells from the
23 spermatozoa?

24 A That is correct.

25 Q And you did your quantification and realized you had

1 enough DNA?

2 A That is correct.

3 Q Okay. And then what did you do with that at that
4 point?

5 A I did the PCR.

6 Q What is PCR?

7 A PCR stands for polymerase chain reaction and this
8 kind of what it does is it takes that DNA from the
9 individual and it makes so many copies, I mean it
10 kind of makes a copy of the same thing over and over
11 so that you have enough that when we go to the next
12 step, which we'll call electrophoresis you can have
13 enough fragments to separate.

14 Q Okay. So the chain the?

15 A PCR.

16 Q PCR and what was the P?

17 A Polymerase, polymerase.

18 Q Polymerase chain reaction?

19 A Chain reaction, correct.

20 Q And that you're making copies and copies of that
21 same DNA?

22 A Yes.

23 Q Okay. And so then what is the next step once you
24 make all those copies?

25 A The next step is called electrophoresis and the

1 instrument that we use basically takes the DNA and
2 separates it into fragments and the smaller
3 fragments will come out faster than the bigger
4 fragments but we make sure that we get all of the
5 fragments together and on that particular instrument
6 we are now able to visualize. We can see the
7 fragments now and tell that, okay, this is this
8 fragment, this is what it is and so on.

9 Q Okay. So there's small fragments and larger
10 fragments of that DNA?

11 A Yes.

12 Q And then at this point you can see those?

13 A That is correct.

14 Q Okay. So what do you do with it once you can see
15 these fragments of the DNA?

16 A Now what we do those fragments that we see belongs
17 to specific I'll call them locus. Locus is one and
18 when they're many we'll call them LOSI and basically
19 what you're going to do because we can say this is a
20 test area so each fragment belongs to one particular
21 test of part of the profile and we need to get all
22 of them together into ten different areas to be able
23 to tell or to be able to have a complete profile for
24 that individual.

25 Q Okay. So you take the smaller fragments and the

1 bigger fragments and you said you need 13 of those?

2 A Yeah, the sample will tell you the sizes for each
3 one.

4 Q Okay. And so when you have those 13 different LOSI
5 what's the significance of that?

6 A The 13 different LOSIs will basically give you
7 enough tests areas where you can tell A from B
8 because for each individual those 13 some might look
9 similar but by the time you look at each one to get
10 what we call a complete profile you will realize
11 that this individual is different say A will be
12 different from B, B will be different from C, and
13 that's just the way we use the LOSI.

14 Q So these 13 LOSI makeup one profile?

15 A They makeup one profile. In addition there's
16 another test area that we add that will tell male
17 from female.

18 Q Okay.

19 A And that is a process that we call amelogeneic, (ph)
20 amelogeneic.

21 Q And where in the process do you find that?

22 A It comes up in the same analysis that we do.

23 Q All right. Now in regards to this vaginal swab
24 sample from the kit from Rachael Davis that you
25 worked with, were you able to come up with these 13

1 LOSI?

2 A Yes.

3 Q And what is the result of you coming up with that?

4 A Okay. On both fractions I have complete profiles
5 for the male fraction and for the female fraction
6 and I had to do a comparison. First, on the female
7 fraction I had to compare that so the last ten that
8 came from Rachael Davis.

9 Q Okay.

10 A So I want to make sure that this is the female
11 individual that they say and there was a complete
12 match on that.

13 Q So you did that same sort of extraction analysis
14 replication location, LOSI finding on her blood
15 sample?

16 A That is correct.

17 Q Okay. And matched the female DNA that you had
18 during the extraction?

19 A That is correct.

20 Q Okay. And then what about the other profile?

21 A The male fraction that I had a complete profile and
22 one of the for instance, it was an X-Y. X-Y is
23 normally male and XX is female, so with that type of
24 blood profile I did not have anything to compare to
25 so I submitted my findings to the State Police in

1 the form of a report.

2 Q Okay. So that profile didn't match any other DNA
3 that you were working within regards to that case?

4 A No.

5 Q Okay. And you said you submitted it in the form of
6 a report?

7 A That is correct, yes.

8 MS. DILLON: Your Honor, may I approach?

9 THE COURT: You may.

10 BY MS. DILLON, continuing:

11 Q Dr. Arrey, I'm going to hand you what's been
12 previously marked as People's proposed exhibit 12.
13 Could you take a look at that? Do you recognize
14 that document?

15 A Yes, I do. That's my name and signature.

16 Q What do you recognize that document to be?

17 A This is the report that I issued in September of
18 2004 after all the analysis was done.

19 Q Okay. And you said September of 2004?

20 A That is correct, yes.

21 Q Now you had said that once you go through your
22 process you issue a report. Is this a true and
23 accurate copy of the report that you sent to the
24 Michigan State Police?

25 A Yes, it is. It is.

1 Q All right. And what date did you send that?

2 A It was notarized, let me see, on September 7, 2004
3 that's when it was notarized and probably a day
4 after it was mailed out.

5 Q Okay. Now on your report it listed out the evidence
6 that was submitted; is that correct?

7 A Yes, that is correct.

8 Q And it notes the bloodstain from Rachael Davis and
9 the vaginal swabs that you were talking about?

10 A Yes.

11 Q And once you were done with those samples, what did
12 you do with them?

13 A They were returned. We return them to Fed-EX back
14 to the State Police and that's a copy of the reports
15 as well.

16 Q And in regards to the LOSI that you were talking
17 about?

18 A Yes.

19 Q Is that noted any where in your report?

20 A In the report what I did was generate statistics for
21 the major population. At the time we considered the
22 Caucasian, the black and then the Hispanic which are
23 the major populations and those are the ones that
24 the FBI has given us the database to work with at
25 the time.

1 Q Okay.

2 A So the date of the analysis and to select some
3 random individual who is unrelated to the victim,
4 you know, this one, you find some individual in the
5 world it would be less than one person in six
6 billion at the time so that's what I like to say
7 because, and that's why I give the result for all
8 three. The numbers will be different for each
9 population group or what people call it race, but we
10 give the least one, we give the least one, so the
11 least was one in six billion.

12 Q Now in regards to the DNA from the vaginal swabs
13 that you worked with, how many profiles did you
14 obtain from that sample?

15 A There were two profiles which I noted as sample A
16 and sample B, and sample A is from that female
17 fraction and sample B is from the male fraction.

18 Q And I know you're looking at your report on the last
19 page and is that why you had explained earlier
20 sample B has an XY in it?

21 A Yes, that's male.

22 Q Okay.

23 A Genetically and A is you X -- you can put an XX or X
24 and that's female.

25 Q Now what did you do once you generated these

1 profiles? I mean you sent everything back to the
2 State Police?

3 A That is correct.

4 Q And was there any review done at Fairfax
5 Laboratories of the work that you did?

6 A Yes. So if you look at I'll call attention to the
7 case number at the bottom of the report those are
8 not my initials. This is from a second analyst who
9 has to review what I've done so you look at you have
10 to review that for correctness and so --

11 Q Did that review change any of the results in your
12 case?

13 A No, it did not. It didn't change.

14 MS. DILLON: Your Honor, at this time I
15 would move to admit People's proposed exhibit 12
16 into evidence.

17 THE COURT: Any objection?

18 MR. BROWN: No objection.

19 THE COURT: Exhibit 12, the DNA report,
20 will be admitted into evidence.

21 BY MS. DILLON, continuing:

22 Q And, Dr. Arrey, after you were done with the
23 extraction and generating your report, did you have
24 any other work or involvement in the kit or the
25 samples for Rachael Davis?

1 A No, one of every ten that was all I was supposed to
2 do. I have no knowledge of what was done after
3 that.

4 MS. DILLON: I have no further questions,
5 your Honor.

6 THE COURT: Cross.

7 MR. BROWN: Thank you.

8 C R O S S - E X A M I N A T I O N

9 BY MR. BROWN:

10 Q Did you how long -- Dr., good afternoon.

11 A Yes.

12 Q How long did it take you to complete the analysis of
13 the samples that you submitted?

14 A I would say from the time the analysis started it
15 might have took us about within a week or two.

16 Q Okay. That's a week because of the processes or a
17 week because of that's how much time it takes? Why?
18 Why is that?

19 A The processing takes time because you have to get
20 trained technician to go through the process that I
21 went through, procedure, the extractions, the
22 quantitations and applications and so forth.

23 Q So you said you have trained technicians. Other
24 people actually did the extraction and the
25 qualitation?

1 A The technicians will do all under my supervision,
2 yes.

3 Q I didn't hear the last thing you said. The
4 technicians do?

5 A Under my supervision.

6 Q Under your supervision?

7 A Yes.

8 Q So you didn't actually do it? You just directed it?

9 A I direct extraction but the part of the analysis I
10 would do the analysis.

11 Q The analysis is you're seeing what is at different
12 locus?

13 A LOSI.

14 Q At a different locus? The LOSI for the multiple,
15 right?

16 A Yes.

17 Q Okay. And you said that you received this, I think
18 I wrote it down. You said that you received this in
19 a small envelope three by two?

20 A Yeah.

21 Q Was it in a box?

22 A Yes. The evidence based on the content they all
23 came in a big box. This wasn't the only case that
24 came from the Michigan State Police. There were
25 several of them that were individually sealed and

1 wrapped with the forensic tape.

2 Q Okay. So it was a big box with many, many,
3 different samples and the samples were labelled?

4 A That is correct.

5 Q And you have no idea where they came from before
6 that, is that fair to say? You know they came from
7 the Michigan State Police because that's what the
8 label said, but you don't know anything about it
9 before that?

10 A Before that I don't know.

11 Q Yeah. And is there, you said something about you
12 mentioned 40 degrees fahrenheit?

13 A Four degrees it's centigrade, yes.

14 Q Oh four degrees centigrade?

15 A Yes, four. It should be four, yes.

16 Q Okay. That's about 40 degrees fahrenheit some where
17 around there?

18 A Fahrenheit terms are really high on that. It could
19 be above 32.

20 Q Okay. Well 32 is zero in celsius, right?

21 A Yes.

22 Q In centigrade or whatever. Any way, why was that
23 significant? What's the significance of that
24 temperature?

25 A The temperature for long storage is to maintain

1 integrity of the DNA.

2 Q What does that mean? Please explain that to the
3 jury.

4 A If you were going to store the DNA for a long time
5 you don't want it to degrade and so we maintain it
6 at 4 degrees temperature at a point.

7 Q Okay. That's four degrees?

8 A Four degrees. It's four to eight basically it's
9 four to eight.

10 Q Four to eight celsius?

11 A Degrees celsius, yes.

12 Q Okay. And that's because you don't want the DNA to
13 degrade, right?

14 A Yes, yes.

15 Q Because if it degrades then what happens?

16 A If it degrades there are no chance, as I mentioned,
17 in the or what essentially we'll realize is when we
18 go to the quantity blood all you will see is a smear
19 and that that is an indication and that's why we are
20 required to do that quantitation process. The
21 quantitation process doesn't only tell us about the
22 quality, I mean, the quantity but as well it does
23 tell us about the quality of the DNA that we're
24 working on.

25 Q Okay. And so you don't keep those samples? You

1 process them and then send them back out? They come
2 in, you process them, and then send them back out,
3 right?

4 A After servicing is done we return them to the
5 submitting agency, yes.

6 Q Back to the agency where ever it's Michigan,
7 Maryland, Kentucky whatever, right?

8 A That is correct.

9 Q So you don't keep any samples? You wouldn't have
10 any DNA samples, or whatever, that you take in and
11 keep for let's say five years and then send them
12 out?

13 A No, we don't.

14 Q Okay. And if you did keep them though you would
15 keep them at that temperature which is the you
16 called it an appropriate temperature, right?

17 A I think because at that point we already abstracted
18 a DNA we'll start at minus 20 degrees because of ten
19 or 20 years, I'd minus 20 degrees.

20 Q Minus 20 degrees?

21 A Minus 20 is much lower than the 48 degrees.

22 Q Yes, sir. And when they came to you they came
23 stored in a temperature controlled package?

24 A No, they came at room temperature.

25 Q Oh okay. So it doesn't matter how they're stored or

1 kept prior to the time that you do the extraction?

2 A We maintain ours at 4 degrees at a time because it
3 was hard to tell exactly how long it was going to
4 take from the time that we received till the time
5 when we finish processing.

6 Q I understand. What I'm asking, maybe I -- and I
7 apologize if they question is not very clear. Prior
8 to the time you receive it is it significant what
9 temperature it's stored at?

10 A We do question it because that could happen,
11 however, if the samples were degraded on the order
12 we would have noticed that in the quantitation
13 process because --

14 Q Okay.

15 A Because we would see that it was degraded.

16 Q So by virtue of your -- in other words, it doesn't
17 matter what happened before you got it just as long
18 as you were able to pullout a certain quantity and
19 quality?

20 A Yes.

21 Q Is that right?

22 A Yes.

23 Q Okay. So if it was stored in a very hot place or
24 whatever it doesn't make any difference because you
25 were still able to get something out of it?

1 A Yeah, we don't know but this, on our quantitation
2 we're able to find out whether there's DNA is of
3 quality that we can use.

4 Q Okay. And you didn't have anything to do with
5 storing it prior to the time that you got it into
6 Fairfax Laboratories?

7 A No, sir.

8 Q And you don't know anything about how it was stored
9 or whatever; is that right?

10 A No.

11 Q Okay. That's all? You didn't do any other work on
12 this case other than what you talked about today?

13 A Yes, sir.

14 MR. BROWN: Okay. Thank you very much. I
15 appreciate that.

16 THE COURT: Redirect?

17 MS. DILLON: No questions, your Honor.

18 THE COURT: Members of the jury, do you
19 have any questions for this witness? If so, please
20 raise your hands. Corporal McDougall will be over
21 to collect your questions. Sir, you may step down.
22 You're excused.

23 MR. ARREY: Thank you.

24 THE COURT: Call your next witness.

25 MS. DILLON: Your Honor, the People would

1 call Chad Hayse.

2 THE COURT: Good afternoon, sir. Can you
3 please spell your first and last name for the
4 record?

5 MR. HAYSE: Yes, ma'am. First name Chad,
6 C-H-A-D, last name Hayse, H-A-Y-S-E.

7 THE CLERK: Raise your right hand. Do you
8 solemnly swear or affirm to tell the truth?

9 MR. HAYSE: Yes, ma'am.

10 CHAD HAYSE

11 (At 2:18 p.m., sworn as a witness, testified as follows)

12 THE CLERK: You can have a seat.

13 THE COURT: Whenever you're ready, Ms.
14 Dillon.

15 MS. DILLON: Thank you, your Honor.

16 D I R E C T E X A M I N A T I O N

17 BY MS. DILLON:

18 Q I know you just gave your name but if you would
19 please state your name for the record?

20 A Chad Hayse.

21 THE COURT: I'm sorry, sir. Members of
22 the jury, can you return to the to your jury room
23 and, sir, step be back into the witness room. Leave
24 your notebooks in your chairs. Oh never mind no.
25 go ahead. Go ahead.

1 (At 2:19 p.m. jury exits the courtroom)

2 COURT OFFICER: You maybe seated.

3 THE COURT: Okay. Just a couple of things
4 while the jury is excused. I don't even know what
5 this means but juror number eight sent this note,
6 "can I still be here if I have a similar occupation
7 as a witness? I'm just not on the forensic side of
8 things". I don't even know what that means. I
9 don't even know how to address it but it's a
10 non-issue as far as I'm concerned. I don't even
11 know what that means.

12 MR. BROWN: Oh that's a lady. That's the
13 woman who was --

14 THE COURT: Yeah, number eight.

15 MR. BROWN: She's a med-tech or something.

16 THE COURT: The other thing is you
17 indicated that you had eight more witnesses to call,
18 correct?

19 MS. DILLON: Correct.

20 THE COURT: But I only see one, two,
21 three, four, five, wait. One, two, three, four,
22 five witnesses that haven't been called that are on
23 this witness list so who are these other three
24 people and do I -- I have a witness list that's
25 dated April 25, 2017 so unless there's some other

1 witness list that I'm unaware of I don't know who
2 these eight witnesses are that you want to call.

3 MS. DILLON: Okay. The, Judge, the
4 witness list I'm looking at was filed on the 25th at
5 4:09 and the --

6 THE COURT: I don't know what time the
7 witness -- this says 4-09, 4:42.

8 MS. DILLON: The last --

9 THE COURT: I'm sorry. We've already
10 heard from Rachael Davis.

11 MS. DILLON: Uh-huh.

12 THE COURT: We've heard from Inspector
13 Diffatta, Chad Hayse you just called, so let me just
14 say this, the people who I have who have not been
15 called are David Taft, Gary Marabito, Heather Vitta,
16 Lindsey Dashe and Kirk Deleeuw.

17 MS. DILLON: Oh you know what, I made have
18 counted Erica in that list. I'm sorry. I got and
19 Officer Tuski.

20 THE COURT: Right, and the
21 Officer-in-charge.

22 MS. DILLON: So we've got Hayse, Taft, we
23 just did Dr. Arrey. We have Marabito.

24 THE COURT: You can bring back out the
25 witness.

1 MS. DILLON: Heather Vitta, Lindsay, Kirk
2 and Officer Tuski.

3 THE COURT: All right. There's not eight
4 people though. All right. Bring back out the jury.

5 COURT OFFICER: All rise for the jury.

6 THE COURT: It's six. Six which is what I
7 said. Oh you can go backup.

8 (At 2:22 p.m. jury enters the courtroom)

9 COURT OFFICER: You maybe seated.

10 THE COURT: You may proceed.

11 MS. DILLON: Thank you, your Honor.

12 THE COURT: You're welcome.

13 BY MS. DILLON, continuing:

14 Q If you would please state your name for the record.

15 A Chad Hayse.

16 Q And, Mr. Hayse, what is your occupation?

17 A I currently have two jobs. I work at an armed
18 security position with a local security company and
19 I work an unarmed security position as crowd manager
20 with Olympia Entertainment.

21 Q And back in 1996 where were you employed?

22 A Police officer with the city of Melvindale.

23 Q How long did you end up being a police officer for
24 the city of Melvindale?

25 A About 25 years.

1 Q So did you retire from there?

2 A No.

3 Q And back in 1996 do you recall if you were working
4 on July 25th of 1996?

5 A I believe so, yes.

6 Q And do you recall being dispatched to the what's
7 referred to the old K-Mart building?

8 A Yes.

9 Q Where is that located?

10 A It's on Outer Drive, Westbound Outer Drive, between
11 I-75 and Dix Toledo Road.

12 Q And that's within the city limits of Melvindale?

13 A It is, yes.

14 Q So it's here in Wayne County?

15 A It is.

16 Q Do you recall what time that call came in?

17 A It was later in the evening. I don't recall exactly
18 what time.

19 Q And what was the nature of the call?

20 A We were dispatched on report that the inspector had
21 located a woman that was screaming for some
22 assistance.

23 Q And when you say the inspector you're talking about
24 John Diffatta?

25 A Yes.

- 1 Q Okay. And so did you respond to that location?
- 2 A I did.
- 3 Q How did you get there?
- 4 A I was in full uniform driving a fully marked patrol
5 vehicle.
- 6 Q Did you have a partner with you?
- 7 A No.
- 8 Q And what did you see when you got there?
- 9 A A distraught female standing near the sidewalk in
10 front of that business.
- 11 Q You don't recall about what time you got there?
- 12 A No, I don't.
- 13 Q And when you say a distraught female can you
14 describe why you believe she was distraught?
- 15 A She was screaming and crying and she wasn't really
16 coherent and I was trying to ask questions and get
17 some information from her and she couldn't respond
18 verbally she was just too shook up and upset.
- 19 Q Were you able to identify who she was?
- 20 A Yes.
- 21 Q How were you able to do that?
- 22 A I believe she had her pay stub in a purse.
- 23 Q And do you recall obvious you must have made an
24 observation of her, do you recall how she looked?
- 25 A She looked distraught and there were some droplets

1 on the front of her pants.

2 Q You mentioned pants, do you remember what she was
3 wearing?

4 A No.

5 Q You just remember seeing droplets?

6 A Yes.

7 Q And were you able to have a conversation with her?

8 A I was not, no.

9 Q Okay. But you said you looked at a pay stub to
10 determine?

11 A Yes.

12 Q Based on the pay stub what did you believe her name
13 to be?

14 A You know I don't recall what her name was.

15 Q Okay. So you weren't able to have a conversation
16 with her?

17 A No.

18 Q All right. What happened after you got there and
19 you saw her, what was the first thing that you did?

20 A There was another uniformed officer there, Officer
21 Taft, and he was trying to speak with the woman and
22 sort of got some information from her so myself and
23 another officer went behind the building based on
24 the information that Taft received.

25 Q Okay. Now what was the building?

1 A I believe it used to be a K-Mart building and I
2 believe it stopped being a K-Mart building. I think
3 St. Vincent DePaul was in one section of the
4 building and there was a grocery store in one
5 section of the building. The buildings are
6 connected but it was sort of 60 percent of one thing
7 and 40 percent of another.

8 Q But originally it was a big K-Mart?

9 A It was, yes.

10 Q And so you indicated that you went behind the
11 K-Mart?

12 A Yes.

13 Q The building?

14 A Yes.

15 Q What area did you go to?

16 A Near the loading dock.

17 Q And what was the purpose for going there?

18 A I believe I was told that she had been assaulted
19 behind the building by the loading dock.

20 Q And do you recall what you saw when you got back
21 there?

22 A The area wasn't as well kept after it stopped being
23 a K-Mart building and became something else so there
24 was some debris and some stuff all around the area
25 but I remember a broken bottle and it was a piece of

1 jewelry I believe and a piece of paper that appeared
2 to have excrement on it.

3 Q Okay. And when you were back there back in 1996,
4 were you all trained as far as what do they call CSI
5 crime scene technician?

6 A At that time I was not, no.

7 Q Okay. So what did you do as far as being able to
8 document what you saw back there?

9 A As I was assigned to uniform road patrol it wouldn't
10 have been my job to investigate in detail that type
11 of a case so we called a detective to come in and to
12 handle most of the investigation.

13 Q Who was that detective?

14 A Guy Marabito.

15 Q Now you did see the area back there though?

16 A I did.

17 MS. DILLON: Your Honor, may I approach?

18 THE COURT: You may.

19 BY MS. DILLON, continuing:

20 Q I'm going to hand you what's been marked as People's
21 proposed exhibit. If you can take a look at that
22 and first tell us what that is?

23 A This is the area at the bottom, I believe the bottom
24 of the ramp where the loading dock is.

25 Q So this is a photograph?

1 A Yes.

2 Q And you just described what's in there. Now looking
3 at that photograph does that accurately depict the
4 area that you investigated that day?

5 A Yes, it does.

6 Q And what kind of photograph is this? Is this a
7 polaroid?

8 A It's a polaroid, Yes, ma'am.

9 Q And was that the technology that you had in
10 Melvindale back in 1996?

11 A It was, yes.

12 Q All right. I'm going to show you what's been
13 previously marked as People's proposed exhibit
14 number two. If you could take a look at that
15 photograph. Do you recognize that?

16 A Yes, I do.

17 Q And what do you recognize in that photograph?

18 A I believe this was the paper that had the excrement
19 or fecal matter on it sitting near the loading dock
20 area with the metal girder in front of it.

21 Q Okay. And is that truly and accurately depicted as
22 you saw it on July 25, 1996?

23 A Yeah, as far as I remember.

24 Q And so that's the loading dock area it shows that it
25 is concrete, is that true?

1 A Yes.

2 Q I'm going to show you what's been previously marked
3 as People's proposed exhibit number three. Can you
4 take a look at that photograph.

5 A Okay.

6 Q And what is depicted in that photograph?

7 A It's an area of the loading dock. It's a little
8 bit, the picture was taken a little bit further away
9 than the previous paragraphs were taken.

10 Q Okay. And does that truly and accurately represent
11 the area that you looked at behind the old K-Mart
12 that day?

13 A Yes, it does.

14 Q All right. I'm going to show you one last one,
15 People's proposed exhibit number four, if you could
16 take a look at that?

17 A Okay.

18 Q And is that a photograph from that same area?

19 A Yes, it is.

20 Q And does that truly and accurately represent the
21 area as you saw it on July 25, 1996?

22 A Yes, as far as I remember.

23 MS. DILLON: Judge, I would ask for the
24 admission of People's proposed exhibits number one
25 through four.

1 THE COURT: Any objection?

2 MR. BROWN: No.

3 THE COURT: Exhibits one through four, the
4 scene photos, will be admitted into evidence and you
5 publish as you see fit.

6 MS. DILLON: Thank you, your Honor.

7 THE COURT: You're welcome.

8 BY MS. DILLON, continuing:

9 Q The area of Melvindale and Outer Drive are you --
10 you worked in Melvindale for many years and at that
11 point you had been on the force how long?

12 A Approximately five years.

13 Q Okay. So you're familiar with the area of
14 Melvindale?

15 A Yes.

16 Q How big is Melvindale?

17 A 2.7 square miles.

18 Q I'm sorry?

19 A 2.7 square miles.

20 Q Now the Outer Drive by the old K-Mart, Outer Drive
21 it's a long road, right?

22 A Yes, it is.

23 Q Okay. When it crosses out of Melvindale headed
24 east, where does it go?

25 A Heading east?

1 Q Uh-huh?

2 A The South side of Outer Drive is in Lincoln Park.

3 As you're heading east it goes into Detroit.

4 Q Okay. Are you familiar with the area of Outer Drive
5 as it's heading towards Detroit?

6 A Yes, ma'am.

7 Q Okay. How far, if you know, would the old K-Mart be
8 from the intersection of Outer Drive and Fort
9 Street?

10 A I would say be probably less than half a mile.

11 Q Okay. And do you know how far Outer Drive by the
12 old K-Mart is from the intersection of Fort Street
13 and Schafer?

14 A I'm sorry I didn't understand. How far the building
15 is from Fort and Schafer?

16 Q Correct.

17 A Probably a mile and a half. Maybe a little bit
18 further than that.

19 Q Okay. So they're relatively close?

20 A Yes.

21 Q After you're investigated the scene when the
22 sergeant came, did you go to the hospital or have
23 any other involvement in this case?

24 A I did not go to the hospital. I had some
25 involvement years later with this case but I did not

1 go to the hospital that day.

2 Q What was the involvement years later and how many
3 years later?

4 A I don't remember exactly how many years. I would
5 say sometime between 2004, 2005. I was working at
6 the Detective Bureau and I received some information
7 regarding this case.

8 Q And what did you do with the information you
9 received at that time?

10 A I attempted to locate the victim from our case.

11 Q And were you successful in doing that?

12 A No.

13 Q And did you try to locate the victim at any other
14 time?

15 A I did. After I was promoted to chief the person who
16 took over my position as detective lieutenant had
17 the file and asked me about it and he then also
18 tried to find the victim for this case.

19 Q And what year was that?

20 A I was promoted chief in 2012.

21 Q In that time frame?

22 A So I think it would be 2012.

23 Q And were you successful in contacting the victim at
24 that time?

25 A I think some contact was made but it wasn't

1 positive.

2 MS. DILLON: Okay. I have no further
3 questions, your Honor.

4 THE COURT: Cross.

5 MR. BROWN: Yes.

6 C R O S S - E X A M I N A T I O N

7 BY MR. BROWN:

8 Q You said some contact was made but it wasn't
9 positive, is that what you said?

10 A Yes.

11 Q Okay. And in fact she was contacted and she was
12 contacted and she said she didn't wish to pursue the
13 case?

14 A I'm sorry?

15 Q She was contacted, the victim, or the complainant,
16 or the accuser in this case and she said she did not
17 want to pursue the case; is that correct?

18 A In believe that's correct, yes.

19 Q Okay. And it would be fair to say that you, well,
20 you already said it you weren't a CSI guy in 1996?

21 A No, I was not.

22 Q Okay. And nobody really was among the Melvindale
23 Police Department?

24 A I don't know what training the detective had prior
25 to my starting with the department.

1 Q Okay. I'm just saying. Just so you know I'm not
2 trying to test you on any high tech. You didn't
3 have any high tech things? You had a polaroid
4 camera, right?

5 A A polaroid camera, yes.

6 Q Yeah. So there's no digital cameras? You don't
7 have any high resolution lenses and all that kind of
8 stuff, right?

9 A That is correct.

10 Q But you do, as a police officer, how long you been
11 on the force then?

12 A In '96?

13 Q Yes, sir.

14 A I had been there almost five years.

15 Q Okay. As a trained police officer you know the
16 importance of evidence in a case, is that right?

17 A Yes.

18 Q And you know the importance of preservation of
19 evidence in a case?

20 A Sure.

21 Q Right. You want to preserve evidence as close as
22 possible to the condition in which it's found,
23 right?

24 A Yes.

25 Q And you wanted, the reason that pictures are

1 taken -- did you actually take the pictures or did
2 Marabito take the pictures?

3 A I don't believe I took the pictures. The writing
4 appears to be Sergeant Marabito writing.

5 Q Marabito, pardon me. Yeah. Thank you very much.
6 But the point of taking pictures is so that you can
7 later on go back and refer to a scene to see what
8 was there?

9 A Correct.

10 Q All right. And you indicated on your report, I
11 believe, I'm a little bit confused about which
12 reports these are but, that Sergeant Marabito
13 arrived at the scene and collected possible evidence
14 and assisted with -- you, I guess, you assisted with
15 taking photographs?

16 A Yes.

17 Q Okay. And among the things that you went with
18 Sergeant Bowerman to check for the location of the
19 CSC in the back of the building, right?

20 A I'm sorry?

21 Q Did you go with Sergeant Bowerman to check for the
22 location of the CSC? CSC meaning criminal sexual
23 conduct or whatever, right?

24 A Yes, sir.

25 Q Okay. Is that what happened?

1 A It is.

2 Q All right. And so you found an area near the
3 beginning of the loading dock with some items there
4 that you thought might be associated but you didn't
5 know?

6 A Correct.

7 Q There's a St. Ives Malt Liquor bottle I believe,
8 right?

9 A Yes.

10 Q Okay. That was collected?

11 A I don't know.

12 Q You don't know?

13 A No.

14 Q Okay. And chain, a piece of jewelry that was
15 collected?

16 A I believe so but I don't know.

17 Q Okay. I'm really kind of asking you questions that
18 you don't have anything to do with because you
19 didn't actually collect any of the evidence, is that
20 fair to say?

21 A I believe the detective collected the evidence.

22 Q Okay. You don't have any recollection of collecting
23 anything?

24 A No, I do not.

25 Q Okay. You, you did write a narrative about the

1 woman saying that she was picked up on 13th and
2 Salliotte in Ecorse; is that correct?

3 A I believe so, yes.

4 Q Yeah, and a man grabbed her arm and told her that if
5 she did not get into the vehicle he would hit her
6 with a baseball bat that he was holding in his other
7 hand, right?

8 A Yes.

9 Q Where did you get that information from?

10 A We got that information from the victim.

11 Q Okay. And also she told you, or you and the other
12 officers at the scene or whatever, that he ordered
13 her to pull her pants down and stated that he put
14 his dick in her, "put his dick in me" she said; is
15 that correct?

16 A Yes, I believe so.

17 Q And that while she's been penetrated she defalcated
18 herself and wiped herself off with some scrap paper,
19 right?

20 A Yes.

21 Q Okay. And the scrap paper you don't know if that
22 scrap paper was collected?

23 A I don't know.

24 Q Again because that's because you didn't collect
25 anything?

1 A Yeah, I don't recall that it was collected or not.

2 Q Well certainly as a trained police officer five
3 years even then you would think that might be
4 significant if that was something that was alluded
5 to by the person who made the report? Does my
6 question make sense?

7 A Not really.

8 Q Okay. You're a trained police officer you know it's
9 important to preserve, collect and preserve
10 evidence. If somebody tells you I wiped myself and
11 it's back in the back there, you know, we don't know
12 if that's been back there for years or whatever you
13 know don't, you think you should collect that,
14 right?

15 A I think it should be considered, yes.

16 Q You say considered?

17 A Consider collecting the piece of paper.

18 Q Okay. What would be the consideration?

19 A I didn't have all the information that from the
20 victim so the person that had that information and
21 the officer that had more experience could make a
22 better judgment call whether that should be taken as
23 evidence or not.

24 Q I understand. You were there before officer or
25 Sergeant Marabito, right?

1 A I was, yes.

2 Q So the information that you got was that she
3 defalcated on herself and she wiped herself and it
4 might be some paper back there where she wiped
5 herself, right?

6 A Correct.

7 Q And whatever it was there's a picture of a paper
8 that you just identified as having a piece of paper
9 with fecal matter on it or excrement, right?

10 A Yes.

11 Q So that, In other words, that was something that you
12 you or Officer Sergeant Morabito, or whoever turned
13 your attention to, right?

14 A That is correct.

15 Q Okay. So then that means it's something of
16 attention? Something of significance that's the
17 word I'll looking for?

18 A Sure.

19 Q Right. Okay. Thank you very much. Did you observe
20 any injuries on the woman?

21 A I don't remember.

22 Q Okay. And just so I'm clear about what is your
23 report.

24 MR. BROWN: May I approach?

25 THE COURT: Yes.

1 BY MR. BROWN, continuing:

2 Q I have a couple different pages. This is one page
3 that has your signature at the bottom.

4 A This is a communication I did for the officer and
5 the detective, yes.

6 Q Okay. What does that mean? When I ask you what
7 what does that mean, it's a communication, what does
8 that mean? Why are you saying it that way?

9 A It's not the official police report but it's a
10 memorandum or communication that I sent to the
11 detectives to give them some more information on the
12 case.

13 Q More than what? More than what's contained in the
14 official report?

15 A I didn't do the official report so this is what I
16 would have done so the detectives and the officers
17 writing the report would have all the information
18 that I have.

19 Q Okay. I have three other pages here. Is that the
20 official report?

21 A I believe so.

22 Q Oh the wet droplets that you observed on the front
23 of the pants is that like raindrop lets or what?

24 A I don't believe it was raining that day. I don't
25 know what the material was. It just appeared to

1 have droplets on her pants.

2 Q Where?

3 A I believe they were on the front like between the
4 hip and the knee area.

5 Q Okay. Were they of a different color or what nature
6 of the droplets?

7 A I don't recall if they were a different color. I
8 just remember seeing droplets on the pants.

9 Q Okay. And when you arrived she was sitting on the
10 sidewalk; is that correct?

11 A I think she was sitting in a parking block with her
12 legs on the sidewalk area.

13 Q Did you contribute any significance to the wet
14 droplets that you referred to in your report?

15 A Did I contribute any significance to that?

16 Q Yes, sir.

17 A Yes.

18 Q What?

19 A Given the nature of the her complainant I thought it
20 might have forensic evidence of her allegation.

21 Q Meaning what?

22 A Meaning there could be DNA on her clothing.

23 Q Okay. Did you communicate that idea or whatever
24 observation to anyone else?

25 A I don't recall if I did or not.

1 Q Okay. Oh did you observe a baseball bat?

2 A I don't recall.

3 Q Okay. And certainly while pictures are being taken
4 if there's a baseball bat that was brought up during
5 the course of this incident that would be something
6 that you would take a picture of, right?

7 A Probably.

8 Q Okay. Well I mean your report talks about a
9 baseball bat, right?

10 A I didn't read it but.

11 Q Sure.

12 A I assume if you said it does, it does.

13 Q No, I want you to be sure.

14 A Thanks. There were part references of a baseball
15 bat but I don't believe it says that I saw the
16 baseball bat.

17 Q Okay. Oh and one more I think last question. The
18 official report that I showed you, the three page
19 report, you didn't contribute to that in any way or
20 did you?

21 A I did not write the report, no.

22 Q Okay. What does that mean? You made the
23 distinction between contributing and writing so I
24 want to know I'm clear?

25 A I typed the other communication that I signed. The

1 officer who wrote the report may have referenced
2 that but I don't know whether he did or not.

3 Q Who is JH?

4 A John Hart.

5 Q Okay. Who is that?

6 A That was the lieutenant in charge of the shift that
7 day. He would have been assigned to the front desk
8 for the radio and telephone communications.

9 Q Okay. So that's Lieutenant Hart, he'd just be
10 reviewing the report?

11 A Correct.

12 Q I saw the initials JH. I didn't know what that was?

13 A Yes, sir.

14 MR. BROWN: Okay. Thank you very much.

15 No further questions at this point.

16 THE COURT: Redirect.

17 MS. DILLON: No questions, your Honor.

18 THE COURT: Members of the jury, do you
19 have any question for this witness? If so, please
20 raise your hands? My brow is furled ed not because
21 I don't want you to ask questions but because I have
22 a headache so I don't want you to think I'm giving
23 you a mean face so you don't ask questions. All
24 right. No one has any questions? I have my own
25 stash. All right. You may step down. You're

1 excused. Please call your next witness.

2 MS. DILLON: Your Honor, the People are
3 calling David Taft.

4 THE COURT: Okay. Good afternoon, sir.

5 MR. TAFT: Good afternoon, your Honor.

6 THE COURT: Can you please spell your
7 first and last name for me?

8 MR. TAFT: First name is David, D-A-V-I-D.
9 Last name Taft, T-A-F-T.

10 THE COURT: All right.

11 THE CLERK: To you solemnly swear or
12 affirm to tell the truth?

13 MR. TAFT: Yes, ma'am.

14 DAVID TAFT

15 (At 2:46 p.m., sworn as a witness, testified as follows)

16 THE CLERK: You may be seated.

17 THE COURT: Dawn, did you come out here
18 just for that because I could have done it?

19 THE CLERK: No, I'm okay.

20 THE COURT: Oh okay. Whenever you're
21 ready, Ms. Dillon, you may.

22 MS. DILLON: Thank you, your Honor.

23 D I R E C T E X A M I N A T I O N

24 BY MS. DILLON:

25 Q If you would just please state your name for the

1 record.

2 A My name is David Taft.

3 Q And, Mr. Taft, what is your occupation?

4 A Right now I'm retired from the city of Melvindale.

5 I currently work for Olympia Entertainment.

6 Q And you said you retired from the city of

7 Melvindale, what did you do for the city?

8 A I am a retired police detective.

9 Q How long were you a police officer for the city of
10 Melvindale?

11 A Almost 23 years.

12 Q So were you with the city in 1996?

13 A Yes, ma'am.

14 Q What was your position at that time?

15 A I was road patrol.

16 Q How long had you been with the department in 1996 by
17 then?

18 A Five years, ma'am.

19 Q And road patrol what were your duties?

20 A During that time I was in a fully marked police car.

21 I was in full uniform. Just basic patrol duties,
22 radar, taking general calls, accidents.

23 Q So responding to calls?

24 A Yeah, any all type of calls.

25 Q And do you recall working on July 25, 1996?

1 A Yes, ma'am.

2 Q And did you respond to a call involving something at
3 the what's referred to the old K-Mart on Outer
4 Drive?

5 A Yes, ma'am.

6 Q Do you recall about what time that call came in?

7 A It was approximately 9:00 P.M.

8 Q And what was the nature of the call?

9 A I was a woman screaming.

10 Q Now from the time you got the call to the time you
11 responded how much time do you think went by?

12 A That, I know I was assigned to that area. It was
13 relatively quick.

14 Q When you arrived at that scene how did you get
15 there?

16 A By patrol car.

17 Q And was anyone with you?

18 A At that time I was a single man car.

19 Q Is that what Melvindale had at that time?

20 A Yes, ma'am, that's how we drove.

21 Q And so you responded to that area, what did you see
22 when you got there?

23 A When I got there I met with at the time it was
24 Inspector Diffatta and there was a female there.
25 She was pretty hysterical and crying.

1 Q Do you recall what the female looked like?

2 A She was a black female. She was I don't remember
3 what she looked like in the face, no.

4 Q Do you remember what she was wearing? Was she
5 clothed?

6 A She was clothed, Yes, ma'am.

7 Q But do you remember what she was wearing?

8 A No, ma'am.

9 Q Okay. But she wasn't standing there naked?

10 A Oh know, ma'am, she was dressed.

11 Q And you got there did you have a conversation with
12 this person?

13 A Attempted to, ma'am, but it was I couldn't do it.
14 She was too upset.

15 Q Okay. So what happened then once you got there and
16 you couldn't have a conversation with her? What did
17 you do?

18 A Other officers had already responded. I was trying
19 to ascertain what had happened so I could get out to
20 the area back to dispatch and to area cars what was
21 going on. It was a multi-channel department.
22 Departments are on the same channel so we could
23 figure out what was going on.

24 Q Now when you were after you had first gotten there
25 to the old K-Mart were you able to send out any sort

1 of dispatch? Were you able to get any information
2 from the person as far as what had happened?

3 A Not until later, ma'am.

4 Q Okay. So you weren't able to do it at that time,
5 what did you actually do at that time then?

6 A At the time I was called for a rescue.

7 Q Did you say you called for a rescue?

8 A Called from a rescue, Yes, ma'am.

9 Q What does that mean to call for a rescue?

10 A I called for an ambulance.

11 Q And did that respond?

12 A Yes, ma'am.

13 Q Okay. And what happened once the ambulance got
14 there?

15 A She was transported to the hospital.

16 Q And did you stay at the scene at that time?

17 A No, ma'am. I followed the ambulance to the
18 hospital.

19 Q Okay. So you followed the ambulance in your patrol
20 car?

21 A Yes, ma'am.

22 Q All right. And what happened? What was your
23 involvement once you got to the hospital?

24 A Once I was at the hospital I met with the nurse. I
25 was able to get some information as to what

1 happened. I found out that it was a sexual assault.
2 I was able to get a description. I got as much
3 information as I could as quick as I could and then
4 I called back by phone from the nurse's station and
5 then I let me lieutenant know at dispatch, let him
6 know what had happened and then he put it out over
7 the radio. I tried to do that as quick as I could.

8 Q Okay. And how long did you stay at the hospital?

9 A I don't recall, ma'am.

10 Q Now you said that you saw the woman at the old
11 K-Mart, did you also see her while you were at the
12 hospital?

13 A Yes, ma'am.

14 Q And do you remember if you made any observations of
15 any injuries or anything that you saw on her?

16 A Yes, ma'am.

17 Q And what did you see?

18 A When I was -- when I was out of the room I know she
19 was placed into a gown. I was able to observe a
20 injury. She had an injury to her knee. It was like
21 sort of like a road rash type injury, like a scuff
22 abrasion and then I also saw a it was like a I
23 remember she had like a like abrasion or scuff to
24 her back also.

25 Q And so at the hospital you got information? You

1 conveyed that information and then did you stay at
2 the hospital for a period of time?

3 A Yes, ma'am.

4 Q How long do you think you were there?

5 A I -- ma'am, I really don't know. I know it
6 wasn't -- I don't know. I'd be guessing. I don't
7 want to guess, ma'am.

8 Q That's okay. Did you collect any evidence at the
9 hospital?

10 A Yes, ma'am.

11 Q What did you collect at the hospital?

12 A I collected clothing at the hospital.

13 Q Okay. And who did you get those from?

14 A The nurse.

15 Q And how were they presented to you?

16 A They any evidence that I get from the hospital it's
17 in a bag or in a box.

18 Q Okay. And so you got the clothing, what did you do
19 with it?

20 A I transported it back to the station. It was placed
21 in evidence.

22 Q All right. Now after you got the clothing at the
23 hospital did you go back to the station or where did
24 you go from there?

25 A I went -- when I left the hospital, I went back to

1 where the scene was and I met up with the detective
2 who was on call. I met with him and I told him what
3 I had found out from the victim at the hospital and
4 I let him know what I had found.

5 Q Who was the detective that you talked to?

6 A That would have been guy Morabito.

7 Q And at that time was he a detective?

8 A Detective sergeant.

9 Q And did you look around the scene at all that day?

10 A When I came back to from the hospital and I went
11 back to the scene then that's when I went back to
12 where it had happened at because it made more sense.

13 Q When you say you went back to where it had happened
14 at, what are you talking about?

15 A To the rear of the old K-Mart to where the loading
16 dock was.

17 Q Okay. And you said it made more sense? What do you
18 mean by that?

19 A From what she described to me then I could go back
20 and then that way I could describe it to Sergeant
21 Morabito so from what she told me then that's where
22 I could tell him out and point out to where what she
23 had described to me.

24 MS. DILLON: Your Honor, may I approach?

25 THE COURT: Yes, you may.

1 MS. DILLON: Thank you.

2 BY MS. DILLON, continuing:

3 Q I'm showing you a photograph that's marked People's
4 exhibit one. Take a look at the please. Do you
5 recognize what's in that photograph?

6 A Yes, ma'am.

7 Q What do you recognize that to be?

8 A That's the side of the loading dock. It's like a
9 high curb.

10 Q And that's the loading dock behind the old K-Mart?

11 A Yes, ma'am.

12 Q And that looks as it looked that night when you were
13 there?

14 A Yes, ma'am.

15 Q Okay. I'm going to show you People's exhibit number
16 two. Take a look at that. Do you recognize that?

17 A Yes, ma'am.

18 Q And what do you recognize in that photograph?

19 A It's also it's a high curb and it's a guardrail.
20 It's tissue with feces on it.

21 Q Now how do you know that?

22 A When I was at the hospital when I talked to the
23 victim she had told me that when she had during
24 having sexual intercourse that she had defalcated
25 herself and she had used garbage from the loading

1 dock to clean herself with.

2 Q And so you looked for that when you went back there?

3 A That's what I had told Sergeant Morabito and that's
4 what was discovered.

5 Q And then this is People's exhibit number three. Is
6 that just an additional photograph of the loading
7 dock area?

8 A Yes, ma'am.

9 Q So the loading dock area is concrete, is that right?

10 A Yes, ma'am. It's a parking lot then there's like a
11 high curb and then there's a loading dock that goes
12 it's like a ramp that goes down. It's alongside the
13 building and this would be the parking lot that
14 goes -- this would be a picture of the parking lot
15 that goes along then to the curb and then the
16 loading dock it goes down and then the building
17 would be like right here.

18 Q Okay. And then just lastly this is People's exhibit
19 number four. Take a look at that. Do you recognize
20 what's in there?

21 A Yes, ma'am.

22 Q Okay. And what's that photo of?

23 A It's just the loading dock area.

24 Q And in that photo it shows like there's some grass
25 growing up through the ground, is that right?

1 A Yes, ma'am.

2 Q Because this is an abandoned K-Mart?

3 A It's, Yes, ma'am. Next to where the K-Mart was was
4 a it was a abandoned grocery store and that's where
5 the loading dock was that they used for the, like a
6 dual loading dock for the old K-Mart and the old
7 grocery store at the same time.

8 Q Okay. Now, Mr. Taft, I wanted to call you Officer
9 Taft, so you went back and shared your information
10 with Detective Sergeant Morabito, what else then did
11 you do?

12 A I prepared my report. I stayed with him as long as
13 till like as long as he needed me.

14 Q Okay. Did you recall seeing any other anything else
15 that would be considered evidence in the loading
16 dock area?

17 A There was a -- there was a baseball bat that I
18 collected as evidence.

19 Q And do you remember where exactly you collected it
20 from?

21 A I -- I know I collected it and I put it in my car.

22 Q How did you know that baseball bat was even
23 evidence?

24 A The victim had told me.

25 Q And do you remember what the baseball bat looked

1 like?

2 A It was a wooden baseball bat.

3 Q Was it a full size bat or a souvenir type bad, do
4 you remember?

5 A It was a full sized bat.

6 Q And so that, that along with the clothing that was
7 put into evidence that's the evidence that you
8 collected, is that right?

9 A Yes, ma'am.

10 Q Okay. And then you said that you also issued the
11 report?

12 A Yes, ma'am.

13 Q And the report that you issued was that just
14 containing information that you specifically had or
15 was that containing information from everybody on
16 the scene that day?

17 A It was what I had collected and it was also a
18 combination of what the other officers had submitted
19 to me also.

20 MS. DILLON: I have no further question at
21 this time, your Honor.

22 THE COURT: Cross.

23 C R O S S - E X A M I N A T I O N

24 BY MR. BROWN:

25 Q So you went to the hospital and got further

1 information from the complainant, correct?

2 A Yes, sir.

3 Q And among the information that you got you got
4 information that she was forced into a vehicle
5 against her will?

6 A Yes, sir.

7 Q That she was approached by somebody she thought she
8 knew, when she found out she didn't know him that he
9 forced her into the vehicle against her will?

10 A Yes, sir.

11 Q And at the time that she was forced into the vehicle
12 at that time the man used a bat to threaten her?

13 A Yes, sir.

14 Q Okay. And did you also get information, I'm not
15 sure about this but, did you get information about
16 her being forced into the vehicle to sit in the back
17 seat of the vehicle because there was a child seat
18 in the front seat of the vehicle?

19 A There was a child seat in the vehicle, yes.

20 Q I know but that doesn't answer my question. My
21 question was, did you get information from her that
22 there was a child seat in the front of the vehicle
23 which caused her to get into the back seat of the
24 vehicle?

25 A Yes.

1 Q And when you went to the hospital were you there
2 present when she was being interviewed by the nurse?

3 A Yes.

4 Q You were actually right there?

5 A Yes.

6 Q So the nurse interviewed her with you present and
7 who else present?

8 A As far as I remember it was just me and the nurse
9 and her.

10 Q Okay. The doctor wasn't there?

11 A Not that I recall.

12 Q Okay. And that Ms. Davis also said that she, you
13 just touched on a little bit earlier that, she told
14 you about the baseball bat, right?

15 A Yes.

16 Q And when she told you about it, in fact, part of
17 what she told you was that she picked up the
18 baseball bat at the top as not to disturb the
19 suspect's fingerprint at the handle of the bat, she
20 told you that, right?

21 A Yes.

22 Q Okay. So she had the presence of mind to say oh I
23 want to make sure I don't mess of these fingerprints
24 so I'm going to pickup the bat I assume by the end
25 of the bat, do you know?

1 A That's what she told me.

2 Q Okay. And so then did she -- you went to the scene
3 initially with Hayse, right? You were at the scene
4 initially? The scene meaning Outer Drive?

5 A Outer Drive, yes.

6 Q Yeah, with Hayse. And at that time is that the time
7 that you retrieved a bat?

8 A No, that would have been after. I didn't take any
9 evidence at the time not until I went back the
10 second time.

11 Q Okay. So she didn't pick it up and bring it out to
12 the front by Outer Drive, right?

13 A No, I don't believe so, no.

14 Q So where was the bat recovered?

15 A It would have been recovered at the scene.

16 Q Where?

17 A The loading dock I believe.

18 Q Okay. That's in the same area at the feces, the
19 paper with feces on it was discovered?

20 A Yes.

21 Q Okay. So did you take pictures of that?

22 A I didn't take any pictures.

23 Q Okay. Well you just identified some pictures of --
24 you were there when they were being taken?

25 A Yes.

1 Q Okay. Did you see any, you know, indication that
2 someone was taking a picture of a bat?

3 A No.

4 Q You collected it and put it on evidence, right?

5 A Yes.

6 Q So if you collect something you say here, Sergeant
7 Morabito, I got this bat. I want to take this
8 picture before I put it in my car?

9 A No.

10 Q Assuming you would say that? No, you didn't?

11 A That's, no, that's not what I did.

12 Q Okay. What did you do?

13 A The bat had already been moved so I'm not going
14 to -- I'm not going to stage the bat in a scene
15 where it's not -- where it wasn't. The bat had
16 already been moved by the victim so I want to
17 protect the integrity of the bat since it's already
18 been moved and I'm going to secure it in my car.
19 I'm not going to stage the bat on a scene and take a
20 photo of it. That's not how it works.

21 Q Where was it moved to by the victim?

22 A She had given it to me. She had already moved it.
23 I don't know how many times it had been moved by
24 her.

25 Q Oh I'm sorry. I'm really -- I apologize. So she

1 gave you the bat?

2 A Yes.

3 Q Oh okay. I thought you got the bat when you went
4 back and was by the loading dock? She didn't give
5 you the bat by the loading dock, didn't she?

6 A She had given me the bat by the loading dock. It
7 had already been moved by her.

8 Q No, no, no, no, no. see that's words. I apologize
9 for the way I said it. When she physically handed
10 you the bat, you and the victim, you and Ms. Davis
11 were not by the loading dock; is that correct?

12 A No, no.

13 Q Okay. Where were -- okay. Let me ask a different
14 way. Where were you when you first observed a bat?

15 A By the loading dock.

16 Q Okay. How big is 24 inches to you? Can you hold up
17 your hands and show me about 24 inches? Okay. Is
18 that like a full sized bat? 24 inches long?

19 A Yeah, about a small, yeah, a small bat, yeah.

20 Q Like a pee wee bat or little league or something?

21 A Yeah, something, yeah, around there.

22 Q Well what was? Was it a full sized bat or was it a
23 pee wee bat, a little league bat or a souvenir bat?

24 A A bat, baseball bat, little league bat.

25 Q Which one?

1 A Bat. A baseball bat.

2 Q I'm not trying to be -- okay. Was it a full sized
3 like a major league baseball bat or was it like a
4 kid's bat?

5 A It was a baseball bat.

6 Q I know we got there. We're there. We want to get
7 to the next level?

8 THE COURT: Well, Mr. Brown, he's given
9 you his answer and his answer is what it is.

10 BY MR. BROWN, continuing:

11 Q How long was it?

12 MR. BROWN: Thank you, Judge.

13 THE COURT: And the jury will assess it
14 for what ever they determine it to be.

15 MR. BROWN: Thank you, Judge.

16 BY MR. BROWN, continuing:

17 Q How long was it?

18 A A regular sized bat.

19 Q Okay. All right. So when the victim when you
20 arrived the victim, Ms. Davis, when you arrived at
21 Outer Drive she's hysterical, right?

22 A Yes.

23 Q And she communicates to you she says oh, I don't
24 know what's going on but, by the way, here's this
25 bat that I'm holding like this because I don't want

1 to get, mess up the fingerprints on it?

2 A That is correct.

3 Q Okay. She paused to do that? Paused from her
4 hysteria to do that?

5 A No.

6 Q Okay. Well how did she do it?

7 A She handed me the bat. She had the bat.

8 Q Okay. Was she waving around the bat when you got
9 there?

10 A No.

11 Q How was she holding the bat?

12 A By the top of the bat. By the tip.

13 Q And she was -- was she standing up when she did
14 that?

15 A I believe so, yes.

16 Q Well show me in your report where you indicate
17 anything about her handing you a bat?

18 A It's not.

19 Q Okay. But you collected a bat and preserved it for
20 prints, right?

21 A Yes.

22 Q And you, you, you got the additional information you
23 got was like the information about the piece of
24 paper and the feces, that's what you got in the
25 hospital, right?

1 A You certainly didn't get that information before you
2 left Outer Drive, right.

3 Q I'm sorry? You certainly did not get that
4 information before you left Outer Drive to go to the
5 hospital?

6 A No.

7 Q Okay. So that's what you called back to Bowerman
8 and --

9 MR. BROWN: What's the name?

10 MS. DILLON: Morabito.

11 BY MR. BROWN, continuing:

12 Q Morabito? Sorry.

13 A No.

14 Q Oh you didn't call them back?

15 A No.

16 Q Okay.

17 A That was back in '96 so I would have gone back to --
18 I went back there in person.

19 Q Okay. I'm misunderstanding. Back in '96 you had a
20 radio?

21 A Right, I didn't talk over the radio over that. It
22 was multi, it was a multi-department. There were
23 several departments on the same radio.

24 Q Yes, sir.

25 A So we don't give that information over the radio.

1 Q You are Patrolman Haft, Taft, right?

2 A Yes.

3 Q Patrolman Taft called from the hospital and states
4 that he has talked to the victim further and she
5 blah, blah, blah, so you called on the phone then?

6 A Yes.

7 Q Okay. And when you're on the phone after you talked
8 to her and she said something further did you
9 also -- who did you call?

10 A Lieutenant Heart.

11 Q Back at the station?

12 A Yes.

13 Q Okay. So there was no communication between you and
14 Bowerman and Morabito at the location before you got
15 back there?

16 A Correct.

17 Q Then you're the person that comes back, I mean,
18 because they're walking around the back? It's a
19 dirty loading dock, right, you know, it's not a well
20 kept of area, right?

21 A Right.

22 Q Probably not even used that much because K-Mart is
23 gone, right?

24 A It was -- right. It wasn't used that much.

25 Q Okay. So --

1 A Storage and stuff like that.

2 Q A and so they're not going around looking for like
3 there's a piece of paper with feces on it they're
4 like looking for that?

5 A Not --

6 Q I mean you can't -- you know what, I apologize. Let
7 me rephrase the question because you can't tell what
8 they're thinking, but you came back and alerted to
9 them to the fact that they might find a piece of
10 paper with feces on it?

11 A I'm sorry.

12 Q I don't understand what I'm -- okay. I'm -- this is
13 what I'm trying to get an understanding. You went,
14 when you initially came in contact with Ms. Davis,
15 you couldn't get much information because she was so
16 hysterical? Are we the same page on that?

17 A Yes.

18 Q Okay. So she was so hysterical you couldn't get her
19 name, right?

20 A Yes.

21 Q But you were able, despite her hysteria to get the
22 fact that that she held the bat by the top so she
23 wouldn't mess up the fingerprints, right?

24 A Yes.

25 Q That's at the same time you first met her, right?

1 A Yes.

2 Q Then you go to the hospital and once at the hospital
3 you get additional information like her being forced
4 into a car by a man she didn't know?

5 A Yes.

6 Q She told you that clearly?

7 A Yes.

8 Q Okay. So the additional information you got you
9 also got additional information about there being a
10 piece of paper on the ground with feces on it,
11 right?

12 A That was what was discovered back there, yes.

13 Q No, no, no, no. I apologize for not asking my
14 question right. That's the additional information
15 that you got? In other words, you didn't have that
16 information when you first got there and she's
17 hysterical and crying and screaming or whatever and
18 holding the bat by the top?

19 A Right.

20 Q Okay. Was she crying and screaming and holding the
21 bat by the top? You're looking at your report? Is
22 there some where in your report I should look?

23 A She was at the time she had -- I'm trying to
24 remember. Because they had found the paper with the
25 feces back there and --

1 Q Did you find that from looking at your report?

2 A Which one?

3 Q Your answer that you're answering right now? You're
4 looking at your report and then you gave an answer,
5 so did you find that in the report?

6 A No, I did not find the paper back there.

7 Q No, sir, okay. Okay. I asked you a question then
8 you looked at your report, we're together so far?
9 Then I asked you, "Is there some where you're
10 looking in your report, that I can find", I had to
11 put my glasses on so I could find it when you told
12 me where you looked at. Did you look at something
13 and find it in your report in order to answer that
14 question?

15 A Yeah, I'm using the report to refresh my memory.

16 Q Well tell me what part you're using?

17 A Page three.

18 Q Okay. What part of page three?

19 A Officer Hayse and Sergeant Bowerman discovered paper
20 with feces on same.

21 Q Okay. So you're saying they discovered it. You
22 didn't tell them about it? You didn't tell them?
23 They just found it?

24 A Right.

25 Q Independently?

1 A Right.

2 Q So the additional information that you brought back
3 to them was what?

4 A That she had defalcated herself during the -- during
5 the rape.

6 Q Okay. Okay. And the, the pants that Ms. Davis had
7 on when she was at the hospital -- strike that. She
8 had on pants when you arrived at the Outer Drive,
9 right?

10 A Yes, she was clothed.

11 Q Dark colored blue jeans?

12 A I don't recall.

13 Q Well you were right there with the nurse when the
14 nurse is interviewing her? If the nurse said it was
15 dark colored blue jeans you wouldn't have any reason
16 to quarrel with that, would you?

17 A I don't recall what she was dressed as. I don't
18 know.

19 Q I know but I'm saying you were there when the nurse
20 was interviewing her?

21 MS. DILLON: Your Honor, I'm going to
22 object. He's answered the question. She doesn't
23 recall what he was wearing.

24 MR. BROWN: Okay. I got that.

25 THE COURT: The objection is sustained.

1 BY MR. BROWN, continuing:

2 Q Okay. You were present when the nurse was
3 interviewing this Davis, right?

4 A Yes.

5 Q And you wrote down, in fact, some of similarities
6 well -- strike that. You don't know what you wrote.
7 Did you ever review the nurse's report?

8 A No, I didn't read her report.

9 Q You didn't observe any injuries to Ms. Davis' head
10 or face or anything like that, did you?

11 A I don't recall anything on her face.

12 Q You would certainly have written it down, wouldn't
13 you?

14 A I believe so, yes.

15 Q And you told us already that you observed some
16 abrasions on her back and on her knee, is that
17 right?

18 A Yes.

19 Q And was she clothed when you saw her then?

20 A In the hospital she had a gown on.

21 Q Okay. And you were able to see her? The back of
22 her body?

23 A Just the open gown part of it.

24 Q Like the center part of it or was it all the way
25 open or what? How did you do that?

1 A I just have if I'm looking for an injury I just have
2 somebody show me just because I don't want to get
3 too --

4 Q You don't want to be inappropriate?

5 A Exactly.

6 Q So you ask her? She she'd it to you is what you're
7 telling us?

8 A Right.

9 Q Okay. She showed you the abrasion on her back, on
10 both sides of her back, right?

11 A Right.

12 Q And the abrasion on her knee?

13 A Right.

14 Q Okay. Did you observe any holes in her clothing of
15 any sort?

16 A I don't recall.

17 Q Any tears in her clothing of any sort?

18 A I don't recall any.

19 Q Okay. And if you did you would have recorded that,
20 right?

21 A If they would have been a major rip like torn off I
22 would have.

23 Q Did you get any information that Ms. Davis that her
24 pants were torn off of her?

25 A No.

1 Q You got information that she took them off?

2 A Yes.

3 Q Okay. And did you have any information that Ms.
4 Davis was under the influence of crack cocaine while
5 you were talking to her?

6 A No, I got no information about that.

7 Q Okay. What's you're from the Melvindale Police
8 Department? You're familiar with Ecorse? The area
9 of Ecorse?

10 A Yes.

11 Q And 15th or 13th, that area in Salliotte, what kind
12 of area is that?

13 A At that time I have no idea.

14 Q Was it a high drug area?

15 A In 1996 I don't know.

16 Q Okay. Were there high drug areas in Melvindale in
17 1996 that you're aware of?

18 A Yes.

19 Q Where?

20 A On the Detroit Melvindale boarder.

21 Q Like Outer Drive?

22 A No, that would have been Lincoln Park Melvindale
23 boarder.

24 Q Oh okay. Fort Street?

25 A That would have been the Detroit boarder.

1 Q Detroit Melvindale boarder?

2 A That would have been the Detroit Melvindale boarder.

3 Q So on Fort Street it's a high drug area?

4 A It's known to be.

5 Q Right. And high drug what comes along with high

6 drug areas?

7 A Everything.

8 Q Prostitution? You're shaking your head but we can't

9 record that?

10 A Yes.

11 Q Is that right? I mean don't make me say --

12 A That is correct. That is correct.

13 Q Where there's crack there's prostitution, right?

14 A Yes.

15 Q They go like hand in hand, right?

16 A Yes.

17 Q Okay. Because why? Do you know?

18 A Everything goes along with drugs.

19 Q What do you mean by that?

20 A You can guess. I mean everything is open with

21 drugs.

22 Q You're talking about criminal activity?

23 A Criminal activity, yes.

24 Q Right. Okay. Did you handle any -- strike that.

25 You got the clothing from the nurse at the hospital,

1 did you also get a sexual assault kit?

2 A No.

3 Q Is that -- why not?

4 A I believe those criminal sexual kits take awhile to
5 collect so as soon as I got the evidence I left.

6 Q The evidence being the clothing?

7 A Right.

8 Q That's the only evidence you're talking about,
9 right?

10 A Correct.

11 Q And by that time you got the bat first? That's the
12 very first thing you collected, right?

13 A I don't recall when I collected the bat.

14 Q Well you just told us that you collected it when you
15 came to Outer Drive and saw the witness there
16 hysterical, is that what you told us?

17 A Right.

18 Q Is that right? Is that what happened or are you
19 sure?

20 A Right.

21 MR. BROWN: Just one moment please. All
22 right. I have no further questions. Thank you very
23 much.

24 THE COURT: Redirect.

25 MS. DILLON: Thank you, your Honor.

1 R E D I R E C T E X A M I N A T I O N

2 BY MS. DILLON:

3 Q Mr. Taft, the injuries you noted injuries in your
4 report; is that correct?

5 A Yes, ma'am.

6 Q And the injuries that you would note in the report
7 would those be injuries that you actually saw
8 yourself?

9 A Yes, ma'am.

10 Q So you wouldn't put notes of injuries that other
11 people saw or would you?

12 A No, ma'am.

13 Q So you noted in your report right knee abrasion,
14 left shoulder pain, abrasions all over back, is that
15 what you observed?

16 A Yes, ma'am.

17 Q And in regards to reporting if there was a weapon
18 you would list that in your report?

19 A Yes, ma'am.

20 Q And in this case you listed baseball bat?

21 A Yes, ma'am.

22 Q And is that because you were told of the bat or
23 because you observed the bat?

24 A I was told of the bat and I observed the bat.

25 Q And as the patrol officer on that day you had been

1 on the job for five years; is that correct?

2 A Yes, ma'am.

3 Q You would not be the one directing what happens at a
4 scene for a criminal sexual conduct case, would you
5 be?

6 A No, ma'am.

7 Q And whose job is that?

8 A That would have been the senior officer at the
9 scene.

10 Q And in this case who was that?

11 A That would have been Sergeant Bowerman at the time
12 but he wasn't the first officer there. I think they
13 just secured the scene and waited for Sergeant
14 Morabito to arrive.

15 Q Okay. Because he was called in to do the actual
16 investigation?

17 A Yes, ma'am.

18 Q And he actually had to be called in?

19 A Yes, ma'am.

20 Q Officer Taft, Mr. Taft, when you observed Rachael
21 Davis at the hospital did she appear to be under the
22 influence to you?

23 A No, ma'am. I, well, no. it didn't appear to be.

24 Q If she had would you have noted it in your report?

25 A Yes, ma'am.

1 Q And that was not noted in your report, was it?

2 A No, ma'am.

3 MS. DILLON: I have no further questions,
4 your Honor.

5 THE COURT: Recross.

6 R E C R O S S E X A M I N A T I O N

7 BY MR. BROWN:

8 Q How can -- did you know Ms. Davis before that date?

9 A No, ma'am.

10 Q So you never had an opportunity to observe her
11 demeanor when she was high, buzzed or not high or
12 buzzed, right?

13 A That is correct.

14 Q Okay. So you don't know whether she was high or
15 buzzed fair to say?

16 A Being hysterical it's kind to determine if somebody
17 is under the influence but I couldn't -- it's -- she
18 was more hysterical than she was anything so it was.

19 Q So I'm going to repeat my question: You don't know
20 if she was high or buzzed, right?

21 A I don't -- she wasn't. I don't believe she was, no.

22 Q You know -- so now you know she wasn't?

23 THE COURT: Well his testimony is what it
24 is. You're free to argue whatever you want.

25 MR. BROWN: Thank you, Judge.

1 THE COURT: But he has given his
2 testimony.

3 MR. BROWN: I got you.

4 BY MR. BROWN, continuing:

5 Q Did you take any training about to determine that?

6 A My academy training and five years on the job in a
7 area that's known for a lot of drug activity, as you
8 had mentioned before, so I was pretty well versed in
9 what somebody being under the influence was so I
10 don't believe she was. I think she was more
11 hysterical than anything.

12 Q Okay. So that's because if she were on crack she
13 wouldn't be hysterical?

14 A She would probably -- if she was under the influence
15 like that and if she was on crack I don't think she
16 would have been that hysterical, no.

17 Q Yeah. When a person is on crack would they lie?

18 A Sure.

19 MR. BROWN: Okay. Thank you. No further
20 questions.

21 THE COURT: Members of the jury, do you
22 have any question for this witness? If so, please
23 raise your hands. All right. Write down your
24 questions. Corporal McDougall will be over to
25 collect them. This question is coming to you from a

1 members of the jury so if you could look at them
2 when you answer okay: "Why did you collect the
3 items in the dock area after your return from
4 hospital? Why didn't other officers on scene or a
5 detective collect them? Did they wait to hear back
6 from you before collecting items"?

7 THE WITNESS: I'm sorry, ma'am. What was
8 the question?

9 THE COURT: I'll read it again. "Why did
10 you collect the items in the dock area after your
11 return from hospital? Why didn't other officers on
12 scene or detective collect them? Did they wait to
13 hear back from you before collecting items"?

14 THE WITNESS: We have what's called a
15 chain of command. Detectives are -- the loading
16 dock is full of a lot of garbage, a lot of different
17 things, a lot of different materials in there. You
18 can go back there and it's a lot of different things
19 are in the loading dock. What's relevant to
20 collect, you could collect a hundred different
21 things. It's what's relevant to what happened so
22 when I went to the hospital to find out basically
23 what I can find out to relay back to the detectives
24 so he can collect it and then he collects it and
25 takes it back and then he tags it and he puts it on

1 evidence. Basically keeps the integrity of the
2 evidence or keeps it, keeps too many people from
3 handling evidence.

4 THE COURT: All right. Write down your
5 question. There's another question from the jury,
6 Corporal McDougall. Anything else, members of the
7 jury, while Corporal McDougall is coming over?
8 "When did you put the bat in the police car? Before
9 or after the hospital"?

10 THE WITNESS: I want to say I put the bat
11 in after the hospital but I'm, but if I'm
12 remembering I got the bat from her so the time on it
13 is not -- the timing on it so that I'm not exactly
14 sure. I know when I got the bat she had told me
15 that the bat had -- she had moved the bat so that's
16 why I had to put it in the police car and secured
17 the bat for prints.

18 THE COURT: Any questions based on the
19 juror's questions, Ms. Dillon?

20 MS. DILLON: No Thank you, your Honor.

21 THE COURT: Mr. Brown?

22 MR. BROWN: No, your Honor. Thank you
23 very much.

24 THE COURT: All right. You may step down.
25 Call your next witness.

1 MS. DILLON: Your Honor, the People will
2 be calling Guy Morabito.

3 THE COURT: All right. Good afternoon,
4 sir. Can you please spell your first and last name
5 for the record?

6 MR. MORABITO: Guy Morabito. It's G-U-Y,
7 M-O-R-A-B-I-T-O.

8 THE CLERK: Raise your right hand. Do you
9 solemnly swear or affirm to tell the truth?

10 MR. MORABITO: I do.

11 GUY MORABITO

12 (At 3:33 p.m., sworn as a witness, testified as follows)

13 THE CLERK: You maybe seated.

14 THE COURT: You may.

15 MS. DILLON: Thank you, your Honor.

16 THE COURT: You're welcome.

17 D I R E C T E X A M I N A T I O N

18 BY MS. DILLON:

19 Q Good afternoon. Just for the record, if you would
20 please state your name again?

21 A Guy Morabito.

22 Q And what is your occupation?

23 A I am a retired police officer.

24 Q And where are you retired from?

25 A Melvindale Police Department.

1 Q What was your tenure with Melvindale? When did you
2 start?

3 A I started in October of '77. I retired in July of
4 2005.

5 Q And so you were a member of the Melvindale Police
6 Department in July of 1996?

7 A Yes.

8 Q And were you called to a case involving a alleged
9 sexual assault on January 25, 1996 at what's
10 referred to at the old K-Mart?

11 A On what date? I'm sorry.

12 Q July 25, 1996?

13 A Yes, I was.

14 Q Now were you actually on duty that day?

15 A No, I was not.

16 Q Okay. And is there a reason why you were called
17 there?

18 A I worked in the Detective Bureau at the time. I was
19 a sergeant assigned to the Detective Bureau and I
20 was called in to oversee the case.

21 Q Okay. So is that something that patrol officers
22 then call in a detective when a case like that
23 occurs?

24 A Normally they would call the desk and the person in
25 charge of the desk would call a detective in.

1 Q And on that lucky day it was you?

2 A It was me, yes.

3 Q And do you recall about what time you were called in
4 there?

5 A I believe it was around 9:30, 9:45. I don't think I
6 got there till around ten or a little after.

7 Q And how did you get there?

8 A Well I go up to the police station and I go get a
9 police car and I go by police car.

10 Q All right. And did you bring anybody with you to
11 the scene?

12 A No.

13 Q What did you observe when you first got there?

14 A I spoke with at least one officer and he told me the
15 area where the rape had taken place.

16 Q And you said you spoke to an officer, how many
17 officers were there when you got there if you
18 recall?

19 A I believe there was two.

20 Q And who were they? Do you remember?

21 A Officer Hayse and I believe sergeant Bowerman.

22 Q And so you said that they showed you the area, what
23 area are we talking about?

24 A It's, it's behind the old K-Marts on the one side
25 where it's like a loading dark area.

1 Q And this is the old K-Mart on Outer Drive?

2 A Yes.

3 Q Now when you got there was there anyone there other
4 than police personnel?

5 A No.

6 Q And what did you do when they showed you this area?
7 Let me ask you this: When you got there did you
8 just drive automatically back to that area or where
9 did you get out at?

10 A I probably drove close to the area, yes.

11 Q And so what did you do first when you got to that
12 area?

13 A I would meet with the officers and they took me to
14 the vicinity to where the crime had taken place.

15 Q And what is the purpose of that?

16 A To observe the area, to see if there's any type of
17 evidence that may have been left or property that we
18 may need to confiscate for evidence.

19 Q In this case did you collect any evidence?

20 A There wasn't much there when I got there, I don't
21 believe, other than maybe a hair pin and I think
22 that was about it.

23 Q Okay. And if other officers collected evidence at
24 the scene or for the case is that stuff they would
25 turn over to you?

1 A Yes.

2 Q Okay. And why would they turn it over to you?

3 A Well, for one, I was in charge of case and, two, I
4 would be the person that would tag it as evidence or
5 property.

6 Q And when you say "Tag it as evidence", what does
7 that mean?

8 A Well at the station we log it in. at the station
9 you give a description of what it is, put it on --
10 write the description on the tag and then we'll
11 attach it to that item or bag or whatever it is that
12 was taken.

13 Q And do you recall some of the items of evidence that
14 were collected and turned over to you in this case?

15 A Yes. There was a bag that was given to me that had
16 the female's clothing in it. I had a hair pin that
17 I tagged, I believe, and there was a bat that was
18 turned over to me and I picked up a rape kit from
19 the hospital.

20 Q Okay. So you picked up the rape kit from the
21 hospital?

22 A Yes.

23 Q Okay. Do you recall who turned the bat over to you?

24 A I believe it was officer Taft.

25 Q What was done with that bat?

1 A I would tag it as property or evidence. It would be
2 placed in the evidence room and then in the morning
3 the next day I believe I took that out along with
4 some other items to the crime lab.

5 Q And which crime lag, do you remember?

6 A Michigan State Crime Lab.

7 Q Okay. And what was the purpose of taking the bat to
8 the crime lab?

9 A To see if there's any identifiable fingerprints or
10 anything of that sort that might be on the bat
11 itself.

12 Q And what about the other evidence that you took to
13 the crime lab?

14 A The clothing, I took the bag of clothing to the
15 crime lab along with the rape kit and that was
16 turned over to Michigan State personnel who do the
17 forensics on that.

18 Q Okay. So none of that testing is done by
19 Melvindale? You don't have a lab or anything like
20 that?

21 A No.

22 Q Okay. Do you recall the baseball bat in particular
23 you took that to the lab, did you get it back, do
24 you remember?

25 A Yes, I believe I picked that up shortly later. I'm

1 not sure.

2 Q And was there any information gleaned from the
3 testing on the baseball bat?

4 A I believe the slip that came with it said there was
5 no identifiable prints.

6 MS. DILLON: Your Honor, may I approach?

7 THE COURT: You may.

8 MS. DILLON: Thank you.

9 BY MS. DILLON, continuing:

10 Q Sergeant Morabito, I'm showing you what's been
11 marked as People's proposed exhibit number ten. Can
12 you take a look at that document? Do you recognize
13 that document?

14 A Yes.

15 Q What do you recognize that document to be?

16 A This is the document describing the wooden bat.

17 Q And is your signature some where on that document?

18 A Yes, signed at the bottom.

19 Q Okay. What was your signature signify on this
20 document?

21 A It shows it was received by me.

22 Q From who?

23 A Brennan Zane. (ph)

24 Q And who is he with?

25 A He's a Michigan State Police Specialist.

1 Q Okay. So does that signify you getting the bat
2 back?

3 A Yes.

4 Q Okay. And is that a true and accurate copy of the
5 sheet that you signed basically acknowledging that
6 you received the bat back?

7 A Yes.

8 MS. DILLON: Your Honor, at this point I
9 would move to admit People's proposed exhibit ten
10 into evidence.

11 THE COURT: Any objection?

12 MR. BROWN: None at all.

13 THE COURT: Exhibit ten will be admitted
14 into evidence.

15 BY MS. DILLON, continuing:

16 Q Now, Sergeant Morabito, Mr. Morabito, what would you
17 prefer to be called?

18 A Whatever you like.

19 Q Okay. In regards to the bat, is there a description
20 of the bat in that document?

21 A The description is 24 and a half inch wooden
22 baseball bat.

23 Q And that it also, basically, indicates what you had
24 gleaned that there was no evidence obtained from the
25 bat? No fingerprint evidence?

1 A Correct.

2 Q Okay. What day did you get the bat back from the
3 Michigan State Police?

4 A August 14, '96.

5 Q And does that indicate what day you actually took it
6 to the lab or they received it?

7 A They received it on July 26, '96 at 11:27 a.m.

8 Q So it was the very next day as you testified to?

9 A Yes.

10 Q Okay. Sergeant Morabito, do you know where that bat
11 is today?

12 A I do not.

13 Q When you got the bat back from the Michigan State
14 Police, what do you recall doing with it?

15 A It would go back in our property.

16 Q Okay. And you indicated that you also got the
17 complainant's clothing?

18 A Yes.

19 Q And in what form did that come to you in?

20 A In a bag.

21 Q What kind of bag?

22 A I believe it was a paper bag.

23 Q Okay. All right.

24 MS. DILLON: Your Honor, continued
25 permission to approach?

1 THE COURT: Sure.

2 MS. DILLON: Thank you.

3 BY MS. DILLON, continuing:

4 Q I'm going to hand you what's been tagged as People's
5 proposed exhibit five. It's actually just a tag for
6 the bag. Do you recognize this bag?

7 A Yes.

8 Q And what are you just looking at? What do you
9 recognize it to be?

10 A That is the bag with the clothing. It's got our
11 city name on it that was received back from the
12 crime lab.

13 Q Okay. And this is the bag of clothes that you
14 received on the day of the alleged assault, is that
15 right?

16 A Yes.

17 Q And I'm going to hand you these gloves. And this
18 was collected at the hospital?

19 A Yes.

20 THE COURT: All right. Mr. Brown, do you
21 have any objection to the admissibility of exhibit
22 five?

23 MR. BROWN: Not at all.

24 THE COURT: Exhibit five, the clothing
25 collected from this event, will be admitted into

1 evidence and you may open it and display it to the
2 jury as you see fit.

3 MS. DILLON: Thank you, your Honor.

4 BY MS. DILLON, continuing:

5 Q All right. Sergeant, I'm going to give you that bag
6 and there's a bunch of initials and things on that
7 bag, can you kind of tell us what they mean?

8 A This is a -- this appears to be a number but it's
9 not ours. It's probably from the state crime lab.

10 Q Okay.

11 A This number here, 96-6126, is our complaint number
12 and it has our date that it was brought out there
13 7/26/96.

14 Q Okay. And why your complaint number you mean like
15 your police report number?

16 A Yes.

17 Q Okay. Go ahead and open that bag, if you would?

18 THE COURT: Does he need scissors?

19 MS. DILLON: No, he's just opening the
20 side.

21 BY MS. DILLON, continuing:

22 Q Okay. What is the go ahead and take out the first
23 item?

24 THE COURT: Can everyone on the jury see?
25 For the record, the witness is holding a? What

1 would that be, sir, that you're holding?

2 THE WITNESS: It's a pair of women's
3 jeans.

4 THE COURT: All right.

5 BY MS. DILLON, continuing:

6 Q Okay. And so these were actually had been tagged as
7 a separate exhibit number. They were People's
8 exhibit number eight for identification purposes as
9 the clothing from the --

10 THE COURT: So are you asking for -- so
11 what was in the bag? The bag was closed?

12 MS. DILLON: The bag was --

13 THE COURT: And now you're asking for the
14 pants to be a separate exhibit?

15 MS. DILLON: Well the bag we had
16 originally just tagged the bag as a number and then
17 we labelled each of the clothes.

18 THE COURT: It doesn't matter what we did
19 before, Ms. Dillon. I'm asking you what you would
20 like to happen right now?

21 MS. DILLON: Your Honor.

22 THE COURT: Are you asking for the pants
23 to be received as a separate exhibit?

24 MS. DILLON: No. they'll just be part of
25 the group exhibit five.

1 THE COURT: Okay.

2 MS. DILLON: Thank you.

3 BY MS. DILLON, continuing:

4 Q Did you bring anything with you this time like a
5 plastic sheet or anything like that?

6 OFFICER TUSKI: No, use the floor.

7 THE COURT: Well if you put on a pair of
8 gloves, Officer-in-charge, he can hand it off to
9 you.

10 MS. DILLON: Thank you.

11 THE COURT: And then you can hold onto it
12 till we can put it back in the bag. He can hold
13 them all collectively so we can put them back in the
14 bag.

15 OFFICER TUSKI: Thank you, your Honor.

16 BY MS. DILLON, continuing:

17 Q Okay. And then the next item?

18 THE COURT: Ms. Dillon, can you step back
19 because you're blocking the jury?

20 MS. DILLON: Yes, I'm sorry.

21 THE COURT: Thanks.

22 BY MS. DILLON, continuing:

23 Q Okay. And what does that appear to be, officer?

24 A This appears to be I guess you would call it a
25 blouse or a top.

1 Q Okay. And how does it fasten?

2 A By buttons in the front.

3 Q All right. Thank you. And there's one more piece
4 of clothing in there?

5 MR. BROWN: May I approach?

6 THE COURT: Yes, of course.

7 MR. BROWN: Okay. Thank you very much.

8 BY MS. DILLON, continuing:

9 Q Is there one more piece of clothing and what does
10 that appear to be?

11 A This is a pair of lady's underwear.

12 Q Thank you. You can go ahead and --

13 OFFICER TUSKI: In the bag?

14 MS. DILLON: Yeah.

15 THE COURT: Does he still need those
16 gloves or no?

17 MR. BROWN: He's probably going to need
18 them when I'm --

19 THE COURT: Okay.

20 MR. BROWN: -- cross-examining him.

21 BY MS. DILLON, continuing:

22 Q And, Sergeant Morabito, I'm going to hand you what's
23 been previously admitted as People's exhibit number
24 nine while you've got your gloves on. Take a look
25 at that. Do you recognize that?

1 A Yes, this is the what they call an evidence rape kit
2 that they used at the hospital when they examine a
3 female or a male.

4 Q Okay. And in this case this particular kit is for
5 who?

6 A The victim.

7 Q Okay. And this is in the case that we're talking
8 about, is that right?

9 A Yes.

10 Q In fact, is your signature on that kit?

11 A Yes, it is.

12 Q And that's because you picked it up from the
13 hospital?

14 A Yes.

15 Q And this is the kit then that you took up to the
16 Crime Lab to be analyzed, is that right?

17 A That is correct.

18 Q In regards to the baseball bat, we know from the
19 receipt that you picked it up from the State Police
20 and you believe you put it back into Property, do
21 you have any idea why it wouldn't, if it was still
22 in Property at Melvindale?

23 A If it is still there?

24 Q If it is or if it isn't why it wouldn't be?

25 A Do I know?

1 Q Yeah, do you know if it's still in Property in
2 Melvindale?

3 A I have no idea.

4 Q And would it have been common practice when you were
5 with the department to keep a piece of evidence like
6 that?

7 A Usually, yes.

8 Q For even 20 years?

9 A Well it's a small evidence room so as new cases come
10 in they put new stuff on shelves and I guess some
11 things get discarded if the case never comes up.

12 Q So that was not an unheard of practice?

13 A Correct.

14 Q Now what else did you do in regards to the
15 investigation of this case?

16 A We didn't have much to go on. We had put an
17 informational lead notification over our computer
18 system to other police departments of the incident,
19 the description of the vehicle and the person and --

20 Q Did you make any arrests back in 1996?

21 A No.

22 Q Or while you were on the force at all?

23 A No.

24 MS. DILLON: I have no further questions,
25 your Honor.

1 THE COURT: Mr. Brown.

2 MR. BROWN: Thank you.

3 C R O S S - E X A M I N A T I O N

4 BY MR. BROWN:

5 Q Mr. Morabito, my name is Mark Brown and you know me.

6 We met before, right?

7 A Yes.

8 Q I'm going to ask you some questions. The first

9 question is about that bat. The bat is described as

10 a 24 and a half inch wooden baseball bat. That's

11 like one foot, two feet, about this long, right?

12 A Yes.

13 Q I'm holding about two feet. I don't have a

14 measuring thing. Yeah, about like that. Okay.

15 That's like a souvenir bat?

16 A Correct.

17 Q Or a kiddie bat or some kind of a decorative bat,

18 right?

19 A Yes.

20 Q Okay. It's not a full-sized baseball bat, right?

21 A Correct.

22 Q Okay. And you have no idea you said you don't know

23 if it's there or whatever because you retired? When

24 did you retire?

25 A 2005.

1 Q Okay. So you don't know whether it was there then
2 because you didn't go through and inventory the
3 Property Room? You don't know anything about it,
4 right?

5 A Correct.

6 Q You just know that you've not seen any connection
7 with this case?

8 A Correct.

9 Q And you've been advised that nobody can find it,
10 right?

11 A Yes.

12 Q And your, let me just clarify one thing: You were
13 the detective in charge of crime scene, processing
14 the crime seen?

15 A Yes.

16 Q All right. So did you discover -- I don't want to
17 hand these to you because I don't want to touch the
18 things after you touch them with your gloves, but
19 you have the photographs? I'm going to hold them up
20 in front of you. I hope you don't mind me doing it
21 like that. Exhibit number --

22 MR. BROWN: May I approach, your Honor?

23 THE COURT: Yes.

24 MR. BROWN: Thank you.

25 BY MR. BROWN, continuing:

1 Q Exhibit number two, that's a picture. I don't want
2 you to grab it. Can you see it?

3 A Yes.

4 Q And what is that?

5 A I believe that is the paper that she wiped feces off
6 with.

7 Q And so you collected that?

8 A I did not.

9 Q You were in charge of the scene processing, who
10 collected it?

11 A I don't believe anybody collected it.

12 Q Well that certainly is relevant to this case, right?

13 A Only for the aspect that she stated that's what she
14 had to do to wipe herself. If it was the suspect's
15 feces I definitely would have collected that because
16 we would have been able to get DNA off of that.

17 Q Whose feces was it?

18 A Well according to her it was her's.

19 Q No. I'm asking you how do you know whose feces it
20 was?

21 A I don't know.

22 Q Right. So you should have collected it so we could
23 have determined that, right?

24 A I'm not sure if I would have tested that just to see
25 if it was her feces.

1 Q I understand but it's not for you to determine.

2 It's like that's evidence in this case that's
3 connected with information given to you by another
4 police officer, Officer Taft, right?

5 A Well it would be my -- I am the person in charge of
6 the case. It would be me to determine whether to
7 collect that and take it to the crime lab and I did
8 not.

9 Q Okay. So we don't know whether that had any
10 relevance to this case or not, fair to say?

11 A I'm not sure what was testified to so I --

12 Q No, no, no, no. but we certainly don't -- there's
13 no way to analyze something that we don't have,
14 right?

15 A That is correct.

16 Q So we can't determine whether it's from Ms. Davis or
17 from Joe Blow?

18 A That is correct.

19 Q And we can't do that because it was not collected?

20 A That is correct.

21 Q And how did it come to your attention that that --
22 because somebody took a picture of it, did you?

23 A I'm not sure if I did or not. I'm not sure if it
24 was me or one of the officers.

25 Q Well Officer Taft was there, he didn't take

1 pictures. Officer Hayse is there, he didn't take
2 pictures, so --

3 A Then it probably was me.

4 Q Okay. Well I don't want to trick you because
5 Bowerman was also there, maybe he took them too?
6 You don't know?

7 A Well I usually would carry a camera to the crime
8 scene so.

9 Q A polaroid camera, right?

10 A Yes.

11 Q So you probably took the picture and if you took the
12 picture you weren't just taking pictures randomly
13 around, right?

14 A I don't believe I did.

15 Q Yeah. You'd take pictures that you would think had
16 some relevance to the case that you're
17 investigating? Investigating, right?

18 A That is correct.

19 Q So you took a picture of this paper here which
20 extensively has feces on it? I don't really know
21 because I can't tell from this picture, right?

22 A I guess --

23 THE COURT: Well he can't testify to what
24 you know.

25 MR. BROWN: He was getting ready to.

1 THE COURT: But he shouldn't.

2 MR. BROWN: Yeah, okay.

3 BY MR. BROWN, continuing:

4 Q Okay. So what I'm saying is how did -- why did you
5 take a picture of it?

6 A Because that's what she stated that she wiped
7 herself with.

8 Q Okay. Did you talk to the complainant?

9 A I did not.

10 Q Okay. So you didn't know that she stated that till,
11 how did you know?

12 A The officer told me.

13 Q Which officer?

14 A I believe it was Officer Taft.

15 Q So you and officer, let me see what it says on here.
16 You and Officer Bowerman you didn't discover that?
17 That was pointed out to you by someone else?

18 A I did not discover that, no.

19 Q Okay. And the person that you got that information
20 from would be Officer Taft?

21 A That is correct.

22 Q Okay. Officer Taft came back and he gave you some
23 information about, you know, what supposedly
24 happened and then said oh here's something that
25 might be relevant, right?

1 A I'm not sure exactly how it went.

2 Q Yes, sir. I'm not looking for a verbatim like
3 conversation but I'm saying, in essence, you weren't
4 out there looking for any -- it was a dirty, nasty
5 dock in the back of a, you know, thing that used to
6 be K-Marts, right?

7 A Okay.

8 Q I'm asking you.

9 A I'm looking at what?

10 Q I said it was a dirty, nasty dock in the back of a
11 store that used to be a K-Mart; is that correct?

12 A That is correct.

13 Q And you were looking around? You were looking
14 around for things that are relevant and, in fact, in
15 the report there's something about a St. Ives Malt
16 Liquor bottle?

17 A Okay.

18 Q Do you recall that?

19 A I recall that in the report.

20 Q Yeah. So did you put that on evidence?

21 A It wasn't evidence as far as we could see. She
22 never mentioned anything to any officer about that.

23 THE COURT: So is your answer then, no,
24 you didn't put it on evidence?

25 THE WITNESS: That is correct. I did not.

1 BY MR. BROWN, continuing:

2 Q And that's because you didn't have any information
3 about it being relevant to this case, right?

4 A That is correct.

5 Q And then your you said when you got there there
6 wasn't much evidence -- not much evidence there when
7 you got there, that's your words, right?

8 A That is correct.

9 Q So the evidence when you got there would have been
10 the baseball bat which officer Taft gave you?

11 A That is correct.

12 Q And Officer Taft did you see him collect that
13 baseball bat?

14 A I did not.

15 Q Why not?

16 A I was not there when the call came in.

17 Q Okay. So when the call -- he collected it when the
18 call came in to your knowledge?

19 A I'm sorry?

20 Q He collected it when -- that's not a good question.
21 He collected it -- forget it. Do you know where he
22 collected it from?

23 A Exactly, no.

24 Q Did you take a picture of the bat?

25 A I did not, no.

1 Q Okay. And the bat was sent to Michigan State Police
2 Lab for fingerprint analysis; is that correct?

3 A That is correct.

4 Q And do you give any directions to the Michigan State
5 Police when you have them analyze something for
6 fingerprints?

7 A Not really.

8 Q Okay. In other words, you wouldn't say check the
9 top where it might be complainant's fingerprint?

10 A No, they would check the whole bat I would think.

11 Q Okay. So then the bat you were of the -- you were
12 informed that the bat was held by the complaining
13 witness, right?

14 A Yes.

15 Q Held up the top so she wouldn't mess up the
16 fingerprints on the rest of the bat?

17 A Yes.

18 Q Okay. And you never talked to the complaining
19 witness?

20 A That is correct.

21 Q All right. The piece of jewelry that you found you
22 said what did you call it? A hair pin, did you put
23 that on evidence?

24 A I'd have to look at the paperwork to say.

25 Q That would be the three page report like this? Can

1 you see from there? Again, I don't want you to talk
2 this but can I hold it in front of you some kind of
3 way because I -- is there some where that you
4 indicated that evidence was collected?

5 A The hair pin was tagged as 469.

6 THE COURT: You have to say it into the
7 mic.

8 THE WITNESS: The hair pin was tagged as
9 469.

10 BY MR. BROWN, continuing:

11 Q And was that hair pin evidence identified to your
12 knowledge by Ms. Davis as having being her's?

13 A Not to my knowledge.

14 Q Is it -- does the Melvindale Police Agency still
15 have that hair pin?

16 A I haven't worked in 11 years so I don't know.

17 Q Okay.

18 A Sorry.

19 Q Thank you. Okay. Now could you get the clothing
20 back out of --

21 THE COURT: It's on the table.

22 MS. DILLON: It's right here.

23 MR. BROWN: No, he's getting his gloves.

24 THE COURT: Oh.

25 OFFICER TUSKI: Are you going to hand him

1 the bag or do you want me to hold it up?

2 MR. BROWN: I don't want to touch none of
3 it.

4 BY MR. BROWN, continuing:

5 Q Okay. Can you take that blouse out again please?
6 Okay. And can you turn it around so I can see the
7 bottom holes there. Can you count those button
8 holes on that blouse?

9 A Six.

10 Q Can you count the buttons?

11 A Six.

12 Q Okay. And can you look at -- hold the -- are there
13 any tears along the area of the buttons where when
14 you fasten a blouse together?

15 A I do not see any tears.

16 Q And, in fact, do you see any tears any where on that
17 blouse?

18 A No.

19 Q Okay. Now if you could put that back in and take
20 the pants out please?

21 A The panties?

22 Q Is there -- just take the panties out. I'm sorry.
23 Is the crouch removed from the panties there?

24 A There's a small rip there.

25 Q It's cut out.

1 A Yeah, there is.

2 Q Okay. Now if you could take the pants out, the blue
3 jeans? And hold them so the front is facing me and
4 or the jury. Now there are the right leg has some
5 area cut out of it or something, does that -- did
6 the police do that or the medical personnel?

7 A I --

8 Q You don't know?

9 A I do not.

10 Q Okay. Any marks on the front of the jeans? Do you
11 see any marks like spots or droplets on those jeans
12 any where? You can turn around so you can see. I
13 know it was a stupid thing for me to tell you to
14 turn towards me and ask you now. I'm sorry.

15 A It's a white mark here but I don't know what that
16 is.

17 Q Okay.

18 A And other than this here they may have cut that out
19 and test something here.

20 Q Okay. And there's no obvious marks on the knees of
21 the knee area of the pants, is that fair to say?

22 A Just a small mark there.

23 Q Okay.

24 A That's the knee part area here so I'm not sure about
25 that.

1 Q All right. Thank you. You can put them back. And
2 the -- what number? Number nine?

3 THE COURT: Yep.

4 MR. BROWN: Thank you very much, Judge.

5 BY MR. BROWN, continuing:

6 Q The evidence collection kit for victims of assault
7 did you open that?

8 THE COURT: The rape kit?

9 THE WITNESS: No.

10 MR. BROWN: Yes.

11 BY MR. BROWN, continuing:

12 Q You never opened it, right?

13 A No.

14 Q So you sent it off to the Michigan State Police
15 Crime Lab, right?

16 A Yes.

17 Q In 1996?

18 A Yes.

19 Q And did you ever have anything to do with that kit
20 ever again?

21 A I picked it backup.

22 Q Okay when?

23 A It would have the date on there.

24 Q Okay. The only dates are see on there are 7/26 and
25 7/25 so --

1 A It should be on the sheet that came with it.

2 THE COURT: So you picked it up at some
3 date before you retired but you don't know when?

4 THE WITNESS: Well it had to be within,
5 well, probably within a month or two. Do you want
6 me to look at that? I can look at that. There
7 should be a sheet according to that.

8 BY MR. BROWN, continuing:

9 Q Yeah, because I'm not touching it. You can come.
10 Can he step down?

11 THE COURT: Of course. It's after 4:00 so
12 are you almost done?

13 MR. BROWN: Yes, ma'am.

14 THE COURT: Because otherwise we'll just
15 stop?

16 MR. BROWN: No, I'm almost done.

17 THE COURT: I'm not rushing you. I just
18 need to know because I have rules that I'm breaking
19 right now.

20 THE WITNESS: I don't see that on there.
21 There would be a sheet with it that comes from the
22 Crime Lab.

23 BY MR. BROWN, continuing:

24 Q You have to go back to your seat and say that again
25 please, sir.

1 THE COURT: You indicated you don't see a
2 date on the exhibit and there would be a sheet some
3 where that could tell you?

4 THE WITNESS: It comes with it from the
5 Crime Lab.

6 THE COURT: All right.

7 MR. BROWN: Okay. I have no further
8 questions.

9 THE COURT: Redirect, Ms. Dillon.

10 MS. DILLON: Yes, ma'am. I actually have
11 no further questions.

12 THE COURT: All right. Members of the
13 jury, do you have any question for this witness? If
14 so, please raise your hands. Does anyone have a
15 question? Juror number four do you have a question
16 for this witness? All right. Corporal, I don't
17 know where he went. Corporal Baker will be over to
18 collect your question. Just pass it over. Oh he
19 appeared. This question is coming to you from a
20 member of the jury: "By her being hit by a bat was
21 any blood discovered on her clothing or face"? Do
22 you know the answer to that question?

23 THE WITNESS: I do not know the answer. I
24 did not see her person.

25 THE COURT: "And do you know and if she

1 crawled was there any dirt on the jeans"?

2 THE WITNESS: There was some small spots
3 on there but they were minute.

4 THE COURT: Any questions based on the
5 juror's questions, Ms. Dillon?

6 R E D I R E C T E X A M I N A T I O N

7 BY MS. DILLON:

8 Q Sergeant, when you looked at the jeans on the right
9 side was the knee cut out?

10 A Yes.

11 Q So you really can't say what condition they were in
12 before they were altered?

13 A Correct.

14 MS. DILLON: No further questions.

15 THE COURT: Mr. Brown.

16 MR. BROWN: Just one.

17 R E C R O S S E X A M I N A T I O N

18 BY MR. BROWN:

19 Q It certainly would not be the procedure of the
20 Police Department to in any way alter the jeans?
21 Like they weren't washed or anything, right?

22 A Correct.

23 Q And the Police Department didn't cut them or
24 anything, right?

25 A No.

1 MR. BROWN: Okay. Thank you very much.

2 THE COURT: Okay. You may step down.

3 You're excused. So here's the deal, members of the
4 jury. We still have, I think the prosecutor has a
5 few more witnesses, well we have a few more
6 witnesses to go and so I'm going to have you all
7 come back tomorrow but I have a lot of stuff that I
8 have to do tomorrow. One thing that has -- and none
9 of it has anything to do with this case and one of
10 them is like this big media thing so I don't want
11 you all to get caught up in that so rather than have
12 you come here and sit around and wait because the
13 cameras sit in the jury box when cameras come you
14 can be in, well, any way, rather than have you come
15 and sit here and wait while I try to get those
16 people from TV out of here I'm going to have you
17 come a little later than 9:00. Now it's very
18 important that you all are on time. We lost a lot
19 of time this morning because someone was late and I
20 know things happen. It's unavoidable but tomorrow I
21 think it's going to be raining but do your best, you
22 know, to try to get here on time because it causes
23 delays when people are late, so I'll see you all
24 tomorrow. Instead of coming at nine I want you to
25 come at 10:30 so 10:30 okay.

1 Leave your notebooks in your chairs.

2 Knock on the door when you're ready to go. Remember
3 you can't discuss this case with anyone and can't
4 anyone discuss it with you.

5 COURT OFFICER: All rise for the jury.

6 (At 4:10 p.m. jury exits the courtroom)

7 COURT OFFICER: You maybe seated.

8 THE COURT: All right. So I have like 21
9 things on my docket tomorrow and 21 is a false
10 number because every time somebody files a motion or
11 the prosecutor files a response it creates a
12 separate entry as if it's a different thing on the
13 docket so I really don't know how many different
14 cases I have tomorrow but I do know for sure that I
15 have this Bernard Young which is a rape conviction
16 or a child sexual abuse conviction from 1970
17 something that I overturned and I know that's up
18 tomorrow and the media is going to be here for that
19 so I want to get that out of the way and get as much
20 of the docket out of the way as I can before we
21 start with you all so that's why I told the jury to
22 come at 10:30. Is there anything else for the
23 record?

24 MS. DILLON: Nothing from the People, your
25 Honor.

1 MR. BROWN: No, your Honor.

2 THE COURT: All right. I'll see you all
3 tomorrow.

4 (At 4:11 p.m. proceedings concluded)

5

6 C E R T I F I C A T E

7

8 STATE OF MICHIGAN)

9)ss

10 COUNTY OF WAYNE)

11

12 I, Bromeaica McBride, certify that this transcript
13 consisting of 244 pages is a complete, true and correct
14 transcript of the proceedings and testimony taken in this
15 case on April 27, 2017.

16

17

18

19 3-1-18 _____[BROMEICA] [MCBRIDE]_____

20 Date BROMEICA MCBRIDE, CSR 7279
21 Lincoln Hall of Justice
22 1025 East Forest, Room 105
23 Detroit, Michigan 48207
24 (313) 833-0787
25

Appendix I – Jury Trial Transcript, April 28, 2017

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-FC

DEXTER TAYLOR

Defendant.

_____/

JURY TRIAL

BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE

Detroit, Michigan - Friday, April 28, 2017

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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25

1 Detroit, Michigan

2 Friday, April 28, 2017

3 At approximately 10:52 a.m.

4 - - -

5 THE COURT: This is case number
6 2016-007780-01-FC. People of the State of Michigan
7 versus Dexter Burrell Taylor here today for a
8 continuation of a jury trial. Appearances for the
9 record please.

10 MS. DILLON: Good morning, your Honor.
11 Susan Dillon on behalf of the People.

12 THE COURT: Good morning, Ms. Dillon.

13 MR. BROWN: Good morning, your Honor. May
14 it please the Court, Mark Brown appearing on behalf
15 of Mr. Dexter Taylor seated in court.

16 THE COURT: Good morning, Mr. Brown, and
17 good morning to you, Mr. Taylor.

18 DEFENDANT TAYLOR: Good morning.

19 THE COURT: Good morning, members of the
20 jury.

21 THE JURY: Good morning.

22 THE COURT: I'm sorry you all waited over
23 20 minutes before you were brought out. I want you
24 to know it was not my fault nor it was not Mr.
25 Taylor's fault or the prosecutor. Like it wasn't

1 anybody's fault. Sometimes these things just happen
2 so please don't hold it against the defendant, Mr.
3 Brown, or the prosecutor or me. It's like
4 walking -- trying to control lawyers is like trying
5 to walk a cat and I don't know if any of you have
6 tried to walk a cat but it doesn't work so I really
7 apologize. Can you please call your next witness.

8 MS. DILLON: Yes, Judge. The People would
9 call Ms. Heather Vitta.

10 THE COURT: Good morning, ma'am.

11 MS. VITTA: Good morning.

12 THE COURT: Can you please spell your
13 first and last name for the record?

14 MS. VITTA: My first name is Heather
15 that's H-E-A-T-H-E-R and my last name is Vitta,
16 that's V as in Victor I-T-T-A.

17 THE CLERK: Raise your right hand. Do you
18 solemnly or affirm to tell the truth?

19 MS. VITTA: Yes, I do.

20 HEATHER VITTA

21 (At 10:54 a.m. sworn as a witness, testified as follows)

22 THE CLERK: You may be seated.

23 THE COURT: Ms. Dillon, do you intent to
24 call this witness or qualify this witness as an
25 expert?

1 MS. DILLON: I do, your Honor.

2 THE COURT: In what area?

3 MS. DILLON: DNA, forensic DNA analysis.

4 THE COURT: Do you have any objection?

5 MR. BROWN: I have no objection.

6 THE COURT: Members of the jury, this
7 witness is being qualified as an expert in the field
8 of forensic biology and DNA analysis. Is that the
9 correct title?

10 THE WITNESS: Yes, it is. Thank you.

11 THE COURT: And this is by stipulation of
12 both parties which means that like the other expert
13 you've heard, I think you've heard from three so
14 far, she's allowed to give you opinions about things
15 that are within her field of expertise. You may.

16 MS. DILLON: Thank you, your Honor.

17 D I R E C T E X A M I N A T I O N

18 BY MS. DILLON:

19 Q Good morning, Ms. Vitta.

20 A Good morning.

21 Q If you would please tell the jury where you are
22 employed.

23 A I'm employed by the Michigan State Police at the
24 Northville Crime Laboratory in the Biology and DNA
25 Unit.

1 Q And how long have you had that position?

2 A I've been with the State Police since the Fall of
3 1994.

4 Q And what is your current position?

5 A I am currently a Laboratory manager but I also
6 conduct casework as a forensic scientist in the
7 laboratory. As a laboratory manager I supervise
8 nine other employees who work in the Biology Unit.

9 Q And in regards to the Michigan State Police and the
10 labs do you know if in 2004 the Michigan State
11 Police used other labs to help process evidence?

12 A Yes. As a matter of fact, we had received Federal
13 grant money for processing backlogged non-suspect
14 cases and so there were a number of cases that had
15 been stored in the freezers that were non-suspect,
16 meaning that no suspect had been identified on the
17 case, but we had evidence samples and typically a
18 reference sample from the victim that could be
19 processed for the purposes of developing an
20 evidentiary profile that could be entered into a
21 database for searching.

22 Q Now the evidence that you got the grant for was
23 there any particular type of evidence or was it all
24 different kinds of evidence?

25 A It started out each grant was a little bit

1 different. Sometimes it was for evidence involving
2 sexual assaults, sometimes it was for strictly just
3 non-suspect cases. It could be a property crime
4 such as a burglary or an auto theft or something
5 like that.

6 Q Now as far as the other labs, was Fairfax Identity
7 labs that you outsourced to in 2004?

8 A Yes, that is correct. It was a private laboratory
9 and we had contracts with a number of different
10 private laboratories for this purpose.

11 Q And was that a common practice to use other
12 laboratories?

13 A I wouldn't say was a common practice. It was a
14 newer practice for us being the State Police but it
15 was a practice that a lot of laboratories around the
16 country were engaging in because we didn't have the
17 capacity to do the additional casework and so the
18 private laboratories assisted by being able to do
19 the testing on these cases.

20 Q Now so what would you actually send out to the
21 private laboratories?

22 A Well we send out the evidentiary samples that were
23 identified in the case along with anything reference
24 samples that pertained to that case.

25 Q Now once those samples were sent out to the private

1 laboratory did they ever make their way back to the
2 Michigan State Police?

3 A Yes. The samples were eventually returned to the
4 Michigan State Police and then we in turn returned
5 them to the submitting agencies but what was also
6 returned to the Michigan State Police was all of the
7 data that was generated as a result of the DNA
8 analysis.

9 Q Now with these other laboratories is there some sort
10 of agreement as far as what procedures or protocol
11 would be followed?

12 A Yes. We had contracts that specified they had to
13 use the procedures that we were trained in and
14 therefore when we received the data back from these
15 laboratories we could interpret the data, do a
16 technical review of all of the supporting
17 documentation and then enter any probative
18 evidentiary profiles into the database.

19 Q In regards to this case with the victim of Rachael
20 Davis, are you familiar with the evidence that was
21 brought to the Michigan State Police for this case?

22 A Yes, I am.

23 Q Okay. And how is it that you're familiar with it?

24 A I actually viewed the data that was associated with
25 this case when the documentation was returned to the

1 Michigan State Police and I also entered an
2 evidentiary profile into the database for searching.

3 Q Now you said that you reviewed the data that was
4 received, from who?

5 A Received from the private testing laboratory.

6 Q So that would have been Fairfax Laboratories?

7 A That is correct.

8 Q Now when you received that information back from
9 Fairfax what did you do at that exact point, I mean,
10 what do you do with that information that you got
11 back?

12 A We had a check list of all the different things that
13 we needed to verify and do a technical review of to
14 ensure that the procedures that they followed met
15 our quality criteria and it also had to meet the
16 specifics of the FBI for entry of the evidentiary
17 profile into the database.

18 Q Now at that point do you generate any information
19 for --

20 A I did generate a report.

21 Q Okay.

22 MS. DILLON: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MS. DILLON, continuing:

25 Q I'm going to show you what's been marked as People's

1 proposed exhibit 15. Could you take a look at that
2 document?

3 A Yes.

4 Q Do you recognize that document?

5 A Yes, I do.

6 Q And what do you recognize that document to be?

7 A This is the laboratory report that I authored that
8 is connected to the lab report from Fairfax Identity
9 Laboratories.

10 Q Okay.

11 A And it indicates that I entered a profile from
12 vaginal swabs into the casework database for
13 searching.

14 Q Now when did you generate this report?

15 A This report was completed in October of 2004.

16 Q And attached to your report is the Fairfax Identity
17 Laboratories; is that correct?

18 A That is correct.

19 Q What's the significance of attaching that report to
20 your October 2004 report?

21 A Well Fairfax Identity Laboratories actually did the
22 analytical work and so I wanted to be transparent
23 that this was the supporting documentation for the
24 profile that was entered into the database so this
25 was provided to the submitting agency to show that

1 the work was completed and a profile was entered
2 into the database.

3 Q Now at this particular time did you generate any
4 data of your own at this point?

5 A No, I did not.

6 Q And you indicated that you received information and
7 you put it into a database?

8 A That is correct.

9 Q Okay. What type of information did you receive?

10 A When a DNA profile is generated it's classified in
11 terms of the particular profile using a numerical
12 system and so for each location on the DNA strand
13 that is examined there are different numerical types
14 that can be assigned based upon the types that are
15 observed in the sample and so it's very easy to
16 enter these numerical types into a database for
17 searching. For each location there are different
18 types that are represented by these numbers.

19 Q Now you as far as this case, how many locations did
20 you have to enter into the database?

21 A For this case there were -- this was using an older
22 chemistry and so let me just verify. There were 13
23 different locations that were entered that had data
24 for the evidencing.

25 Q Is there a standard of number of locations or

1 information that you have to have in order to
2 actually for the sample to qualify for this
3 database?

4 A You have to attempt, what they call, the original
5 core 13 LOSI. LOSI means it's just a scientific
6 term for location on a DNA strand and so what was
7 done in this particular case is exactly 13 LOSI were
8 entered.

9 Q Now the database that you're talking about is there
10 a name for the database?

11 A Yes, it's called CODIS, C-O-D-I-S, and it's stands
12 for the combined DNA Indexing System.

13 Q And combined DNA does that mean that there's all
14 kind of DNA in this database?

15 A There is but there's different embassies within the
16 database and so there's a casework index, there is a
17 missing person's index, there's an unidentified
18 human remains index, there's a relatives index and
19 then there's a person of interest index.

20 Q So when you have the locations and you have this
21 profile at that point prior to entering it into the
22 database did you know who that DNA belonged to?

23 A No, I did not.

24 Q And as far as the CODIS database, that CODIS system,
25 who maintains that?

1 A It's maintained by the FBI.

2 Q And you indicated that you were able to enter the
3 information so there are people that have the
4 authority to enter samples into it?

5 A That is correct. I am what was called an LDIS
6 administrator, that's the Local DNA Indexing System
7 administrator, and so a qualified analyst can enter
8 data into the database but I also have
9 administrative rights which means I manage the
10 samples that are entered into the database so I
11 trained qualified DNA examiner can enter evidence
12 profiles from cases that they analyze.

13 Q So in this case how many profiles did you get back
14 from the work done by Fairfax Identity Laboratories?

15 A The vaginal swabs were the only evidence sample that
16 was examined in this particular case. When we test
17 a sample where it's evidence from a alleged sexual
18 assault if there are sperm present on that sample
19 then we use a extraction or a DNA removal process
20 that will typically divide the sample up into two
21 fractions. The first fraction sometimes is called
22 the epithelial fraction or skin cell fraction and
23 the second fraction is sometimes called the sperm
24 fraction, so this extraction method that we do, in
25 essence, separates the two types of cells, the skin

1 cells from the sperm cells, and that's done in order
2 to help simplify the interpretation process. So in
3 this particular case there was one sample that there
4 were two fractions. The first fraction representing
5 the victim's profile and the second fraction
6 representing the sperm donor and so it was the sperm
7 donor fraction that was entered into the database.

8 Q Okay. And so at some point what happens after that
9 sperm donor profile was entered into the database?

10 A So every week as the LDIS administrator I review the
11 matches from the database. It's searched every
12 single week and once an evidence profile is entered
13 in the database it lives there indefinitely unless
14 I'm told that legally I need to remove it. Say, for
15 example, an evidence sample is found to actually
16 match the homeowner and not a perpetrator then if
17 I'm notified of that then I would take that sample
18 out but, otherwise, if it is thought to be from a
19 perpetrator of a crime it lives in the database and
20 it's going to be searched every week against other
21 evidence samples that are also in the database as
22 well as persons of interest and it can be searched
23 against missing persons or unidentified human
24 remains and so those searches are conducted every
25 single week and every week I'm notified of what

1 matches occurred, so it's my job to look into
2 whether or not there's value in these matches and to
3 report back that information to the submitting
4 agency and also develop any reports that are needed
5 for those matches.

6 Q Now in this case of Rachael Davis after the search
7 was conducted, did you receive any results?

8 A Yes, I did.

9 Q And when did you receive those results, do you
10 recall?

11 A Yes, it was January of 2005 a match occurred in the
12 database with the sperm fractions and vaginal swabs.

13 Q Now you had just mentioned that at that time you
14 generate a report; is that correct?

15 A That is correct, and I did generate a report in 2005
16 to the submitting agency notifying them of the match
17 with a particular person in the database.

18 MS. DILLON: Your Honor, may I approach?

19 THE COURT: Yes.

20 MS. DILLON: Thank you.

21 BY MS. DILLON, continuing:

22 Q I'm showing you what has been previously marked as
23 People's proposed exhibit 16. Could you take a look
24 at that document?

25 A Yes.

1 Q And do you recognize that document?

2 A Yes, I do.

3 Q And what do you recognize that document to be?

4 A This is the report that I authored that indicates
5 the vaginal swabs had a match with a person in the
6 CODIS database.

7 Q And so this is the report that you generated in
8 early 2005?

9 A That is correct.

10 Q And in fact what day did you generate this report?

11 A This report was generated March 25, of 2005.

12 Q And as you look at that does that appear to be a
13 true and accurate copy of the report you generated
14 at that time?

15 A Yes, it is.

16 Q I'm going to have you look at exhibit 15 again real
17 quick. Does that appear to be a true and accurate
18 copy of the report you generated back in 2004?

19 A Yes, it is.

20 MS. DILLON: Your Honor, at this time I
21 would move for the admission of exhibits 15 and 16.

22 MR. BROWN: Can be approach, Judge.

23 THE COURT: Any objection?

24 MR. BROWN: May we approach?

25 THE COURT: I'm sorry?

1 MR. BROWN: May we approach?

2 THE COURT: Of course.

3 (At 11:10 a.m. sidebar discussion held off the record)

4 (At 11:11 a.m. sidebar discussion concluded)

5 THE COURT: Were they 15 and 16? What
6 were they?

7 MS. DILLON: Yes, ma'am.

8 THE COURT: Any objection?

9 MR. BROWN: No, your Honor, not per the
10 conversation we had.

11 THE COURT: Exhibit 15 and 16, exhibit 15
12 and 16 will be admitted.

13 MS. DILLON: Thank you.

14 BY MS. DILLON, continuing:

15 Q Now, Ms. Vitta, on exhibit 16 which was the report
16 you generated after you were notified of the match,
17 what information specifically did you discover and
18 put in your report?

19 A The put the specific information regarding the
20 person that matched the vaginal swabs.

21 Q And who was that person?

22 A Dexter Burrell Taylor.

23 Q Now you indicated that you would send this
24 information to law enforcement, who did you send it
25 to?

1 A I send it to Melvindale Police Department.

2 Q And that was back in 2005?

3 A That is correct.

4 Q Okay. When you send them this notification is there
5 other information that you request from them at that
6 time?

7 A Yes.

8 Q What is that?

9 A In this report I also indicated that a second
10 sample, a second reference sample in the form of a
11 buccal swab, which is a mouth swab, is taken from
12 the particular person who's been identified needs to
13 be collected and submitted to the Northville Crime
14 Laboratory.

15 Q And what is the purpose of that?

16 A It is a quality control step to confirm that the
17 match in the database still matches the same person
18 and it allows us to then author a report comparing
19 directly the reference, the new reference sample
20 with the evidence sample.

21 Q Now you sent them that information in 2005 and at
22 that time, per your report, you're requesting a
23 confirmation sample from Dexter Taylor?

24 A That is correct.

25 Q Did you receive anything from them in 2005?

1 A No, I did not and I also called them around the same
2 time and spoke to Officer Hayse and gave him that
3 CODIS information as well.

4 Q So the samples that were analyzed by Fairfax and
5 then sent back to the Michigan State Police are
6 those held on to? Are they destroyed? What happens
7 with those?

8 A The sample eventually are returned to the submitting
9 agency because the evidence actually belongs to the
10 agency where the case originated and so we do not
11 retain long term in our freezers any longer evidence
12 samples.

13 Q Okay. Now you mentioned that you got in touch with
14 Melvindale back in 2005 and, in fact, you said you
15 spoke with Officer Hayse but, at that time, you
16 didn't receive any confirmation samples or any other
17 evidence from Melvindale; is that correct?

18 A That is correct.

19 Q When was the next time that you received any sort of
20 additional information in this case?

21 A 2016.

22 Q And what did you receive in 2016?

23 A A buccal swab from Dexter Taylor.

24 Q And when you received that buccal swab what did you
25 do with it?

1 A A DNA profile was developed from the new buccal swab
2 from Mr. Taylor and it was compared to the evidence
3 profile that had previously been generated from that
4 case.

5 Q And was there an information or a report generated
6 from that process?

7 A Yes, I authored a new report indicating the results
8 of the comparison.

9 MS. DILLON: Your Honor, if I may?

10 THE COURT: You may.

11 BY MS. DILLON, continuing:

12 Q I'm going to hand you what has been marked
13 previously People's proposed exhibit 17, do you
14 recognize that document?

15 A Yes, I do.

16 Q And what do you recognize that document to be?

17 A This is a report that I authored that indicates the
18 results of the comparison.

19 THE COURT: I hate to interrupt. Can the
20 attorneys approach?

21 MS. DILLON: Yes, ma'am.

22 (At 11:15 a.m. sidebar discussion held off the record)

23 (At 11:16 a.m. sidebar discussion concluded)

24 THE COURT: I apologize. You may
25 continue.

1 MS. DILLON: Thank you, Judge.

2 BY MS. DILLON, continuing:

3 Q Ms. Vitta, I'm sorry. So this was the report that
4 you generated?

5 A That is correct.

6 Q Okay. And is it a true and accurate copy of the
7 report that you generated in 2016?

8 A Yes, it is.

9 MS. DILLON: Your Honor, at this time I
10 would move for the admission of exhibit number 17.

11 THE COURT: Any objection?

12 MR. BROWN: Just one moment, Judge. No, I
13 don't.

14 THE COURT: All right. Exhibit 17 will be
15 admitted.

16 MR. BROWN: Thank you.

17 MS. DILLON: Thank you, your Honor.

18 BY MS. DILLON, continuing:

19 Q Ms. Vitta, when did you actually generate this
20 report?

21 A September 22, 2016.

22 Q And when you generated this report who did you send
23 it to?

24 A Again this would have been sent to Melvindale Police
25 Department as well as the Prosecutor's Office.

1 Q And in regards to the analysis that you did what
2 were the results of your analysis?

3 A I compared Mr. Taylor's profile to the profile that
4 had been generated from the vaginal swabs and
5 specifically the sperm fractions or fraction two,
6 and found that it matched his profile.

7 Q And that profile you're talking about with the
8 vaginal swabs that was the work that was done by
9 Fairfax Laboratories?

10 A Yes.

11 Q And that you reviewed?

12 A Yes.

13 Q And that was what was the profile that was entered
14 into the database; is that correct?

15 A That is correct.

16 Q Now also in regards to confirming the match what
17 else did you do at that time?

18 A It's important that when we have a match with a
19 particular person that we give an idea of how strong
20 that match is, what is the significance of being a
21 person that matches a piece of evidence and so
22 something called a population statistic is generated
23 for a random match calculation. Basically what I'm
24 telling you is how common or how rare the profile
25 would be in the general population, that is, how

1 often would someone other than Mr. Taylor match this
2 evidence, and so I do that calculation for three
3 different common population groups in the community
4 at large just to generate. One, I make no
5 assumptions about the ethnicity of the person that
6 does match the evidence and, two, to demonstrate
7 that it's equally rare in all groups. And so for
8 the Caucasian population the random match estimate
9 was 1 in 13.5 quadrillion people. For African
10 American it was 1 in 4.824 quadrillion people. For
11 Hispanic 1 in 429.4 quadrillion people. Now
12 quadrillion exceeds the world's population. The
13 world's population is approximately six billion
14 people so a quadrillion exceeds that number by
15 thousands of times.

16 Q So what conclusion would you draw from those
17 statistics?

18 A In my opinion I wouldn't expect anyone else other
19 than an identical twin to have the profile that
20 matched the evidence.

21 Q And you indicated that I believe you said you didn't
22 know, I always screw this word up, ethnicity?

23 A Ethnicity.

24 Q Thank you.

25 A Yes.

1 Q Of the suspect DNA did you when this process began
2 and when you're doing your analysis do you have any
3 idea that you're looking for a particular
4 individual?

5 A No, no.

6 Q And after generating this report, did you do any
7 additional work in this case?

8 A No, that was the extent of the work that I performed
9 in this particular case.

10 MS. DILLON: Thank you. I have no further
11 questions, your Honor.

12 THE COURT: Cross.

13 MR. BROWN: Yes.

14 C R O S S - E X A M I N A T I O N

15 BY MR. BROWN:

16 Q I just have a couple questions, Ms. Vitta. Do you
17 have any anything to do with the collection of the
18 initial vaginal swabs?

19 A No, I do not.

20 Q Okay. Do you have anything in terms of some
21 protocol that you examined what was done during the
22 initial collection?

23 A I do not examine that. Sometimes we get copies of
24 the medical report but I do not examine how the
25 samples were collected.

1 Q Did you get copies in this case?

2 A No, off hand I'm not sure. I don't have any copies
3 with me so.

4 Q Okay. And this you said that the analysis by
5 Fairfax was done in 2004, right?

6 A That is correct.

7 Q And this incident occurred in 1996 some eight years
8 earlier, right?

9 A That is correct.

10 Q Okay. In the intervening time where was the
11 biological material?

12 A For that time period it was stored in frozen storage
13 in our locked evidence vault.

14 Q Okay. So you got it in 1996, you put in a vault and
15 kept it there for eight years?

16 A That is correct.

17 Q Okay. And then after you got it back from Fairfax
18 you kept it?

19 A We would have retained it only to return it
20 ultimately to the submitting agency.

21 Q So you returned it to Melvindale?

22 A Yes, that is correct.

23 Q Okay. And the subsequent confirmation sample that
24 would have been done in 2016?

25 A That is correct.

1 Q And who did that swab? Where did that come from?

2 A That swab was actually analyzed at the Northville
3 Crime Laboratory? Who collected the swab?

4 Q Yes, ma'am.

5 A I don't know off hand who collected the swab.

6 Q So do you know where it came from?

7 A I know who I was told it came from in terms of the
8 person but I don't know who collected it off-hand.

9 Q Do you know who it came from? Do you have like a
10 record in terms of where it came from?

11 A In terms of who collected the swab?

12 Q Yes, ma'am.

13 A I don't. I do not have a record of that.

14 Q Okay. So you're just saying somebody told you
15 something as to where it came from?

16 A When it's submitted to the laboratory they tell us
17 who it was collected from and so if I was able to
18 look at those records I could see who actually
19 submitted it to the laboratory but I don't have
20 those records with me.

21 Q Okay. And finally, how many zeros in a quadrillion?

22 A Eighteen I think.

23 Q Okay. So how many billion is that?

24 A How many billion? It's a hundred thousand times a
25 billion.

1 Q Okay. One quadrillion is a hundred thousand?

2 A Yes.

3 Q So let's just say that there's like unless on one of
4 the other planets or whatever you could not find a
5 person that would match, is that what you're saying?

6 A What I'm saying is I wouldn't expect someone else to
7 have this profile that matched the evidence sample.

8 Q Other than an identical twin?

9 A Exactly.

10 Q Was there an identical twin in this case?

11 A Not that I'm aware.

12 Q How would you be aware of that?

13 A Only if I was told.

14 Q Okay. So you were never told that?

15 A No. I was never told that there was or there
16 wasn't.

17 MR. BROWN: Thank you very much. No
18 further questions.

19 THE COURT: Redirect.

20 MS. DILLON: No questions, your Honor.

21 THE COURT: Members of the jury, do you
22 have any questions for this witness, if so, please
23 raise your right hand? For the record, no one has
24 indicated they have any questions. Ma'am, you may
25 step down. You're excused. Please call your next

1 witness.

2 MS. DILLON: Your Honor, may we approach?

3 THE COURT: Yes.

4 (At 11:24 a.m. sidebar discussion held off the record)

5 (At 11:24 a.m. sidebar discussion concluded)

6 THE COURT: Good morning, ma'am.

7 MS. DASHE: Good morning.

8 THE COURT: Can you please spell your
9 first and last name for the record?

10 MS. DASHE: L-I-N-D-S-A-Y, D-A-S-H-E.

11 THE COURT: Can you raise your right hand.
12 Do you solemnly swear or affirm that the testimony
13 you will now give in the cause pending before this
14 Court will be the truth, the whole truth and nothing
15 but the truth?

16 MS. DASHE: I do.

17 LINDSAY DASHE

18 (At 11:25 a.m., sworn as a witness, testified as follows)

19 THE COURT: You can put your hand down.

20 You maybe seated. Whenever you're ready.

21 MS. DILLON: Thank you, your Honor.

22 D I R E C T E X A M I N A T I O N

23 BY MS. DILLON:

24 Q If you would please state your name for the record?

25 A Lindsay Dashe.

1 Q And how are you employed?

2 A I'm employed by the Michigan State Police in their
3 CODIS section.

4 Q So what is your position?

5 A Forensic scientist.

6 Q And you indicated that you're in the CODIS section,
7 what does that mean?

8 A I work in the database of DNA references that has
9 the DNA references and the evidence profiles DNA.

10 THE COURT: Do you intend to qualify this
11 witness as an expert as well?

12 MS. DILLON: No.

13 THE COURT: Okay. She's just a fact
14 witness?

15 MS. DILLON: Yes.

16 THE COURT: Okay.

17 MS. DILLON: Thank you, Judge.

18 BY MS. DILLON, continuing:

19 Q So you work in a CODIS section. What are the
20 details of your job? What exactly do you do?

21 A We receive known references that we process in the
22 lab and upload to our database and then when there's
23 an association made between one of our references
24 and an evidence profile we proceed information on
25 the sample.

1 Q So are you one of the People that watches for
2 matches in this CODIS database?

3 A Yes.

4 Q Okay. Now in this case, well, actually in the case
5 of a Erica Doak, did you work on that case?

6 A Yes.

7 Q Okay. And what, what was your involvement in the
8 case in regards to Erica Doak?

9 A An association was made between an evidence profile
10 and a profile we had in our database so I wrote a
11 report to the agency with the information about the
12 individual whose DNA that was associated with.

13 Q So in the case of area Doak you actually generated
14 the report saying there's a match?

15 A Yes, an association.

16 UNIDENTIFIED JUROR: Your Honor, can you
17 ask the witness to speak up?

18 THE COURT: Yes, can you try to keep your
19 voice up please? Thank you for letting us know and
20 maybe it will help if you speak directly into the
21 microphone.

22 THE WITNESS: Okay. Sorry.

23 THE COURT: Let me know if you still can't
24 hear okay.

25 BY MS. DILLON, continuing:

1 Q Now you said an association and I had said match but
2 you corrected me and said association, what is the
3 difference?

4 A Our report doesn't confirm identity. It's just
5 saying these two profiles are close enough where we
6 feel like it's that individual but it doesn't
7 confirm that. The agency usually goes and takes a
8 direct sample from the person to make a final
9 determination of a match.

10 Q So your report that you generate does it request
11 additional information?

12 A It does.

13 Q What does it report?

14 A May I refer to my report?

15 THE COURT: If that will refresh your
16 recollection you may.

17 THE WITNESS: So on my report it says it's
18 just to be regarded as investigative information and
19 any identification made must be verified by
20 submission of a cheek swab, DNA swab from the
21 individual.

22 BY MS. DILLON, continuing:

23 Q So you're talking about a buccal swab?

24 A Yes.

25 Q Okay. The report that you generated who did you

1 send that to?

2 A I send it to Marvin Jones at the Detroit Police
3 Department.

4 MS. DILLON: Your Honor, may I approach?

5 THE COURT: Yes.

6 MS. DILLON: Thank you.

7 BY MS. DILLON, continuing:

8 Q I'm going to hand you what's been marked as People's
9 proposed exhibit number 19. Could you take a look
10 at that. Do you recognize that?

11 A Yes.

12 Q Okay. And what do you recognize that document to
13 be?

14 A This is my CODIS report that I generated.

15 Q And this is the report that you've been talking
16 about?

17 A Correct.

18 Q Okay. And does it look to be a true and accurate
19 copy of the report that you generated?

20 A It is.

21 MS. DILLON: Your Honor, at this point I
22 would move for the admission of People's exhibit 19.

23 MR. BROWN: I have no objection.

24 THE COURT: All right. Exhibit 19 will be
25 admitted into evidence.

1 MS. DILLON: Thank you.

2 THE COURT: You're welcome.

3 BY MS. DILLON, continuing:

4 Q And in regards to this report, when did you generate
5 the report?

6 A January 13, 2015.

7 Q And on your report does it list who the victim is?

8 A It does.

9 Q And who is on that?

10 A Erica Doak.

11 Q Now you indicated your report is a result of an
12 association and who was the association in this
13 case?

14 A Mr. Dexter Burrell Taylor.

15 Q And so you indicated that you then generate this
16 report and send it to law enforcement; is that
17 right?

18 A That is correct. To law enforcement and the
19 casework scientist.

20 Q And at this point you indicated you're looking then
21 for a return sample of confirmed a known sample; is
22 that right?

23 A That is correct.

24 Q Okay. In this case did you do any other work?

25 A No, I didn't.

1 MS. DILLON: I have no further questions,
2 your Honor.

3 THE COURT: Cross.

4 MR. BROWN: No questions.

5 THE COURT: Members of the jury, do you
6 have any questions for this witness?

7 MR. BROWN: I'm sorry, Judge. I thought
8 about it. Just one second. Apologize.

9 THE COURT: Okay. Sure. Of course. Of
10 course.

11 C R O S S - E X A M I N A T I O N

12 BY MR. BROWN:

13 Q Ms. Dashe, you're not -- are you a forensic
14 scientist?

15 A Yes.

16 Q You didn't do any analysis in this case?

17 A No.

18 Q So you didn't make any comparisons of extracted DNA
19 with other extracted DNA?

20 A No.

21 Q Essentially what happens is, and I'm not a
22 techno-person or technological whatever. There is
23 some alert, some sort of notification that there's
24 some association between a profile and a specimen,
25 is that correct?

1 A Correct.

2 Q And that comes to your attention?

3 A Yes.

4 Q And then you press a button or a few buttons and
5 generate a report?

6 A In this case I did that because it had been already
7 processed but normally what we do is we reprocess
8 the specimens that we have.

9 Q Okay.

10 A To verify the DNA profile so we go in the lab and
11 extract the DNA out.

12 Q That wasn't done in this case?

13 A No.

14 Q And you didn't have anything to do with like
15 verifying or confirming the association to be a
16 match?

17 A No, not me.

18 MR. BROWN: Thank you very much. No
19 further questions.

20 THE COURT: Redirect?

21 MS. DILLON: No questions, your Honor.

22 THE COURT: Members of the jury, have any
23 questions for this witness, if so, please raise your
24 right hand? For the record no one has indicated
25 they have any questions. Ma'am, you may step down.

1 You're excused. Please call your next witness.

2 MS. DILLON: Thank you, your Honor. We
3 would call Mr. Kirk Deleeuw.

4 THE COURT: Good morning, sir.

5 MR. DELEEUEW: Good morning.

6 THE COURT: Can you please spell your
7 first and last name for the record.

8 MR. DELEEUEW: K-I-R-K, Deleeuw
9 D-E-L-E-E-U-W.

10 THE CLERK: Raise your right hand. Do you
11 solemnly swear or affirm to tell the truth?

12 MR. DELEEUEW: I do.

13 KIRK DELEEUEW

14 (At 11:32 a.m., sworn as a witness, testified as follows)

15 THE CLERK: You can be seated.

16 THE COURT: Whenever you're ready you may
17 proceed.

18 MS. DILLON: Thank you, your Honor.

19 D I R E C T E X A M I N A T I O N

20 BY MS. DILLON:

21 Q Would you please state your name for the record?

22 A Kirk Deleeuw.

23 Q And, Mr. Deleeuw, what is your occupation?

24 A I'm a forensic scientist with the Michigan State
25 Police at the Grand Rapids Laboratory in the by

1 Biology Unit.

2 Q And how long have you been employed with the
3 Michigan State Police?

4 A I been with the Michigan State Police for about 14
5 years.

6 Q And have you been working in the lab that entire
7 time?

8 A Yes, I have.

9 Q And what is your responsibilities as a forensic
10 scientist?

11 A At the laboratory we receive and analyze evidence
12 that's submitted by various agencies throughout the
13 state of Michigan so whether it's police agencies or
14 Sheriff offices and so as part of the lab I'll be
15 involved in the screening of evidence when it comes
16 into the laboratory and the biological fluid testing
17 of the evidence if it's needed and eventually I'll
18 be doing the DNA processing of that evidence.

19 Q And what is your educational background?

20 A I have a Bachelor of Science in biology from the
21 University of Michigan.

22 Q Now are there specific requirements for your
23 position?

24 A When I was hired in with the Michigan State Police I
25 went through a two year training program for

1 biological fluid identification and DNA processing
2 and during this time I worked with trained forensic
3 scientists and supervisors and learned the different
4 techniques and methods that we use for processing
5 evidence.

6 Q Is there certain course work in certain areas that
7 you're required to have?

8 A Yes, there is. I took courses in statistics and
9 molecular biology genetic DNA when I was at
10 Michigan.

11 Q And so you've had that course work, and what about
12 continuing legal education or continuing education
13 in regards to DNA analysis?

14 A So we're required to attend eight hours of training
15 for DNA analysis each year and so this would be done
16 typically by going to different conferences where we
17 learn about new technology or new chemistry that's
18 coming on and learn about different techniques that
19 are being used for processing or casework.

20 Q And have you met this requirement every year?

21 A Yes, I have.

22 Q And what about the training? Is it all done by
23 Michigan State Police or do you go to outside
24 training?

25 A Depends on the type of training on how it's offered.

1 Some training is put on by the Michigan State Police
2 so an internal training but often a lot of the
3 training will be by different businesses or
4 companies if they're training us on the new product.

5 Q Now in the work that you do for the Michigan State
6 Police can you tell us in the 14 years how many
7 samples you may have worked on for DNA analysis?

8 A For DNA analysis I'd say thousands of samples.

9 Q And what sort of cases do you do DNA typing
10 techniques on?

11 A I've done DNA for all types of cases from B and E's
12 to CSC cases and homicides for all DNA extraction
13 types and evidence types.

14 Q Okay. And are you required as far as being with the
15 Michigan State Police to do any sort of proficiency
16 testing?

17 A Yes.

18 Q What type of testing are you required to do?

19 A So we do two proficiency tests a year and it's
20 basically a test that's submitted by an outside
21 agency or business and it comes to us like a typical
22 case would and we'll process the evidence that's
23 received on that case and then submit the results
24 back to that company and they'll analyze whether we
25 did the testing correctly and got the same, the

1 results that they expected to show that we know what
2 we're doing when it comes to processing lab
3 evidence.

4 Q And so you've gone through this testing twice a
5 year?

6 A Yes, I have.

7 Q And have you always passed?

8 A Yes, I have.

9 Q And in regards to the Grand Rapids laboratory where
10 you work, is it a accredited forensic laboratory?

11 A Yes, it is accredited.

12 Q And do you know what type of accreditation it has?

13 A It's a accredited by SCLD which is the American
14 Society of Crime Lab Directors and so the
15 accreditation board is made from different lab
16 directors and scientists throughout the United
17 States and they'll come in and perform audits of the
18 laboratory, look at your techniques and processes to
19 make sure it's concorded with how processes are
20 through the United States and they'll basically
21 audit the way you're doing your casework.

22 Q Now in your capacity as a forensic scientist have
23 you testified in court before?

24 A Yes, I have.

25 Q And where have you testified at?

1 A Testified pretty much all over the state of Michigan
2 so Wayne County, Kalamazoo County, Kent County,
3 Ypsilanti.

4 Q And have you been qualified as an expert in the area
5 of forensic science DNA analysis before?

6 A Yes, I have.

7 Q And how many times do you think you've been
8 qualified?

9 A 50 to a hundred times.

10 Q All right. And when is the last time that you
11 actually testified as an expert?

12 A I believe this past Tuesday.

13 MS. DILLON: Your Honor, at this time I
14 would tender this witness to counsel in regards to
15 voir dire for his qualifications for my intent to
16 move to have him testify as an expert.

17 THE COURT: Mr. Brown?

18 MR. BROWN: I just want to ask him one
19 question.

20 THE COURT: Okay. Sure. Of course.

21 V O I R D I R E

22 BY MR. BROWN:

23 Q Mr. Deleeuw, have you ever testified on behalf of a
24 criminal defendant?

25 A Have I testified for the defense before?

1 Q I said have you ever testified on behalf of a
2 criminal defendant?

3 A I believe I have, yes.

4 Q When?

5 A I don't recall a date and time but I do recall in
6 the past receiving subpoenas to testify for the
7 defense in cases.

8 Q Here in Wayne County?

9 A I don't recall if it was Wayne County.

10 Q Well that would be very unusual. I mean it's not
11 usually you testified for the Prosecution, fair to
12 say?

13 A That is correct that is rare.

14 Q Okay. So this is one time you've testified for a
15 defendant?

16 A I don't always recall with the cases but I know I've
17 received subpoenas from the defense to testify
18 before.

19 Q No, I understand but my question, I don't want to go
20 through a long drawn out thing but I asked you had
21 you ever testified on behalf of a criminal defendant
22 which would be very unusual given your position; is
23 that correct?

24 A That is correct.

25 Q Okay. So then if it's something that's very unusual

1 even if it's the last 14 years you'd say oh I
2 remember back in 2007 I went to Grand Rapids to Kent
3 County and testified on of Mr. John Jones, when was
4 it?

5 A Correct, so I must have misspoke. I guess I've
6 received subpoenas to testify but I cannot recall if
7 I've actually testified for a defendant in a trial.

8 MR. BROWN: Okay. I'm not -- I'm not
9 going to challenge his qualification as a forensic
10 scientist, Judge.

11 THE COURT: All right. So your motion is?

12 MS. DILLON: Your Honor, I'd move to have
13 Mr. Deleeuw qualified as an expert in the area of
14 forensic science and DNA analysis.

15 THE COURT: All right. Members of the
16 jury, this witness is being -- the motion will be
17 granted and, members of the jury, this witness again
18 is being offered to you as an expert in the field of
19 forensic biology and DNA analysis. Is that the
20 correct title?

21 THE WITNESS: Yes.

22 THE COURT: That means that he can give
23 you his opinion about things that are within his
24 field of expertise. You can choose to accept or
25 reject those opinions. You may, Ms. Dillon.

1 MS. DILLON: Thank you, your Honor.

2 CONTINUED DIRECT EXAMINATION

3 BY MS. DILLON:

4 Q Mr. Deleeuw, do you know in 2014 if the Michigan
5 State Police were using outside laboratories to
6 process sexual assault kits?

7 A Yes, we have been using outsourced laboratories.

8 Q And in this particular case of the named victim,
9 Erica Doak, was there any outside laboratory used?

10 A Yes, there was.

11 Q And what was that laboratory?

12 A May I refer to my report?

13 Q If you need it to refresh your recollection?

14 A The laboratory used for the analysis of this
15 evidence was Sorenson Laboratory.

16 Q And where are they located?

17 A They are located in Utah.

18 Q And why in 2014 would the Michigan State Police use
19 another lab to help process a rape kit?

20 A Due to the backlog that the Michigan State Police
21 had with multiple kits that needed to be processed
22 they were sent to be outsourced for the processing
23 of the kits and then the date it was going to be
24 returned to the Michigan State Police for review.

25 Q And so the actual samples themselves are sent out?

1 A Yes.

2 Q Are they returned?

3 A I believe eventually they are returned and I would
4 think that they go back straight to the agency. The
5 Michigan State Police is only involved in the review
6 of the data from the analysis.

7 Q And the agency you're talking about is the police
8 department?

9 A Correct.

10 Q Okay. Now as it pertains to victim by the name of
11 Erica Doak are you familiar with evidence that was
12 brought to the Michigan State Police under the
13 record number E08887200?

14 A Yes, I am.

15 Q And how is it that you're familiar? What was your
16 role in regards to this evidence?

17 A So for this case it was outsourced so Sorenson for
18 analysis so they would be doing the actual physical
19 analysis of evidence, the inventorying of the kit
20 that was submitted. That would be doing any testing
21 and the DNA testing on the kit and they would return
22 a final report and the data to the Michigan State
23 Police. At that time I was involved in reviewing
24 the results from Sorenson and so that was my
25 involvement in this case. I received it from

1 Sorenson and reviewed their results from the DNA
2 testing.

3 Q Now when you received their results from the DNA
4 testing and you're talking about the extraction from
5 the DNA, is that right?

6 A Yes.

7 Q Okay. What do you, do you generate any information
8 at that point?

9 A During the review we're going through and checking
10 to see that the processes they used are what we
11 would agree with and the different testing that they
12 performed. For the CSC kits, as part of the review
13 of the DNA results, we're looking for possible
14 unidentified DNA profiles to be used for comparison
15 to other cases or reference samples so we're looking
16 for this unidentified profile during our review and
17 at that time if we find an unidentified profile
18 we'll enter it into a database to search against
19 other evidence samples and reference samples in that
20 database to try and either link the evidence to
21 another case or to link it to a reference sample to
22 help with the investigative information, so our main
23 goal in reviewing the kits is to, one, confirm that
24 the process used by Sorenson is what we agreed on
25 and that we agree with how they tested the different

1 pieces of evidence and then it's to look for a
2 foreign DNA profile for comparison.

3 Q So in this case of Erica Doak you did a review of
4 their work?

5 A Yes, I did.

6 Q And did the review of your work change any of the
7 results that you received from Sorenson?

8 A No, it did not. I reviewed their conclusions and
9 agree with the testing that did and the conclusions
10 they came up with.

11 MS. DILLON: Your Honor, may I approach?

12 THE COURT: You may.

13 MS. DILLON: Thank you.

14 BY MS. DILLON, continuing:

15 Q I'm going to hand you previously marked as People's
16 proposed exhibit 21. Can you take a look at that
17 document? Do you recognize it?

18 A Yes, I do.

19 Q And what do you recognize that document to be?

20 A So this document is the report that I authored in
21 regards to the review of the Sorenson data and so
22 the first page gives information as to the DNA
23 profile that --

24 Q Excuse me. I, at this point I'm not going to -- I
25 just want to know do you recognize it?

1 A Yes, I do.

2 Q And it's a true and accurate copy of the report that
3 you generated?

4 A Yes, it is.

5 MS. DILLON: Okay. Your Honor, at this
6 point I would move to admit People's exhibit 21.

7 THE COURT: Any objection?

8 MR. BROWN: Just one moment please.

9 THE COURT: That one doesn't turn off.

10 MR. BROWN: Oh that's too bad. I'm going
11 to object to the admission. I'd leave it to the
12 Court's discretion.

13 THE COURT: All right. Exhibit 21 will we
14 admitted over defense objection.

15 MS. DILLON: Thank you, your Honor.

16 BY MS. DILLON, continuing:

17 Q Now, Mr. Deleeuw, you started to kind of go into the
18 information that's in your report. When was this
19 report actually generated?

20 A At the top of the report we have date received which
21 was October 13, 2014 and date completed of October
22 28, 2014.

23 Q What is the significance of the date received,
24 October 13, 2014?

25 A The date received would have been when the kit

1 number was pulled in our internal system and so it's
2 the date that the review of the outsourced data
3 began. The date completed would be once the review
4 is done and the final report is written it's going
5 to be the date completed.

6 Q So it's part of your job to basically get notified
7 when outsourced analysis comes back in and then
8 review that?

9 A Yes.

10 Q And in this case this report that you generated on
11 October 28, 2014 what is the significance of this
12 report?

13 A So the report has an attachment which is the
14 Sorenson Forensics report and it give the testing
15 that they performed, the evidence inventory of the
16 evidence they received, the testing results that
17 they performed on the item so it's the information
18 that I reviewed along with the supporting data. The
19 significance of my report for this case, along with
20 the attachment, is the indication that a sample from
21 the vaginal swab sperm fraction was entered into a
22 database to be searched against evidence profiles
23 and reference profiles.

24 Q So basically this report is saying that you received
25 an unknown profile of DNA from the vaginal swab; is

1 that correct?

2 A That is correct.

3 Q And so at this point it's put into the database?

4 The CODIS database?

5 A Yes.

6 Q And you know Lindsay Dashe?

7 A Yes, I do.

8 Q Okay. And did you review as part of your work in
9 this case, her report that she generated?

10 A Yes, I did.

11 Q All right. So at that time that you got the sample
12 back from Sorenson Forensic and the DNA profile at
13 that point you don't have anyone associated with
14 that DNA profile is that correct?

15 A That is correct.

16 Q And then the DNA, the database is searched and Ms.
17 Dashe her unit is -- what is her unit that she works
18 for?

19 A She works for the CODIS Unit in Lansing.

20 Q And then they basically look for associations, is
21 that right?

22 A So the way the system works is at each of the DNA
23 labs herein Michigan we each have a CODIS terminal
24 where we do our database searches and they happen
25 about weekly so every week we will check our system

1 and see if there are any associations. At that time
2 we're commuting back -- communicating back and forth
3 with the CODIS Unit about possible associations that
4 we may have and then when we get information we'll
5 turn that over to the investigating agency to help
6 with their investigation.

7 Q And in this particular case with the specimens you
8 were working with this case for an Erica Doak after
9 you issued that report about the work from Sorenson
10 that you had put that DNA profile into the database
11 what was the next thing that you did in this case?

12 A Once the evidence is in the database being searched
13 and we were checking for possible associations to
14 evidence or reference samples and eventually the
15 sample did have an association in the database.

16 Q Okay. And what, what was that association to?

17 A There was an association to an additional case in
18 the database and then there was also eventually an
19 association to a reference sample from the database.

20 Q Okay. So you said there was a association to a case
21 so that not an actual individual? It's a case?

22 A Yes.

23 Q All right. And what does that mean?

24 A So what we turn this forensic match and so it would
25 mean that the DNA profile that I entered from my

1 case, vaginal swab sperm fraction, that DNA profile
2 had been matched or associated to another unknown
3 profile that was in the database so they have the
4 same DNA profile for those two different pieces of
5 evidence so at that time we'll collect or contact
6 the laboratory with that case and give the agency
7 all the information from both cases so that they can
8 look into proceeding with their investigation using
9 that information to come up with possible suspects.

10 Q So at that point did you generate a report?

11 A Yes, I did.

12 MS. DILLON: Your Honor, if I may
13 approach?

14 THE COURT: You may.

15 BY MS. DILLON, continuing:

16 Q I'm showing you what has been previously marked as
17 People's proposed exhibit 22. Could you take a look
18 at that document?

19 A Yes.

20 Q Do you recognize that document?

21 A I do. This would be the report that was written in
22 regards to that case to case association.

23 Q So this is a report that you authored?

24 A Yes, it is.

25 Q And does it appear to be a true and accurate copy of

1 the report that you generated in regards to that
2 case to case association?

3 A Yes, it does.

4 MS. DILLON: Your Honor, I'd move for the
5 admission People's exhibit 22.

6 MR. BROWN: I object.

7 THE COURT: Same objection?

8 MR. BROWN: Yes, I do object.

9 THE COURT: All right. Exhibit 22 will be
10 admitted but your objection will be duly noted and
11 preserved for the record. It's 22, correct?

12 MS. DILLON: Twenty-two, yes.

13 THE COURT: Okay.

14 BY MS. DILLON, continuing:

15 Q And in regards to this case to case association the
16 sample for Erica Doak was associated to what? What
17 was the case to case association?

18 A So the case to case association was the association
19 between the DNA profile from the vagina swab sperm
20 fraction to an evidence profile from laboratory
21 number 13358-96.

22 Q And do you know what agency that sample came from?

23 A This sample was submitted by Melvindale Police
24 Department agency complaint number 96-6126 and the
25 evidence item was a vagina swab sperm fraction.

1 Q So at the time the sample for Erica Doak was entered
2 this other sample from the Melvindale Police
3 Department in 1996 was already in the system; is
4 that correct? Is that how you got --

5 A Yes.

6 Q -- association. Now once you establish this case to
7 case association and Ms. Dashe established the
8 association to the database what did you do at that
9 point?

10 A Once a name is associated to an evidence item we'll
11 put in a request to the agency to receive a
12 reference sample from that individual to be
13 processed at the Michigan State Police and compare
14 that reference sample DNA profile compared to the
15 evidence profiles so in this case a reference sample
16 was obtained on a different case and I then
17 requested for the DNA profile from that case of the
18 reference sample to be compared to the DNA from the
19 kit case.

20 Q And did you receive that?

21 A Yes, I did.

22 Q Okay. And once you received that what did you do
23 with that information?

24 A I then did a comparison of the reference sample to
25 that of the vagina swab sperm fraction and produced

1 a report of the those results with a statistic.

2 Q When did you produce that report?

3 A May I refer to the report please?

4 Q If it will refresh your recollection?

5 A Yes. That comparison report was received September
6 27, 2016 and it was completed on October 5, 2016.

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

8 THE COURT: Of course.

9 MS. DILLON: Thank you.

10 BY MS. DILLON, continuing:

11 Q I'm handing you what's been previously marked as
12 People's exhibit 23. Would you please take a look
13 at that document. Do you recognize that?

14 A Yes, I do.

15 Q And what do you recognize that to be?

16 A This is the report that I authored of the comparison
17 between the evidence from Kit 14-26069 and a
18 reference sample from Dexter Taylor.

19 Q And does that appear to be a true and accurate copy
20 of the the report that you generated?

21 A Yes, it does.

22 MS. DILLON: Your Honor, at this time I
23 would move for admission of People's proposed
24 exhibit 23.

25 THE COURT: Any objection?

1 MR. BROWN: Yes, I object.

2 THE COURT: Same objection?

3 MR. BROWN: Yes, ma'am.

4 THE COURT: Okay. Exhibit 23 will be
5 admitted.

6 MS. DILLON: Thank you, your Honor.

7 BY MS. DILLON, continuing:

8 Q Okay. So basically you asked for the known sample,
9 correct, and then you did the analysis to confirm it
10 and this is the result of that, is that true?

11 A So in this case I'm just reviewing and comparing the
12 DNA profile data so I did not do the actual analysis
13 on the reference sample that was completed at the
14 Northville Laboratory and so I'm just taking their
15 final data for the reference sample DNA profile and
16 comparing that DNA profile to the evidence from my
17 case.

18 Q So you're taking the work that was done by Heather
19 Vitta's group?

20 A Yes.

21 Q And using it to compare it to the sample for the kit
22 that you were working on?

23 A That is correct.

24 Q Okay. And what were the results of your comparison?

25 A May I refer to my report please?

1 Q Yes.

2 A The DNA profile from item kit 14-26069-1-SF, which
3 is the vagina swab sperm fraction matched the DNA
4 profile from Dexter Taylor.

5 Q And you referenced a kit 14-26069 who is the victim
6 associated with that kit?

7 A Erica Doak.

8 Q Now once you processed that confirmation and what
9 else did you do with that information?

10 A The reference sample was also compared to a few more
11 profiles from that kit. The profile from Dexter
12 Taylor is excluded as a donor to the vagina swabs
13 epithelial fraction.

14 Q What would an epithelial fraction be? What does
15 that mean?

16 A Carrying a DNA extraction when we have seminal fluid
17 we perform what we call a differential extraction
18 and a differential extraction is basically an
19 extraction process where you're trying to separate
20 the sperm cells from the other cellular material in
21 a sample so then when you have the DNA sample you're
22 going to have most of the male DNA from the sperm
23 cells in one fraction called the sperm fraction, and
24 all the other cellular materials is going to be in
25 the epithelial fraction so there's two different

1 fractions for that type of extraction. The
2 epithelial fraction is most commonly going to be
3 from the individual that the sample was collected so
4 the vagina swab is going to have high findings of
5 DNA from that individual and so commonly with
6 epithelial fraction it will match back to the victim
7 whereas the sperm fraction, which is mainly the
8 sperm cells and the DNA from the sperm cells, that's
9 where we're looking for that unidentified donor or
10 eventually an individual if we can compare it to.

11 Q So you would expect that Dexter Taylor would have
12 been excluded from that epithelial fraction based on
13 what you just said?

14 A That is correct.

15 Q Okay. And go ahead. What else did you conclude?

16 A There was also a comparison to an evidence sample
17 which was identified as kit 14-26069-3-SF which was
18 panties that were received in the kit, and the
19 panties sperm fraction, the major donor, matched to
20 Dexter Taylor, and similar to previously Dexter
21 Taylor was excluded as a donor to the epithelial
22 fraction from that item.

23 Q And again that's because that would mostly be the
24 female DNA?

25 A Correct.

1 Q Now as part of your reporting and your analysis did
2 you perform any statistical analysis in this case?

3 A Yes, we did.

4 Q And what were your results of that?

5 A When we have an association between evidence and a
6 reference sample we give a statistic. Basically
7 it's like a weight to give to that match and so
8 it's, it's also giving the rarity of a DNA profile
9 so in this case it's looking at the if I were to
10 select an individual at random from a population
11 what is the probability that that random person
12 would have the same DNA profile as that from the
13 vagina swab sperm fraction.

14 Q And what were the actual population statistics in
15 this case?

16 A For the if we were to select an individual at random
17 from a population for them to have a DNA profile
18 matching the DNA profile from the vagina swab sperm
19 fraction for the Caucasian population it's 1 in
20 649.8 quintillion, for African American it's 1 in
21 10.79 quintillion and for Hispanic it's 1 in 12.07
22 sextillion.

23 Q And did you do any other statistics in regards to
24 this case?

25 A Statistics was also given for the major donor to the

1 panty sperm fraction and to select an individual at
2 random that would match the major DNA types from the
3 panty sperm fraction for Caucasian population it was
4 105.3 billion, for African American it was 60.83
5 billion and for Hispanic it was 435.7 billion.

6 Q And that was for the DNA taken from the panties so
7 not actually out of the individual, correct? Like
8 the vagina swab?

9 A That is correct.

10 Q Okay. So in regards to your statistics would you
11 reach any conclusions in regards to the association
12 to Dexter Taylor in regards to this DNA?

13 A So the probability that was obtained and the
14 statistics that was obtained would give great
15 support that the DNA profile from the vagina swab
16 sperm fraction matches the DNA profile from Dexter
17 Taylor.

18 MS. DILLON: I have no further questions,
19 your Honor.

20 THE COURT: Cross.

21 MR. BROWN: Thank you.

22 C R O S S - E X A M I N A T I O N

23 BY MR. BROWN:

24 Q Mr. Deleeuw, Deleeuw, pronounce your name for me
25 please.

1 A Deleeuw.

2 Q You just said that you're talking about
3 probabilities, right?

4 A Yes.

5 Q So you're really coming up with like a it's a very
6 likely a chance that the match is to Mr. Taylor,
7 right?

8 A I'm sorry? Yes.

9 Q You're coming up with a probability like, you know,
10 like when people bet on sports, you know, it's three
11 to one odds or something like that essentially?

12 A Correct.

13 Q Okay. But this is like billions, quintillions, or
14 whatever, septillions or whatever, right?

15 A Yes, sir.

16 Q But it's still it's a best guess?

17 A It's giving like how rare those DNA types are so if
18 you were to pick some an individual out of a
19 population how rare would it be so if you wanted to
20 go with the lotto if you had DNA, a DNA profile of
21 only three DNA types it's going to be more common
22 for more people in a population to have just those
23 three areas the same DNA type, however, when you
24 have a full DNA profile and you're looking at
25 multiple locations it's going to be harder to match.

1 It's going to be more rare to match so if you think
2 four number lotto versus the Powerball it's harder
3 to win the Powerball because you're matching way
4 more numbers.

5 Q Okay. But everyday people win the lotto and the
6 Powerball, right?

7 A Yes, sir.

8 Q Somebody, not me, yeah. No, I'm not -- I'm being
9 serious though. But everyday people win, don't
10 they?

11 A Yes.

12 Q So that means it's a probability? It's not a match?
13 It's not to say this is that, do you understand what
14 I'm saying? Does that make sense?

15 A In the comparison of the DNA types from the vaginal
16 swabs sperm fraction to that of the reference sample
17 it is a match of the DNA types.

18 Q Okay. So it's not a probability? It is a match?

19 A The probability is given to give a weight to how
20 much you should trust that match given so it's to
21 give a number value to it.

22 Q Did you do any PC -- what is it? What's PCR?

23 A PCR is Polymerase chain reaction and that is the
24 process of amplification of a DNA sample to take the
25 DNA from a sample and making multiple copies of it

1 so we can get a DNA profile from an item.

2 Q Did you do that in this case with any of these
3 comparisons that you made?

4 A That process was used for all of the evidence on
5 these cases I did not personally do. I just
6 compared the electronic data from the results.

7 Q So you looked at basically you looked at either
8 something on a computer or on a piece of paper and
9 made comparisons; that's what you did?

10 A Yes, sir.

11 Q In connection with this case? And where is
12 Sorenson?

13 A I believe it's in Utah, Salt Lake.

14 Q You don't know?

15 A I could refer to the report. I believe it's at the
16 top.

17 Q Yeah, the address is on there. Salt Lake City,
18 yeah.

19 A Yes, sir.

20 Q And so but you didn't -- you don't have any idea who
21 did that or do you? Can you look on your paper and
22 tell me who did the actual analysis?

23 A From Sorenson?

24 Q Yes, sir.

25 A The author of the report from the Sorenson case is

1 Jessica Looney (ph) and she's a forensic DNA analyst
2 with Sorenson.

3 Q And you know that because it says it on the report
4 or because you know this young lady?

5 A I don't know her personally.

6 Q Okay. Is there any way that have you ever been to
7 the Sorenson Lab?

8 A I have not.

9 Q Do you know anything about the Sorenson Lab's track
10 record in terms of their performance?

11 A As part of the outsourcing project the Michigan
12 State Police and the FBI requires the Michigan State
13 Police to do an audit of the laboratory before
14 sending cases to be processed there so any
15 laboratory that we'll outsource to we commonly will
16 do audits yearly to look at their process and how
17 their doing the evidence before we're able to
18 actually send them cases so this was done to
19 Sorenson.

20 Q That's very interesting but I asked you do you know
21 anything about the track record of Sorenson Labs,
22 can you answer that question?

23 A I do not.

24 Q Okay. Now did you ever do or are you aware of a
25 comparison made with any DNA associated with a

1 knife, a pocket knife?

2 A I am not.

3 Q Okay. You don't have any documents or reports about
4 whether or not a pocket there's certain DNA on a
5 pocket knife in this case?

6 A I do not.

7 Q Oh. You know sometimes this DNA reports, and I
8 think in this one, they say something about there's
9 a minimum of two contributors? You're familiar with
10 that phrase or have you seen that in reports before?

11 A Yes.

12 Q It's in this report, right?

13 A Yes, sir.

14 Q What does that mean?

15 A So when you have two contributors it by looking at
16 the evidentiary profile the DNA types that are
17 present are from more than one donor to the item.

18 Q How many donors are the DNA -- is the DNA material
19 in this case from? How many?

20 A May I refer to the report?

21 Q Sure. Please do.

22 A For the vaginal swab sperm fraction the DNA profile
23 was from a single source individual unidentified
24 male profile initially that's all that was reported.
25 For the sperm fraction from the panties it is from a

1 fixture of two individuals, one male and the major
2 profile is suitable for comparisons, however, the
3 minor profile is inconsistent.

4 Q Can I interrupt you just a moment? Which exhibit?
5 Can you look at the front page and see the exhibit
6 Number?

7 A Twenty-one.

8 Q Twenty-one and there's not a minimum of number of
9 contributors?

10 A Excuse me?

11 Q Do you understand my question?

12 A So for the interpretation of this sample it was two
13 contributors.

14 Q Okay. And there are no other contributors?

15 A Not that I'm aware of, no.

16 Q Well how would you be aware of it? Only by reading
17 the report or would you be aware of it by some other
18 confirmation method?

19 A During the review process of the case I'm looking at
20 the drug treatment from the DNA profiles from the
21 evidence and so at that time if there's other donors
22 or if I come up with a different conclusion than the
23 minimum of two donors it would have been noted.

24 Q Yeah, but I'm asking you because it says, and I
25 apologize because maybe I just don't understand. It

1 says, maybe I didn't read this, but at the top it
2 says "Crouch sperm fraction" for example it says
3 from a minimum up two contributors? Is that
4 contributors, is that right? Did I read that right?

5 A Yes.

6 Q Okay. What does that mean?

7 A So it means there's multiple people on that item.

8 Q How many?

9 A A minimum of two.

10 Q So how many?

11 A Two donors.

12 Q Yeah, it says a minimum of two so it could be 13?

13 A If it were more I believe the statement would have
14 said.

15 Q I'm not asking what you believe. My question is
16 direct. I said you don't know, right? That's the
17 answer?

18 A If I could refer to my --

19 Q Do you know?

20 A -- data.

21 Q My question is, do you know how many?

22 A I do not. It's a minimum of two.

23 MR. BROWN: Okay. I have no further
24 questions. Thank you.

25 THE COURT: Redirect.

1 MS. DILLON: I have no further questions,
2 your Honor.

3 THE COURT: Members of the jury, do you
4 have any questions for this witness, if so, please
5 raise your right hand? For the record, none of the
6 jurors have indicated they have any questions. Sir,
7 you may step down. You're excused. At this point,
8 members of the jury, I'm going to send you for your
9 lunch break. You came in a little late today so
10 your lunch break is going to be slightly, well, no.
11 I'm just give you a whole hour. I was going to give
12 you 45 minutes but I'll give you -- I'll see you
13 back at 1:15.

14 COURT OFFICER: All rise for the jury.

15 THE COURT: You're excused, sir.

16 (At 12:12 p.m. off the record)

17 (At 1:36 P.m. back on the record) R

18 THE COURT: All right. We're back on the
19 record in the matter of People versus Dexter Burrell
20 Taylor. The jury has not yet been brought in. Are
21 you ready for me to voir dire your client as to his
22 right to remain silent so we don't have to take
23 another break?

24 MR. BROWN: Yes, ma'am.

25 THE COURT: Because the people are on

1 their last witness. Can you raise your right hand.
2 Do you solemnly swear or affirm that the testimony
3 you will now give in the cause pending before this
4 Court will be the truth, the whole truth and nothing
5 but the truth?

6 DEFENDANT TAYLOR: I do.

7 DEXTER TAYLOR

8 (At 1:36 p.m., sworn by the Court, testified as follows)

9 THE COURT: You can put your hand down.

10 Mr. Taylor, are you under the influence of any

11 drugs, alcohol or other substance that is affecting

12 your ability to make decisions today?

13 DEFENDANT TAYLOR: No, I'm not.

14 THE COURT: Do you understand, sir, that
15 you have a right to remain silent and if you choose
16 to remain silent I will instruct this jury that they
17 cannot and should not hold that silence against you?

18 DEFENDANT TAYLOR: Yes, ma'am.

19 THE COURT: Have you had an opportunity --
20 I know you had an opportunity to discuss it during
21 the last trial but during this trial have you had an
22 opportunity to discuss your right to remain silent
23 with Mr. Brown?

24 DEFENDANT TAYLOR: Yes, I have.

25 THE COURT: Has he given you his advice

1 and his trial strategy?

2 DEFENDANT TAYLOR: Yes, he has.

3 THE COURT: In this regard? Do you
4 understand that no matter what Mr. Brown thinks that
5 ultimately this is your decision and your decision
6 alone to make?

7 DEFENDANT TAYLOR: Yes, I do.

8 THE COURT: Have you had time to consider
9 the advice you've been given of counsel?

10 DEFENDANT TAYLOR: Yes, I have.

11 THE COURT: In taking that into
12 consideration have you reached your own decision as
13 to whether you will or will not testify?

14 DEFENDANT TAYLOR: Yes, I have.

15 THE COURT: And what is your choice?

16 DEFENDANT TAYLOR: I will not be
17 testifying in this matter, your Honor.

18 THE COURT: Okay. Has anyone threatened
19 you or forced you not to take the stand?

20 DEFENDANT TAYLOR: No, ma'am.

21 THE COURT: You've made this decision
22 freely and voluntarily because you believe it is in
23 your own best interest to remain silent?

24 DEFENDANT TAYLOR: Yes, I have.

25 THE COURT: All right. I will instruct

1 this jury that they cannot use your silence against
2 you. Okay. Is there anything else you'd like to
3 say in this regard on the record?

4 MR. BROWN: No, ma'am. There is one more
5 thing though. Detective, no, Mr.?

6 MS. DILLON: Tuski.

7 OFFICER TUSKI: Detective Tuski. You can
8 have a seat now. Is going to testify. The last
9 time we were here I just want to make sure we're not
10 talking about any theories about memory and all that
11 kind of stuff like we're talking about at the bin
12 beginning. No, I'm very serious because the last
13 time we had a whole --

14 THE COURT: About their memory and
15 ability, he's not an expert.

16 MR. BROWN: No, I know that but I don't
17 want to get started and that's why I want to say
18 something in the beginning so we're clear.

19 THE COURT: All right.

20 MR. BROWN: And he's just talking about
21 facts in this case.

22 THE COURT: Okay.

23 MR. BROWN: Thank you, Judge.

24 THE COURT: Bring out the jury. All rise
25 for the jury.

1 (At 1:38 p.m. jury enters the courtroom)

2 COURT OFFICER: You may be seated.

3 THE COURT: All right. Members of the
4 jury, welcome back. We're a little loopy, my staff
5 and I, because we didn't have a lunch break but that
6 happens sometimes. It's the way it goes because we
7 had so much stuff on the docket but oh where is your
8 bucket?

9 UNIDENTIFIED JUROR: We got our own staff,
10 your Honor.

11 THE COURT: No, this is yours. We put it
12 there so nobody steals it. Gary, can you put some
13 more treats in their bucket. All right. My
14 understanding is the People just have one more
15 witness to call and they will be?

16 MS. DILLON: Detective Tuski.

17 THE COURT: All right. Detective Tuski,
18 can you please spell your first and last name for
19 the record?

20 OFFICER TUSKI: Sure. It Ronald Tuski,
21 R-O-N-A-L-D, T as in Tom.

22 THE COURT: Wait. I put R-O-D-L instead
23 of L-D. Okay.

24 OFFICER TUSKI: And the last name is
25 Tuski, T-U-S-K-I.

1 THE COURT: Gary you need the keys to my
2 chambers. Sorry. All right. Can you raise your
3 right hand. Do you solemnly we're or affirm that
4 the testimony you will now give in the cause pending
5 before this Court will be the truth, the whole truth
6 and nothing but the truth?

7 OFFICER TUSKI: I do, your Honor.

8 RONALD TUSKI

9 (At 1:40 p.m., sworn as a witness, testified as follows)

10 THE COURT: All right. You may whenever
11 you're ready.

12 MS. DILLON: Thank you, your Honor.

13 D I R E C T E X A M I N A T I O N

14 BY MS. DILLON:

15 Q Good afternoon. If you would please state your name
16 again for the record?

17 A Ronald Tuski.

18 Q And what is your occupation?

19 A I work for the Wayne County Prosecutor's Office.

20 Q In what position?

21 A I'm a investigator in the Criminal Investigations
22 Division specifically assigned to the Sexual Assault
23 Kit Task Force.

24 Q And how long have you worked for the Wayne County
25 Prosecutor's Office?

1 A Approximately a year and a half.

2 Q And where did you work prior to that?

3 A I retired from the city of Auburn Hill as a
4 detective as well.

5 Q And how long had you worked with the city of Auburn
6 Hills?

7 A Twenty-eight years.

8 Q Now you indicated that you are part of a task force
9 what is the nature of the task force that you work
10 for?

11 A The task force that I work for we're given cases
12 that came back. We're working on the untested rape
13 kits from the city of Detroit and given the case to
14 investigate.

15 Q Now what is the process as far as getting a case
16 assigned to you in an investigation?

17 A We're assigned a case as a one becomes we have a lab
18 report and then we obtain, try to obtain police
19 reports from that and at times it's difficult
20 finding a 1996 or '04 case report but once we get
21 those then we begin an investigation.

22 Q The you mentioned that you work with a task force
23 regarding untested rape kits, is there a certain
24 time frame of cases that you're talking about?

25 A My, my, my task force we work on cases from I

1 believe it's March of 2010 and prior to that so I
2 don't know what the oldest ones are.

3 Q So 2010 and older?

4 A Yes.

5 Q And in regards to Erica Doak, were you assigned to
6 investigate a case concerning an Erica Doak?

7 A Yes, I was.

8 Q And so what was the first thing that you did in
9 regards to that case?

10 A On the case we looked for the police report and any
11 other associated documents we may have in the
12 report. There could be, well, obviously the lab
13 reports we already talked about, the original police
14 report, there's also Sex Crimes Investigator usually
15 assigned to these, any medical reports we review
16 those, and then we try to look up our witnesses and
17 our potential suspects.

18 Q Now you just mentioned a Sex Crime investigator, are
19 you talking about when the case originally, when
20 complaint originally came in?

21 A Yes.

22 Q So in the case of Erica Doak that was in 1994?

23 A Yes that was a 1994.

24 Q Do you recall what the report number was for that
25 case?

1 A The report number, no. the kit number associated
2 with it we use is the kit, the sexual assault kit,
3 that was 14-26069 and I believe the '94 case was
4 0284. It might be the Sex Crime Unit.

5 Q Okay. Now in the course of that investigation what
6 were -- what did you discover in regards to the
7 Erica Doak matter?

8 A Okay. In this case there was, obviously there was a
9 suspect that was identified, Dexter Burrell Taylor,
10 and we look at the case and we do background checks
11 on everybody; one, to see if they're deceased. This
12 was a long time ago so we want to make sure people
13 are still available, and check it if there's any
14 association between the two because sometimes it
15 could have been a consensual partner but we do
16 background checks and try to locate our victims,
17 witnesses and eventually the suspect.

18 Q Now in investigating the Erica Doak matter did it
19 lead you -- what did that investigation lead you to?

20 A Well in the one of the lab reports it also indicated
21 that there was a case to case association and that
22 case to case association was with the Melvindale
23 days and that Melvindale case occurred in 1996, two
24 years after my case.

25 Q And the because the task force that you're assigned

1 to basically works on, you said, Detroit cases; is
2 that correct?

3 A Correct.

4 Q Now did you investigate the Melvindale case?

5 A Eventually did. I wanted to see if anything was
6 done with that case, what was the status of that
7 case. An investigator may have it sitting on his
8 desk, I don't know, so I went to Melvindale and
9 talked to a Lieutenant Allen about it.

10 Q And based on your discussion with Lieutenant Allen
11 did you continue to investigate that case?

12 A Yes, they turned the case over to me and what
13 evidence they had they turned it over to me.

14 Q Okay. So what was the first thing that you did in
15 investigating the Melvindale case?

16 A Once again, you know, I review the information and
17 track down the, number one, is track down the
18 victim. Our task force and victim center we can't
19 to see what the victim says, or knows or recalls so
20 we track her down first.

21 Q And you say her, what was the victim's name?

22 A Rachael Davis.

23 Q And were you able to find her?

24 A Yes, we did.

25 Q How long did it take you to locate her?

1 A Upon there's maybe a couple addresses but no too
2 long I was able to track her down.

3 Q And what happened when you first made contact with
4 Ms. Davis?

5 A Well we made this contacts because we're coming out
6 20 years later, or 21 years later, we make these
7 contacts in person because to receive a phone call
8 from a police officer to say hey we're talking about
9 case 20 years later it's our protocol to do it in
10 person to be more authentic. They can check our
11 identification. In Ms. Davis' case she lived in an
12 apartment and luckily someone was coming out an we
13 were able to go in but Ms. Davis was apprehensive
14 about letting us in because she didn't believe we
15 were police officers, didn't believe we were here to
16 investigate a crime that occurred over 21 years ago
17 and we had to show her our identification. She
18 called her fiancée on the phone and ultimately she
19 opened the door for us.

20 Q When was that?

21 A I believe that was early last year in May.

22 Q So that was May of 2016?

23 A Correct.

24 Q So after that initial contact what was your next
25 step in this investigation?

1 A Well the next step was when we talked to our victim
2 that we located, you know, we tell them our
3 intentions and that it's totally up to them. We're
4 here to allow them the opportunity to have an
5 investigation re-opened, re-visited that kind of
6 fell through the cracks with the Detroit Police
7 Department so that's up to them and we offered her a
8 interview. We were a task force so we worked with
9 advocates closely and we tried to minimize the
10 number of interviews so we offer them an opportunity
11 to come and speak with us and let them tell us what
12 they recalled happened in that incident.

13 Q And did that interview take place as far as Rachael
14 Davis is concerned?

15 A Yes, she agreed. She was at that time when she
16 agreed she was crying and was very nervous and
17 apprehensive about it but with her fiance's support
18 she was able to she came in for an interview.

19 Q Where did the interview take place?

20 A The interview takes place off-site in the
21 Prosecutor's Office. off site at a location that we
22 have a safe, it's called Sexual Assault Forensic
23 Interviewing or examination and it with our
24 advocates, so it's not with the police department.
25 It's not with the Prosecutor's Office.

1 Q Okay. So it's at a --

2 A Off site.

3 Q A non-agency associated location?

4 A Neutral location, yes.

5 Q Okay. And I know you did this with Rachael Davis as
6 far as what you've told us, did you also go through
7 this same process with Erica Doak?

8 A Yes, I did, basically the same process.

9 Q And was that at the same time frame?

10 A Yes, it was.

11 Q Now when you met with Rachael Davis who was there?

12 A Detective Ibarra, my partner.

13 Q Anybody else?

14 A No.

15 Q Was there an advocate there?

16 A Oh I'm sorry. At the, okay, at the safe interview?

17 Q At Wayne County Safe, yes?

18 A Yes, yes. There was an advocate and a prosecutor
19 there and the advocate was with Ms. Davis.

20 Q And who was the prosecutor that was there?

21 A A prosecutor named by Joanna Ogrady.

22 Q And what was the purpose of this meeting?

23 A The purpose of this meeting is to see what the
24 victim can recall of the incident be it 21 years
25 ago, to see what they recall what happened and the

1 details. They provide all the information in a
2 narrative form. We don't stop them. Let them say
3 what they have and then we may follow up with a few
4 questions and stuff.

5 Q Okay. So prior to meeting with Rachael Davis have
6 you reviewed the police reports from Melvindale?

7 A Yes, I have.

8 Q So you had an idea of what was reported to have
9 happened back in 1996?

10 A I did, yes.

11 Q Now you said that part of your interview process is
12 that you basically let the interviewee in this case
13 Ms. Davis, do a narrative?

14 A Yes. We do -- we allow her to do a narrative and we
15 provide the information out there that, you know,
16 we're here to listen to her and this is, again, it's
17 all about her and what she can remember but all we
18 require of her is just telling us the truth of what
19 she can remember.

20 Q So while you had the 1996 police reports from
21 Melvindale did you give them to Ms. Davis to review
22 or read before you asked her what happened?

23 A No, I did not show her any of her statements or the
24 police any of the police reports.

25 Q Now is there a reason why you don't do that?

1 A Because I want to see what she remembers of the
2 incident.

3 Q Now after so did Ms. Davis give you a statement of
4 what she remembered?

5 A Yes, she did.

6 Q Then what was your next step in that interview?

7 A The next step in the interview and we do a photo
8 line up, photo array, with six individuals, Mr.
9 Taylor was one of them included and we do that for a
10 two-fold process is the fact if she knows anybody on
11 there is the question and to see if there's -- if
12 she knows that person, consensual partner or if she
13 knows that person some other way. Maybe it's a
14 suspect and maybe she can recognize people or not.

15 Q Okay. So you put together this photo line up?

16 A Yes, I did.

17 Q And you conducted displaying this photo line up
18 during this initial interview?

19 A Yes.

20 Q Okay. And who was there when you did that?

21 A The advocate, Ms. Davis, Detective Ibarra and Ms.
22 O'Grady.

23 Q And yourself?

24 A And myself.

25 Q And what was the procedure that you followed when

1 conducted the photo line up with Ms. Davis?

2 A Well we provide her the photo lineup. We don't
3 suggest, obviously, anybody in particular. We ask
4 them to recognize something like there's a on the
5 bottom of the page there's something we read that
6 indicates that see if you recognize people and the
7 people may not appear as they were at the time of
8 the incident because sometimes we can't find
9 photographs that are close that date of the
10 incident.

11 Q Now in regards to Ms. Davis did you, did you tell
12 her that the suspect was in the photo line up?

13 A No, I did not.

14 Q And when you put together the photo line up what
15 criteria do you use to pick who's going to be in the
16 photo line up?

17 A Well one is, you know, obviously similar features,
18 demographics and another is we try to find a
19 photograph during an area close to the time of the
20 incident.

21 Q So did you try to do that for Mr. Taylor?

22 A Yes, I did.

23 Q And what year photograph were you able to find?

24 A The earliest was 2007.

25 Q Okay. And how many photos were in the line up that

1 you put together?

2 A There was five additional and Mr. Dexter Taylor was
3 the sixth person.

4 Q Now to your knowledge did anyone in your presence
5 influence or suggest to Rachael Davis that he should
6 select a person?

7 A No.

8 Q And, in fact, did Rachael Davis select a person when
9 you showed her the photo line up?

10 A No.

11 MS. DILLON: Your Honor, may I approach?

12 THE COURT: You may.

13 MS. DILLON: Thank you.

14 BY MS. DILLON, continuing:

15 Q Okay. I'm handing you what's been marked as
16 People's proposed exhibit. Could you please take a
17 look at that document?

18 A Yes.

19 Q Do you recognize that?

20 A Yes.

21 Q And what do you recognize that to be?

22 A As the photo line up that I composed of Mr. Taylor.

23 Q Well of Mr. Taylor but he's not the only photo in
24 there, is he?

25 A Correct. There's five other photographs.

1 Q Okay. Is it a true and accurate copy of the photo
2 line up that you put together to present to Ms.
3 Davis?

4 A Yes.

5 Q Your Honor, I'd ask that People's exhibit 18 be
6 admitted as evidence?

7 THE COURT: Any objection?

8 MR. BROWN: May we approach, Judge? May
9 we approach?

10 THE COURT: Sure.

11 (At 1:55 p.m. sidebar discussion held off the record)

12 (At 1:56 p.m. sidebar discussion concluded)

13 THE COURT: Objection overruled. What
14 exhibit number is it?

15 MS. DILLON: Eighteen, your Honor.

16 THE COURT: Exhibit 18 will be admitted.

17 MS. DILLON: Thank you.

18 BY MS. DILLON, continuing:

19 Q Now you showed Rachael Davis this line up when you
20 met with her last year, did you show this line up to
21 anybody else at that time?

22 A No.

23 Q Now other than this initial meeting that you had
24 with her at Wayne County Safe did you show her that
25 line up again?

1 A No, I have not.

2 Q Did you use this line up in your investigation with
3 area Doak?

4 A Yes, I did.

5 Q And when -- where did you meet with Erica Doak at?

6 A On a separate occasion at the safe interview.

7 Q Same place?

8 A Same place at a different time.

9 Q And so same sort of circumstances. Was there an
10 advocate there?

11 A Correct.

12 Q And yourself?

13 A Correct.

14 Q Was there a prosecutor there?

15 A Correct.

16 Q And did you follow that same procedure for showing
17 the photo array to Erica Doak?

18 A Yes, I did.

19 Q And was Ms. Doak able to identify anyone?

20 A No, she was not able. She was not able to identify
21 anybody.

22 Q In regards to the Rachael Davis case after your
23 meeting with Ms. Davis what was your next step in
24 your investigation?

25 A Well during the safe interview I also have her, Ms.

1 Davis, sign a medical release. We always try to
2 find the medical records. She went to the hospital,
3 we know, and there was paperwork in the kit for the
4 kit itself, the sexual assault kit, and then there's
5 always a medical record. Well I attempted to locate
6 the medical records and went to the hospital and
7 they did not have any records still available to us.
8 They were destroyed after ten years I believe.

9 Q And okay so you tried to get medical records, what
10 did you do after that then?

11 A Then besides going to the location of the incident
12 where it was reported, obtained the evidence from
13 Melvindale Police Department, their reports, and
14 then put this case together and presented it to the
15 Prosecutor's Office as well as drafted a search
16 warrant for Mr. Taylor's buccal swab, his DNA
17 sample.

18 Q Now you said you went to Melvindale and got evidence
19 from them. What did you obtain from the Melvindale
20 Police Department?

21 A Lieutenant Allen over at Melvindale Police
22 Department reviewed his evidence lockers that they
23 had and they found the bag of clothing and the
24 sexual assault kit in there.

25 Q Did they give you a baseball bat?

1 A No, they could not locate a baseball bat.

2 Q Now did you try locate were there any other people
3 or anyone that you tried to locate as far as the
4 case of Rachael Davis was concerned?

5 A I'm not sure. I remember who I talked to.

6 Q Okay. Is there anything that would refresh your
7 recollection?

8 A Yes.

9 Q What would that be?

10 A The police report would rec or --

11 Q This is just to refresh your recollection. Take a
12 look at that and let me know when your memory is
13 refreshed.

14 A Well there's no other -- it's refreshed. There's no
15 other witnesses that were identified so.

16 Q Now you mentioned that you did a search warrant for
17 a buccal swab; is that correct?

18 A Yes.

19 Q All right. And what's the purpose of obtaining a
20 search warrant for a buccal swab?

21 A It's required by the Michigan State Police
22 Laboratories to confirm that the person that's
23 sitting in front of me DNA matches the lab reports
24 from the kits that were submitted, the one
25 Melvindale as well as the one in Detroit.

1 Q So then did you have an occasion to meet with Mr.
2 Taylor and obtain or search that search warrant?

3 A Yes, I did.

4 Q And did you execute that search warrant?

5 A Yes, I did.

6 Q And how did you do that?

7 A I gave him a copy of the search warrant and he
8 freely gave me his DNA sample which is basically a
9 similar to a Q-tip but it's more solid and all you
10 do is rub the inside of his cheek down to his gum
11 line, taken two samples on each side and then secure
12 them into a envelope that it came from, a sterile
13 envelope.

14 Q And do you recall when you met with Mr. Taylor?

15 A I believe it was August 1st.

16 Q Of?

17 A 2016 last year.

18 Q And who was with you when you did that?

19 A Detective Ibarra again.

20 Q Now once you got that buccal swab what did you do
21 with it?

22 A We take it right over to the Michigan State Police
23 Crime Lab and submit it under the to the lab under
24 those case numbers.

25 Q Okay. Now you talked about you went to the

1 Melvindale Police Department and you picked up the
2 physical evidence that they had concerning Rachael
3 Davis. What about area Doak? Did you do anything
4 in regards to obtaining any physical evidence for
5 Rachael or, I'm sorry, Erica Doak?

6 A Erica Doak's case happened in 1994. In reviewing
7 the case and after interview Ms. Doak it was
8 determined that her case was not able to go forward
9 because the Statute of Limitations. There was a
10 case law change in 1995 that changed the law --

11 MR. BROWN: Judge, may we approach please?

12 THE COURT: Yes.

13 (At 2:02 p.m. sidebar discussion held off the record)

14 (At 2:04 p.m. sidebar discussion concluded)

15 THE COURT: You may continue.

16 MS. DILLON: Thank you.

17 BY MS. DILLON, continuing:

18 Q So, Officer Tuski, basically you're saying that the
19 Statute of Limitations was expired as far as Erica
20 Doak's case is concerned; is that correct?

21 A Correct.

22 Q So how did that that affect your decision whether or
23 not to go get property for Erica's case?

24 A We would -- I did not go forward looking for the
25 property that was obtained in the DPD evidence,

1 Detroit Police Department's evidence.

2 Q Now in your prior experience as a police officer I
3 think you said what 28 years?

4 A Yes.

5 Q And during that time did you ever investigate any
6 criminal sexual conduct cases?

7 A Yes, I have.

8 Q Can you tell us how many?

9 A Dozens.

10 Q And when you responded was there anyone way that all
11 of the victims acted that you responded to?

12 A No, every victim is different.

13 MS. DILLON: And I have no further
14 questions, your Honor.

15 THE COURT: Cross.

16 C R O S S - E X A M I N A T I O N

17 BY MR. BROWN:

18 Q You'd said that you didn't, because of the Statute
19 of Limitations, go get any evidence connected with
20 the Erica Doak case, is that what you said?

21 A Correct.

22 Q Okay. You never got any evidence connected with the
23 Erica Doak case?

24 A The evidence reports that's it.

25 Q No -- was there a knife submitted in connection with

1 the Erica Doak's case?

2 A Yes, there was.

3 Q Did you get a copy of any evidence reports related
4 to that knife?

5 A There -- it mentions the knife in evidence, yes.

6 Q That's not my question. My question was whether or
7 not you got any evidence reports from related to
8 that knife in Erica Doak's case?

9 A It's on an evidence page in DPD's reports.

10 Q Okay. And that's one of the reports that you got?

11 A Yes.

12 Q Okay. And, in fact, the knife, did you know whether
13 the knife was still around?

14 A No, I don't. I do not.

15 Q Okay. That knife had been submitted for testing; is
16 that correct?

17 A I do not know that.

18 Q You don't know whether they submitted the knife for
19 latent print testing, you don't know that?

20 A No, I do not.

21 Q Well you have your file? You have your file here,
22 can you look and see, because you got the evidence
23 reports on that case? Could you look and see?

24 A The Detroit Police Department has the knife and the
25 rape kit on there.

1 Q No. I'm talking to you about --

2 THE COURT: He asked you do you have your
3 file with you?

4 THE WITNESS: No. My file is in --

5 MR. BROWN: Okay. You can step down. Is
6 it all right, Judge?

7 THE COURT: Yes.

8 BY MR. BROWN, continuing:

9 Q Okay. What you -- you have a copy of a report that
10 is authored by who?

11 A By PO, Police Officer Fountain.

12 Q Brian Fountain?

13 A Yes.

14 Q Okay. And what does that indicate?

15 A That indicates they confiscated a five and a half
16 inch knife with a two and a half inch blade found
17 laying on a door in the basement of the above
18 address, placed in evidence. No evidence techs
19 available. Investigator Carl Wink.

20 Q Okay. Thank you. So that means that somebody
21 confiscated the knife in connection with the Erica
22 Doak, right?

23 A Yes, sir.

24 Q Okay. But I'm saying is there a report? Do you
25 have any report that suggests that that knife was

1 submitted for scientific analysis?

2 A I do not recall. I do not recall seeing anything
3 going to the crime lab.

4 Q Okay. Because if that, you know, we've been talking
5 about DNA. You've had an opportunity to sit through
6 this entire trial, right?

7 A Yes, sir.

8 Q And you've been with this case for at least a year,
9 right?

10 A Yes, sir.

11 Q So you've heard witnesses testify about various
12 things such as DNA, right?

13 A Yes, sir.

14 Q And you've through 28 years as a police officer, 18
15 years as a detective, right?

16 A Yes.

17 Q In Auburn Hills?

18 A Yes, sir.

19 Q Had a lot of sexual assault cases you handled?

20 A Yes.

21 Q So you can get DNA like what's that word?

22 Epithelial cells like if I I'm holding this ink pen
23 right now you can get DNA off this ink pen, right?

24 Not you not you personally, do you understand what
25 I'm saying?

1 A Right.

2 Q Yes?

3 A I'm not a DNA expert at all.

4 Q I under but you're -- come on now. You're 28 years
5 a police officer. You know what I'm talking about.

6 A We would try to submit to the Crime Lab.

7 Q Right. Why?

8 A Possible DNA.

9 Q Right. So that knife, if that knife was used by the
10 suspect in this, if it was used by the suspect in
11 this case with Erica Doak, that might have DNA on
12 it, right?

13 A Possible.

14 Q I mean because everything the point of it is trying
15 to confirm or you know say, well, we think for sure
16 this is what happened, right?

17 A Yes.

18 Q So maybe there's, I mean, because a knife could be
19 some where? Somebody could have sex and just see a
20 knife, right?

21 A Well the knife was recovered at the scene and when
22 Ms. Doak made the report she was not at the scene.
23 They went back to the house, the abandoned house,
24 so.

25 Q I understand.

1 A So she did identify it as the suspect weapon but --

2 Q Right, so certainly --

3 A Other people could have been there.

4 Q Yeah, so it make a difference. If that knife was
5 supposedly there and used by Mr. Taylor then you
6 could say oh here. His DNA is on the knife or his
7 fingerprints on the knife, right?

8 A That's possible but his DNA was in vaginal swab.

9 Q I'm not asking you -- don't tell me. Answer my
10 question. I'm talking about the knife right now,
11 that's what I'm talking about. Are we okay? Do you
12 understand?

13 A Yes.

14 Q Yeah. So I'm asking you about something that, you
15 know, this apparently well not apparent. She
16 alleges that the person had a knife?

17 A Yes.

18 Q Not that just there was a knife there or whatever,
19 the person had a knife, right?

20 A Yes.

21 Q So as a detective to confirm that you could have the
22 Michigan State Police Department analyze the knife,
23 right?

24 A Yes.

25 Q Okay. Like the bat in this case supposedly is a bat

1 that was supposedly used in this case, right?

2 A Yes.

3 Q And that was sent for a latent print analysis,
4 right?

5 A Correct.

6 Q What about for DNA?

7 A Not at the time, no.

8 Q Well when? You said, not at the time so?

9 A My understanding of the DNA that the DNA was not
10 able to get, we weren't able to get it off an object
11 at that point in time in '96.

12 Q Well now you're talking about -- you're not a DNA
13 expert, right? I'm just asking you either you are
14 or you aren't?

15 A No.

16 Q Yeah, you don't know anything about collecting DNA
17 and --

18 THE COURT: Yeah, but, Mr. Brown, that's
19 not fair because you're asking him these questions.

20 MR. BROWN: No.

21 THE COURT: You're asking him these
22 questions.

23 MR. BROWN: Absolutely not, Judge.

24 THE COURT: Mr. Brown.

25 MR. BROWN: I didn't ask him a question

1 about --

2 THE COURT: Hold on. Hold on. Hold on.

3 MR. BROWN: I'm not trying to talk over
4 you.

5 THE COURT: Well you are.

6 MR. BROWN: I'm sorry. I apologize. Yes,
7 ma'am.

8 THE COURT: So the point is you can argue
9 whatever you want but you're asking him questions
10 about DNA and whether it can be collected or what
11 can't be collected and when he originally said that
12 he wasn't a DNA expert you said, well, you've been a
13 police officer and all those things so you can't
14 have it both ways, Mr. Brown. You want to go down
15 this road and ask him these questions you're stuck
16 with whatever answer he gives you.

17 MR. BROWN: I don't mind the answers,
18 Judge. It's not I'm not trying to be stuck with the
19 answers.

20 THE COURT: I'm sorry, Mr. Brown. Mr.

21 Brown, I'm still talking.

22 MR. BROWN: Yes, ma'am.

23 THE COURT: When I'm done talking.

24 MR. BROWN: I'm sorry, Judge.

25 THE COURT: Then you can talk but right

1 now I'm still talking.

2 MR. BROWN: Yes, ma'am.

3 THE COURT: So you're stuck with whatever
4 answer he gives you, so if his answer to this
5 question is that he believes that back then you
6 weren't able to get DNA off of an object like that,
7 that's his answer, and yes, he's not an expert in
8 DNA, he acknowledged that, so don't argue with him.

9 MR. BROWN: Okay.

10 THE COURT: Just ask questions okay.

11 MR. BROWN: Thank you very much, Judge.

12 BY MR. BROWN, continuing:

13 Q So was it the bat analyzed for DNA?

14 A No.

15 Q Well then so but I -- okay. So the bat was not even
16 analyzed for DNA?

17 A No.

18 Q I mean you were telling me about not being able to
19 get it back then so what's that got to do with this
20 then?

21 A I'm sorry I don't understand your question.

22 Q You said the bat was not even -- was it submitted
23 for DNA analysis?

24 A No, I was not there in 1996.

25 Q I didn't ask you where you were in 1996. I asked

1 you was it submitted for DNA analysis?

2 A I have no record of that.

3 Q So you're the Officer-in-charge of the case and
4 you -- there's a isn't there a lab sheet in your
5 records there about the bat?

6 A Yes.

7 Q What does it say?

8 A It says check for latent prints and none were found.

9 Q Okay. Does it say anything about DNA?

10 A No.

11 Q It does not?

12 A I can refer to my --

13 Q No, no, I'll just -- I'll take your word. It
14 doesn't say anything about DNA, right?

15 A No.

16 Q So would that lead you to believe, because you're a
17 conscientious officer you would want to know if
18 there was some DNA report, right? You looked to see
19 if there was one, right?

20 A Yeah.

21 Q And there wasn't one?

22 A Correct.

23 Q And what did that lead you to believe?

24 A That it wasn't tested?

25 Q Okay. How what kind of bat was this supposedly?

- 1 A A 24 and a half inch wooden bat.
- 2 Q How big is that? How big is 24 and a half inches?
- 3 A Well your normal piece of paper is what, 8 and a
- 4 half by 11. Twenty-four and a half would be
- 5 (indicating).
- 6 Q Is this how long it is?
- 7 A Pretty close.
- 8 Q Is that right?
- 9 A Yes.
- 10 Q Twenty-four and a half inches. That's not like a
- 11 regular sized bat? Just either it is or if you
- 12 know?
- 13 A A junior bat it could be.
- 14 Q Junior bat or souvenir bat, or peewee bat or
- 15 something like that, right? Just right?
- 16 A It's possible.
- 17 Q Okay. You interviewed Ms. Taylor last -- Ms.
- 18 Taylor. Ms. Davis last year, right?
- 19 A Correct.
- 20 Q And when you went to her initially she was -- no,
- 21 not when you went to her initially. At some point
- 22 the police went to her and she said she didn't want
- 23 to pursue this case, right?
- 24 A No.
- 25 Q That isn't what happened?

1 A No.

2 Q Okay. I'm sorry. All right. When you went to her
3 she said she wanted to pursue the case, right?

4 A Correct.

5 Q You have your file there. There's a page it starts
6 out with Erica Doak 20 years old at the time at the
7 top, do you see that page? It's your case notes I
8 guess is what it is?

9 A Is this Ms. Doak's case or Ms. Davis' case?

10 Q I don't know there's no page numbers on here so I
11 just have your case file. I'll show you.

12 A There's two cases. This is Ms. Doak's and the
13 Melvindale case. Okay.

14 Q Okay. And you told me that you didn't you said that
15 nobody ever contacted? The police did not contact
16 Ms. Davis and she told them she didn't want to
17 pursue the case, that's what you just told me,
18 right?

19 A I'm sorry. Say that again.

20 Q I'm very sorry with my inarticulate question. I
21 asked you before in the course, and I didn't say it
22 just like this. I'm rephrases. In the course of
23 your investigation did you determine that the police
24 contacted Ms. Davis and she said she did not want to
25 pursue the case? Do you remember me asking the

1 question not exactly those words but similar to that
2 just a moment ago?

3 A Right.

4 Q Okay. What's your answer to that question now?

5 A The police called Ms. Davis. Ms. Davis informed me
6 that she believed they were the police just like we
7 were at the door and she hung up on them.

8 Q All right. So what is it that you're looking at
9 right now? What is that?

10 A This is my case notes.

11 Q That's what you wrote down? Nobody else wrote that,
12 right?

13 A Yes.

14 Q Okay. Is that what you wrote in your note? Please
15 tell me. Can you show me in your notes where you
16 wrote down the police contacted her and she didn't
17 think they were the police on this instance and she
18 didn't say she wanted to didn't want to pursue the
19 matter? Does that make sense?

20 THE COURT: She hung up on them because
21 she didn't believe they were the police, that's what
22 he said.

23 MR. BROWN: No, that's not my question.

24 Thank you very much, Judge.

25 BY MR. BROWN, continuing:

1 Q My question is, well let me ask a different
2 question. Your notes, I showed you a page from your
3 notes in, I think, it's the Doak file, right?

4 A I'm sorry what file?

5 Q D-O-A-K?

6 A Oh Doak.

7 Q Yes, sir.

8 A Okay.

9 Q And I showed you a specific page. Do you have that?
10 Can you get that page? I'll bring it around so you
11 can see what I'm talking about.

12 A Yes.

13 Q Okay. So we're on the same page, right?

14 A We're on the same page.

15 Q All right. And down like when you count up
16 paragraphs one, two, the third paragraph up starts
17 with "I contacted Melvindale Police Department" do
18 you see that paragraph? Read that paragraph for
19 yourself first, to yourself.

20 A Yes.

21 Q Okay. Now back to my question which is, did you
22 have information that the police contacted Ms. Davis
23 and she said she did not want to pursue the matter?

24 A Yes.

25 Q Okay. So that's different than your answer before,

1 right?

2 A This is coming from Lieutenant Allen.

3 Q I didn't ask you that though. Come on. I said
4 that's different than your answer before, that's all
5 I asked?

6 A Yes.

7 Q Okay. And this is not like that's not lieutenant
8 Allen's report, it's not Taft, nor not Marabito.
9 It's your report. That's in your report, right?

10 A Correct.

11 Q And not your report on Erica Doak, the report on
12 Rachael Davis' case, right?

13 A Correct.

14 Q Okay. So you didn't you just didn't remember this?

15 A This is what Lieutenant Allen told me.

16 Q Well I'm talking about, yeah, but I asked you
17 whether you had information about it and you told me
18 no so I'm just asking. It's a simple thing. I'm
19 just asking you whether or not you had information
20 of that?

21 A Yes, I have information about that.

22 Q Right. And you just forgot about it? I asked you
23 before and you acted like you didn't know anything
24 about it?

25 A I may have.

1 Q Okay. All right. So I want to roll back a little
2 bit. You talked to Ms. Davis and you talked to her
3 in a fashion that you didn't want to muddy the
4 waters by showing her police reports or witness
5 statements or things, right?

6 A Correct.

7 Q Right. You didn't want to give her any clues or
8 tips? You just wanted her to tell you what she was
9 going to tell you, right?

10 A Correct.

11 Q Okay. And did she act as though she had any loss of
12 memory -- strike that. Did you -- strike that.
13 Have you as a trained investigator, detective, when
14 you were a detective back before your retired, did
15 you go through interrogation or questioning or
16 interviewing techniques courses?

17 A Yes, I have.

18 Q Okay. And part of what you do when you interviewing
19 people is you want to compare what you know or think
20 you know, or you have learned from your
21 investigation with what they say, right?

22 A The best of our abilities.

23 Q Yeah. I mean if somebody says they were on I was in
24 Wyandotte and then the next time they tell you oh,
25 no, I was in Bloomfield Hills you kind of scratch

1 your head and say wait a minute let's clear this up,
2 right?

3 A Correct.

4 Q Okay. So if they say different things you want to
5 investigate maybe they forgot about it? They maybe
6 thought it was Wyandotte instead of Bloomfield
7 Hills, right?

8 A That's a big difference there, correct.

9 Q Yeah. A big difference between being forced into a
10 vehicle and going willingly to smoke crack, it's a
11 big difference, right?

12 A Correct.

13 Q And in this case Ms. Davis talked to you about the
14 person who she said assaulted her and described him
15 to you?

16 A Yes.

17 Q And she said she's about 5 feet 1 inches tall?

18 A Correct.

19 Q And she said the person was just a little bit taller
20 than her?

21 A Correct.

22 Q And the person had hazel eyes?

23 A Yes, sir.

24 Q What color or Mr. Taylor's eyes?

25 A Brown eyes.

1 Q Hazel. They look sort of hazel green or something?

2 A The shade of color they're brown.

3 Q Okay. Not hazel?

4 A Brown is a shade of hazel. They're brown.

5 Q Oh brown is a shade of hazel?

6 MS. DILLON: Judge, I'm going to object.

7 MR. BROWN: I'm just asking.

8 MS. DILLON: It's been asked and answered
9 about three times now.

10 THE COURT: Sustained.

11 BY MR. BROWN, continuing:

12 Q Okay. And you went to Oakwood Hospital is that
13 where you went to look for medical records?

14 A I either faxed them or emailed them a request with
15 Erica signature -- Ms. Davis' signature and then as
16 well as Ms. Doak's.

17 Q Okay. And they didn't have any records of this
18 incident that happened back in 1996?

19 A They don't keep them that long, no.

20 Q Okay. And that was 20 years later, correct?

21 A Correct.

22 Q And you did you ever ask Ms. Davis about the version
23 of her story about the person kind of snatching her
24 off the street?

25 A We asked her about how she got in the car.

1 Q See wait. I'm going to interrupt?

2 A Yes.

3 Q I'm going to interrupt you, so and I apologize for
4 interrupting you but I'm asking you what you did so
5 please. I want you to tell me what you did, what
6 your observations, your actions, what you did?

7 A Can you then ask the question again please?

8 Q Did you ask Ms. Davis about her version of events
9 wherein she said she was snatched off the street by
10 force?

11 A No, I did not qualify that.

12 Q What do you mean by qualify?

13 A Well in our interview I told her to be truthful and
14 a lot of times, well, Ms. Davis told me that she got
15 in there willingly believing that she was going to
16 go smoke crack with this guy.

17 Q Okay. She didn't say anything to you -- you didn't
18 ask her why would she say, makeup a story about
19 being taken by force?

20 A I was asking her to be more truthful she --

21 Q No, no. answer my question. My question is did you
22 ask her about why she made up a statement about
23 being taken of the street by force?

24 A No.

25 Q Why not?

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1 A Because in our interview we asked her to be truthful
2 and in being truthful my experience is that in this
3 type of cases that victims often will lie about how
4 they put themselves in a predicament like that and
5 they didn't want to -- and many times they would --

6 Q So wait, wait, wait, wait. Slow down. I'm
7 interrupting you because you're now telling me about
8 your reason for not asking her is because some prior
9 experience you have with witness interviews, is that
10 what you're saying?

11 A This as well as the others, yes. This case as well
12 as the other cases.

13 Q Other cases? What do you mean other cases? You're
14 talking about this case as well as other cases
15 you've investigated?

16 A Yeah, my experience.

17 Q Yeah.

18 A -- As to her statement, yes.

19 Q Okay. So you're saying that you essentially knew
20 that she lied, right?

21 A How she got in the car.

22 Q Is this difficult? I'm just asking. It's a simple
23 question. You knew in advance that she lied, yes or
24 no?

25 A Yes, not in advance.

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1 Q Okay, that's very fine. When did you know? If
2 you're telling me she told you what happened, she
3 got in the car to smoke whatever, and then when did
4 you discover that she was not telling are the truth
5 or she had not told the truth at some point in time?

6 A Well I knew the versions of what's said in the
7 police report and when I --

8 Q Sir.

9 A When I asked Ms. Davis about how she got in the car
10 that's the version of the story she gave me and
11 that's a believable story, the fact that the police
12 report said she was forced in was incidental to what
13 happened behind the building so I didn't question
14 her on that.

15 Q Let me get an understanding here. You said what the
16 police report said? What she said. It's not what
17 the police report said, right? That's what she told
18 the police, is that not right or the police made
19 this up?

20 A It's in the police report what she said, yes.

21 Q Okay. That's what she said. She said A and then
22 she later on told you B, two different things; is
23 that correct?

24 A Yes.

25 Q Okay. So what I said before you knew in advance

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1 that you knew that she said, "I was forced into the
2 car", right?

3 A Yes.

4 Q And then you knew when she told you, oh, no, I was
5 smoking crack? It was different from what she told
6 the police, right?

7 A Yes.

8 Q Okay. Did she tell you that she smoked drugs before
9 she got in the car?

10 A Earlier that day.

11 Q Okay. And how much did she smoke?

12 A She did not tell me. I didn't ask her exactly how
13 much but she said she smoked crack earlier in the
14 day.

15 Q Help he understand. So your, just so -- your
16 purpose is not to really -- you just want her to
17 talk and whatever she says it's okay? You just take
18 what she says pretty much?

19 A Well she said she smoked crack earlier in the day
20 and during that time she said when she got in the
21 car with the suspect he or she said she was not
22 under the influence of drugs.

23 Q Did you record the interview with Ms. Davis?

24 A No, I did not.

25 Q So there's nobody liked transcribed this? This is

1 just like your recollection?

2 A Yes, and her testimony.

3 Q Pardon me?

4 A Yes.

5 Q And her testimony in this trial and other court
6 proceedings, is that what you?

7 A Yes.

8 Q Okay. All right. When did you first look at the
9 clothing in this matter?

10 A Closely is here when we opened it.

11 Q You were in court last December, right?

12 A Yes.

13 Q And you didn't look at the -- you didn't see the --

14 A Yes, I did.

15 Q Okay. So the distinction is closely when you got up
16 close is that what you mean?

17 A Yes.

18 Q Were you -- and you were the person in charge or in
19 possession of the -- when I say possession, control.
20 I don't mean like you carried around like you but in
21 charge of the evidence in this case, right?

22 A Yes, sir.

23 Q Okay. And so did there come a time in the course of
24 your investigation did you discover that there were
25 tares in her clothing consistent with what she said

1 either 20 years ago or six months ago? Either one
2 of those?

3 A There is two articles of clothing and --

4 Q Come on wait. Stop. Could you just answer the
5 question? It's a straight forward question. It's
6 not like I'm asking some super fairy tale question
7 here.

8 A No tares in the clothing.

9 Q Okay. So that's inconsistent with what she said,
10 right? She said her blouse was torn off of her,
11 didn't she say that?

12 A Yes.

13 Q Okay. Ripped, right?

14 A Yes.

15 Q Okay. She also said that her pants were taken off,
16 torn off by the person who was there, who looks like
17 Mr. Taylor, that he took her pants off, right?

18 A Yes.

19 Q That's inconsistent with what she told Officer Taft
20 and nurse Johns or Taylor now?

21 A Yes, it was.

22 Q Okay. So those things are not important to you
23 because, I mean, it's something she's says one thing
24 I go white and then it's black two different things,
25 and that's not important to you in terms of your

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1 investigation of this case?

2 A Yes, it's important. Well what's in the report from
3 21 years what she recalled later this time is the
4 best information that we have. The difference is
5 now between then I can't explain her memory on that.

6 Q Well her memory she said different things then,
7 right? She said in one -- she said something about
8 the crack cocaine, I mean, going to smoke crack and
9 also being forced into the car she said both those
10 things in 1996, right?

11 A Yes.

12 Q So it's not like she just made a difference between
13 then to 20 years ago and then now? She made
14 distinctions then, right? Because you're talking
15 about -- what's the 20 years got to do with it?

16 A Well what she told me during our interview so and
17 the information that we received there is what I
18 documented in our report.

19 Q Oh and I apologize if I already said this. When you
20 conducted the photo line up with Mr. Taylor included
21 in the photo line up she said I can't recognize
22 anybody or something to that affect?

23 A Correct.

24 Q And were you in court when we were in Allen Park and
25 Ms. Dillon and I both asked her whether she was able

1 to identify in court, Mr. Taylor was sitting right
2 there and she said no, do you remember that?

3 A Yes.

4 Q Okay. That's what happened?

5 A Yes.

6 Q You were also here when she said that's the guy,
7 right? Did she say that in this case the last time?

8 A Yes.

9 Q Okay. Did your investigation any reason for that?
10 If it did?

11 A No.

12 Q Oh did she tell you in the course of collecting
13 evidence in this case, you didn't get the medical
14 records from Oakwood Hospital because I guess it's
15 connected to the sexual assault kit or something?
16 You got the nurse's notes from Ms. John, Ms. John
17 who is now Ms. Taylor, right?

18 A Correct.

19 Q Nurse. And you also, like you said, you heard her
20 testify and interviewed her, did she ever tell you
21 she got hit in the head with a bat?

22 A She got hit with a bat, yes.

23 Q That's not what I asked you. You know what I asked
24 you. Please. Can you please just try to come
25 along? You're like a professional. I asked you did

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1 she ever tell you she got hit in the head back and
2 you heard me. Please answer my question. Please.

3 A Let me -- can I refer to my notes? My case notes?

4 Q Sure. Please do.

5 A No, no.

6 Q She didn't say that? Was there any other evidence
7 other than the medical records or anything to
8 suggest that she was hit in the head with a bat or
9 anything?

10 A No, I do not have any of that.

11 Q Okay. Was there any blood evidence other than blood
12 that was drawn from Ms. Davis in connection with the
13 sexual assault kit? Any blood evidence at all in
14 that case?

15 A I'm not aware of any.

16 MR. BROWN: Okay. Can I have just a
17 moment, Judge?

18 THE COURT: Of course.

19 MR. BROWN: Thank you very much.

20 THE COURT: Make sure your microphone is
21 off, Mr. Brown.

22 MR. BROWN: Okay. I'm going to look at my
23 computer. I don't think I'm going to make any
24 noise.

25 THE COURT: Okay.

1 BY MR. BROWN, continuing:

2 Q All right. So you are the Officer-in-charge. What
3 is your responsibility with regard to this case?

4 A To oversee the case.

5 Q Okay. You know you don't have to agree with me but
6 usually I think an Officer-in-charge you're supposed
7 to Marshall the evidence and give the Prosecution
8 evidence with which to prosecute the case, right?

9 A Yes.

10 Q Okay. You're responsible for, you know, finding the
11 evidence, maintaining it, preserving it, is that
12 fair to say?

13 A Yes.

14 Q Okay. And oh I know. You said you had investigated
15 the number of sexual assault cases during your time
16 as a detective in Auburn Hill; is that correct?

17 A Correct, here and there.

18 Q Say what now?

19 A Here and there.

20 Q Okay. Here meaning after you retired?

21 A Correct.

22 Q Okay. But I'm talking about back. So in Auburn
23 hills did you investigate a lot of cases involving
24 crack?

25 A Quite a few.

1 Q Is that right? When?

2 A I'm sorry?

3 Q What time period?

4 A Involving crack of I mean in what circumstances?

5 Anything involving crack? I don't understand. It's
6 a vague question.

7 Q Well you know you're -- when did you start? When
8 did you become a police officer?

9 A 1987.

10 Q Okay. So that would mean that you were a police
11 officer in Auburn Hills back in 1987?

12 A Correct.

13 Q And that would have been the time that there was
14 like a big crack epidemic, right?

15 A Correct.

16 Q Was it raging in Auburn Hills?

17 A That was my first arrest.

18 Q Is that right? Okay. So and there was a lot of
19 arrests for crack in Auburn Hills?

20 A It's next to Pontiac. There was quite a few.

21 Q No, I'm not talking about Pontiac. I'm talking
22 about the lot in Auburn Hills?

23 A Quite a few.

24 Q Okay. And -- what's the word, simultaneously with
25 arrests for crack would you say there was a lot of

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1 arrests for prostitution?

2 A In Auburn Hills we did quite a big of crack and very
3 little prostitution.

4 Q Oh okay. So no connection between those two things,
5 crack and prostitution, as an experienced officer
6 can you tell me that?

7 A As an experienced officer in Auburn Hills, no. it
8 was not much.

9 Q Okay. Well let's leave the Auburn Hills out part.
10 There's no connection with you between crack and
11 prostitution?

12 A In my experience in Auburn Hills, no. I'm not on
13 the streets here.

14 Q Yes, sir, I understand. I understand but you have
15 common sense, right?

16 THE COURT: Well, Mr. Brown, his answer is
17 his answer. It might not be --

18 MR. BROWN: My question is about whether
19 he had common sense, Judge.

20 THE COURT: Yeah, but that's a sarcastic
21 question.

22 MR. BROWN: I'm not being sarcastic at
23 all.

24 THE COURT: Well I think it is because --

25 MR. BROWN: Okay.

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1 THE COURT: And I'm going to tell you why.

2 MR. BROWN: Yes, your Honor.

3 THE COURT: Because I mean the jury has
4 heard this testimony and they've heard testimony
5 from other police officers and they can assess it.
6 His answer is that in his experience he didn't find
7 prostitution going hand in hand with crack cocaine;
8 that's his answer.

9 MR. BROWN: And he said in Auburn Hills,
10 Judge.

11 THE COURT: In Auburn Hills.

12 MR. BROWN: Judge, and that's exactly what
13 he said and I didn't ask him that.

14 THE COURT: Right. So?

15 MR. BROWN: Yeah, I asked him -- after I
16 asked him that I asked --

17 THE COURT: If he has common sense.

18 MR. BROWN: Yeah.

19 THE COURT: And that's not a legitimate
20 question.

21 MR. BROWN: I wasn't finished with my
22 question before you interrupted me, Judge, that's
23 what happened.

24 THE COURT: Well I'm telling you that I
25 find that to be argumentative and there's no need to

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1 argue with him. Just ask your questions and he'll
2 answer okay.

3 MR. BROWN: Okay.

4 BY MR. BROWN, continuing:

5 Q Other than in Auburn Hills as an experienced police
6 officer I'm sure kept up to date and who was current
7 on training and information regarding law
8 enforcement, would you say there's a connection
9 between crack cocaine and prostitution?

10 A There is, yeah, there would be.

11 Q What?

12 A I'm sorry.

13 Q I said what?

14 A Again I'm sorry?

15 Q What? What connection?

16 A Generally speaking I just I don't have the personal
17 knowledge of Detroit. I didn't work the streets of
18 Detroit. I worked the streets of Pontiac but
19 listening from other officers, yeah, there's a
20 general connection between prostitution and all
21 drugs.

22 Q Okay. Thank you. Oh. Did this Davis become
23 hysterical during the course of your interviewing
24 her?

25 A She was crying as she was coming up into the

1 interview room, yes.

2 Q Okay. No, I'm sorry. I said during the course of
3 your interview with her did she become hysterical;
4 that's my question?

5 A She was upset, yes.

6 Q Oh did you have any medical records regarding Ms.
7 Davis has talked about contracting a sexually
8 transmitted disease during the course of this
9 incident?

10 A The medical records couldn't have been found so I
11 did not have any information on that.

12 Q No, you're talking about medical records from the
13 hospital, right?

14 A Yeah. The sexual assault kit records does not have
15 a lab test. They don't test for any drugs. They
16 don't do a drug screen or alcohol screen. That's
17 done through the hospital and that would be in the
18 hospital records.

19 Q Okay. Was Ms. --

20 THE COURT: I'm sorry. His question was
21 not responsive. You asked him about sexually
22 transmitted diseases and he answered about drug
23 screens? You -- is it just me or was it
24 nonresponsive?

25 MR. BROWN: I think you're right, Judge.

1 Thank you.

2 THE WITNESS: Again in that drug screen
3 there would also be STDs, I would imagine, but I
4 don't have any records of that. It would be in the
5 medical records which we don't have.

6 MR. BROWN: Okay. May I have just a
7 moment, Judge?

8 THE COURT: Of course. Let me know
9 whenever you're ready.

10 MR. BROWN: Okay. I'm almost finished.

11 THE COURT: Okay.

12 BY MR. BROWN, continuing:

13 Q So, Investigator Tooski?

14 A Tuski.

15 Q Tuski, I'm sorry. Forgive me. How many siblings
16 does Mr. Taylor have?

17 A He has a older brother and a sister.

18 Q Okay. And how do you know that?

19 A He told me that.

20 Q Okay. But did you verify that?

21 A He told me he had an older brother and an older
22 sister and --

23 Q I know my question is -- get right to my question.
24 Did you verify that?

25 A Yes.

1 Q You did?

2 A Yes, sir.

3 Q Okay. And you talked to who to remember verify it?

4 A I talked to an administrator.

5 Q Okay.

6 THE COURT: Approach. Approach.

7 MR. BROWN: Yeah.

8 (At 2:46 p.m. sidebar discussion held off the record)

9 (At 2:46 p.m. sidebar discussion concluded)

10 BY MR. BROWN, continuing:

11 Q Did you talk to Mr. Taylor's mother?

12 A No.

13 Q Did you talk to Mr. Taylor's father?

14 A No.

15 Q Okay. Did you talk to Mr. Taylor's twin brother?

16 A He told me he did not have a twin.

17 Q I just asked him did you talk to him? Are you
18 talking about what his twin brother said?

19 THE COURT: No, no. Let him answer the
20 question, Mr. Brown.

21 THE WITNESS: I couldn't because he told
22 me he did not have a twin brother.

23 BY MR. BROWN, continuing:

24 Q You asked? Show me where you asked him that?

25 A In our reporting.

1 Q You asked him did he have a twin brother?

2 A Yes.

3 Q Okay. Is it written down reduced to writing some
4 where?

5 A No, because I did not want to take things out of
6 context in his interview.

7 Q Okay. All right. Did you ever go to 13th and --
8 strike that. Are you -- did you ever go to 13th and
9 Salliotte?

10 A No, I did not.

11 Q Okay. And that's because it's too late because it's
12 20 years later? No point in you doing there now,
13 right?

14 A That's just a street.

15 Q So the complainant, Ms. Davis, said that she smoked
16 with Mr. Taylor on a number of occasions prior this
17 incident; is that correct?

18 A Yes.

19 MR. BROWN: I have no further questions at
20 this point. Thank you.

21 THE COURT: Redirect.

22 MS. DILLON: I have no further questions,
23 your Honor.

24 THE COURT: Members of the jury, do you
25 have any question for this witness? If so, please

1 raise your hand. All right. Corporal McDougall
2 will be over to collect your questions. While
3 they're collecting the questions from the jury I
4 have just a few questions for you myself. How long
5 were you a police officer in Auburn Hills?

6 THE WITNESS: Twenty-eight years.

7 THE COURT: Was your entire career spent
8 at Auburn Hills?

9 THE WITNESS: Yes.

10 THE COURT: After you left Auburn Hills
11 did you come directly to your current position?

12 THE WITNESS: I had one year off.

13 THE COURT: All right. And when you first
14 came on the job at some point did you become a
15 detective in Auburn Hills?

16 THE WITNESS: Yes, I did.

17 THE COURT: And did you ever have a
18 responsibility when you worked in Auburn Hills for
19 sending things to the Michigan State Police or some
20 other crime laboratory for analysis?

21 THE WITNESS: Yes.

22 THE COURT: For fingerprints and DNA?

23 THE WITNESS: Correct.

24 THE COURT: At some point during your
25 career did you ever have an opportunity with Auburn

1 Hills to send things to be analyzed for the type of
2 DNA that Mr. Brown was asking you about about touch
3 DNA? I don't know the exact name for it but the
4 touch DNA?

5 THE WITNESS: Near the ending of my
6 career.

7 THE COURT: So what year did you start
8 doing that?

9 THE WITNESS: I retired in 2014 and it was
10 just coming about within the last couple of years.

11 THE COURT: So from 2012-2014 some where
12 around then is when you recall starting to send
13 objects to be analyzed for DNA?

14 THE WITNESS: For touch DNA.

15 THE COURT: For touch DNA. When did
16 you -- throughout your career were you always
17 sending rape kits or things like that for analysis
18 for DNA?

19 THE WITNESS: Yes.

20 THE COURT: What year did you start doing
21 that?

22 THE WITNESS: Initially we started sending
23 rape kits to if we knew we had a suspect that's how
24 long ago, so it could not be -- there was no
25 databases back then so it just gradually progressed

1 to where it's today. I couldn't tell you what year.
2 Sorry. That's been a long time though.

3 THE COURT: All right. Can the attorneys
4 approach?

5 (At 2:51 p.m. sidebar discussion held off the record)

6 (At 2:51 p.m. sidebar discussion concluded)

7 THE COURT: Members of the jury, return to
8 the jury room.

9 (Whereupon the jury exits the courtroom)

10 COURT OFFICER: You maybe seated.

11 THE COURT: All right. The jury has been
12 excused and there are two questions that have been
13 submitted by the Members of the jury and I'm just
14 going to ask you these questions out of the jury's
15 presence and then I will hear the lawyer's arguments
16 as it relates to the appropriateness of these
17 questions to be raised in front of the jury. "has
18 Ms. Davis" to your knowledge has Ms. -- it doesn't
19 say to your knowledge but I'm adding to your
20 knowledge. To your knowledge, "has Ms. Davis ever
21 been arrested for prostitution"?

22 THE WITNESS: No, and I ran her criminal
23 history and, no. she's never been arrested for
24 prostitution.

25 THE COURT: All right. "did Ms. Davis

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1 have any money on her once she was found by police"?

2 THE WITNESS: I --

3 THE COURT: The question is vague so let's
4 just ask it in two ways. When she was found by you
5 during your investigation did she have any money on
6 her?

7 THE WITNESS: In my investigation, no.

8 THE COURT: Okay. Do you know if she had
9 any money on her when she was found by the police at
10 the time of this alleged offense?

11 THE WITNESS: I have no information that
12 she had any money on her.

13 THE COURT: All right. So okay what do
14 you all have to say about these questions by the
15 jury?

16 MR. BROWN: The second, I don't know why
17 you asked two questions because her having money in
18 2016 is irrelevant, right?

19 THE COURT: It's -- but all -- I mean but
20 it doesn't say. The question doesn't specify a time
21 period.

22 MR. BROWN: I understand.

23 THE COURT: It just says, "does this Davis
24 have any money" -- "did Ms. Davis have any money on
25 her once she was found by the police"?

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1 MR. BROWN: Right.

2 THE COURT: So she was found by this
3 police officer too and she was found back then. I'm
4 assuming that they mean back then.

5 MR. BROWN: I understand that. It's not a
6 big deal but I think that 2016 doesn't have any
7 relevancy in the case whatever. The prostitution --
8 okay. If I can ask questions after that's fine.
9 I'll ask questions.

10 MS. DILLON: I have no objection to either
11 question. You can only answer the 1996 question to
12 whatever he's read so it's hearsay but the other one
13 he looked up for criminal history and he can testify
14 to that but --

15 THE COURT: All right. Bring back out the
16 jury.

17 MR. BROWN: Wait, wait, wait, wait.

18 THE COURT: Yes.

19 MR. BROWN: Can I see the criminal history
20 before you bring them out? P

21 MS. DILLON: I don't have that myself.

22 THE COURT: Do you have it?

23 THE WITNESS: I may have it.

24 MS. DILLON: Your Honor, if this question
25 being asked is going to be opening the door for Mr.

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1 Brown to then make inquiry in regards to the rest of
2 her criminal history I'm going to object to the
3 question being asked because her criminal history is
4 not part of this case. She was asked, I believe,
5 she was asked the question whether or not she had
6 any felony convictions and she said no.

7 MR. BROWN: No, I didn't ask her that and
8 I would have asked whether she had any convictions
9 for theft or dishonesty.

10 THE COURT: Dishonesty, yeah.

11 MR. BROWN: I'm going to object to the
12 asking of that question because there's, you know,
13 the other side of it is --

14 MS. DILLON: You're thinking.

15 MR. BROWN: I'm objecting.

16 THE COURT: Wait. I don't understand what
17 you're, Mr. Brown, you're not. I'm not
18 understanding.

19 MR. BROWN: I said I'm going to object to
20 that question being asked is what I said.

21 THE COURT: I understood that part but the
22 reason why you're objecting was unclear to me.

23 MR. BROWN: Well because I really didn't
24 give a reason then, Judge. I just kind of trailed
25 off with my voice there.

1 THE COURT: Right.

2 MR. BROWN: But the reason I would be
3 objecting is because that I think that without any
4 if we're going to the context would be in the last
5 ten years, can we say just like it would be on a
6 larceny situation, in the last ten years that she's
7 been convicted of? I mean because I can't go back
8 and say she had a larceny case, which she had a
9 larceny case more than ten years ago so.

10 THE COURT: I'm not understanding what
11 that has to do with being asked -- answering the
12 juror's question if she's ever been convicted or
13 arrested for prostitution?

14 MR. BROWN: Well what I'm saying is I
15 could not ask if she's ever been convicted of a
16 larceny, which she has been convicted of I believe a
17 larceny, so it's the same kind of thing. I'm making
18 an analogy here. We can't go back.

19 THE COURT: Okay. Well you know this
20 issue has been raised and it's been raised by the
21 defense that crack and prostitution go hand in hand
22 and it's been raised with ever police officer that
23 has testified and even with the complaining witness
24 and the Other Act witness so I think it's a fair
25 question whether or not Ms. Davis has ever been

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1 arrested for prostitution. I am going to allow the
2 question to be asked. I'm going to allow the answer
3 to be given but that does not open the door for an
4 inquiry into anything be beyond that, what anything
5 else that she might have been arrested for
6 because --

7 MR. BROWN: Well.

8 THE COURT: What?

9 MR. BROWN: Then I would ask, because if
10 that's -- if the reason is because I'm saying crack
11 and prostitution are connected and she can ask that
12 question then I can say if that's the reason for you
13 allowing her to answer that question, then is there
14 any indication on her record of crimes that would be
15 consistent with crack cocaine?

16 THE COURT: I'm not allowing it. Your
17 position is duly noted and preserved for the record.

18 MR. BROWN: All right. Thank you.

19 THE COURT: Bring out the jury.

20 (At 2:59 p.m. jury enters the courtroom)

21 MR. BROWN: Judge, could we approach for
22 one second?

23 THE COURT: Of course.

24 (At 2:59 p.m. sidebar discussion held off the record)

25 (At 2:59 p.m. sidebar discussion concluded)

1 THE COURT: Okay. Detective, these
2 questions have been coming to -- have come to you
3 from members of the jury. If you could please look
4 at them when you answer all right.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: "did Ms. Davis have any money
7 on her once she was found by police"?

8 THE WITNESS: I have no record of any
9 money that was on her at the time of the Melvindale
10 case.

11 THE COURT: "has Ms. Davis ever been
12 arrested for prostitution"?

13 THE WITNESS: In my background
14 investigation on her, running her criminal history
15 she does not have any prostitution on her record
16 whatsoever.

17 THE COURT: All right. Any questions
18 based on the juror's questions?

19 MS. DILLON: No, your Honor.

20 THE COURT: Any questions based on the
21 juror's questions, Mr. Brown?

22 MR. BROWN: Just one second. Yeah, I do
23 have questions.

24 BY MR. BROWN, continuing:

25 Q Did you run a lien report?

1 A Yes.

2 Q What does the lien report tell you?

3 A The lien report tells you --

4 Q First, I'm sorry. What is a lien report?

5 A Law enforcement informational network where the
6 database of where your arrests go. Your arrests are
7 collected in the database at the time Michigan State
8 Police hold and that's what we call a criminal
9 history.

10 Q Your arrests you said?

11 A If you've been processed in a fingerprint, automatic
12 fingerprint machine, it's automatically sent to
13 Lansing.

14 Q When did they start having an automatic fingerprint
15 machine?

16 A I'm not sure. A long time ago.

17 Q Okay. And anybody that's arrested for a crime that
18 goes in a lien? Anyone that's arrested for a crime?

19 A Not necessarily everybody.

20 MR. BROWN: Okay. I have no further
21 questions.

22 THE COURT: Members of the jury, do you
23 have any question for this witness? If so, please
24 raise your hand. All right.

25 COURT OFFICER: Here I am.

1 THE COURT: Corporal McDougall will be
2 over to collect your questions. This question is
3 coming to you from a members of the jury so if you
4 could look at them when you answer. "does Mr.
5 Taylor, to your knowledge, does Mr. Taylor have a
6 twin brother or not"?

7 THE WITNESS: Well my investigation and
8 through his own words he does not have a twin
9 brother.

10 THE COURT: Any questions based on the
11 juror's questions, Ms. Dillon?

12 MS. DILLON: No, your Honor.

13 THE COURT: Mr. Brown?

14 MR. BROWN: No, your Honor.

15 THE COURT: All right. You may step down.
16 Do you have any further witnesses to call?

17 MS. DILLON: No, your Honor.

18 THE COURT: And that means what?

19 MS. DILLON: That means that I believe all
20 of my exhibits have been admitted and the State
21 would rest.

22 THE COURT: All right. Mr. Brown, do you
23 intend to call any witnesses at this time?

24 MR. BROWN: No, Judge.

25 THE COURT: All right. And that means you

1 what?

2 MR. BROWN: We rest.

3 THE COURT: All right. Members of the
4 jury, the parties have rested. That's nothing left
5 to do but for me, for the lawyers to make they're
6 closing arguments, for me to give you my
7 instructions on the law that applies to this case
8 and then two of you will be excused as alternates
9 and your deliberations will began but guess what?
10 It's 3:00. It's 3:07 and we have to stop court at
11 4:00, so that's not enough time for the lawyers to
12 make their closing arguments because their
13 arguments, I don't remember how much time I gave
14 them for opening statement but I usually give people
15 be double whatever they have for opening statements
16 to make their closing arguments so the closing
17 argument alone would take up the next hour if not
18 longer and then the instructions take time so
19 there's no way to avoid you all having to come back
20 on Monday. I tried everything I could to avoid that
21 including the unusual steps of bringing you guys
22 back today and I'm sorry. It's like walking a cat.
23 It's like walking a cat.

24 UNIDENTIFIED JUROR: We knew it.

25 THE COURT: You knew it. I'm sorry so

1 I'll see you all back Monday and I promise not to
2 take any other cases before you all if you all are
3 here and ready to go at 9:00. If everybody is here
4 and ready to go I will start with you and everybody
5 else will have to wait so have a good weekend. Try
6 not to think about this case and as hard as it will
7 be remember you can't talk about it. You can't do
8 any research so don't go home start Googling touch
9 DNA. Don't do it. I know that's the instinct that
10 everybody has now a days any time somebody says
11 anything. It could be my doctor I will go home and
12 Google it like to know what the doctor is talking
13 about, right, but you can't do that in this case.
14 You have to get your information only in trial when
15 we're together as a group okay. And I'll try to get
16 to the store and get some more candy too because I
17 think we're out of the good stuff. I think we only
18 have the sugary stuff that I like and no chocolate.
19 Yes?

20 UNIDENTIFIED JUROR: I went to Jimmy
21 Johns.

22 THE COURT: So I'll see you guys on Monday
23 okay. Leave your notebooks in your chairs.

24 COURT OFFICER: All rise for the jury.

25 THE COURT: All right. Mr. Brown, you

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1 know, I didn't deprive you of your right to make a
2 motion for directed verdict. I was just trying to
3 go a head and send the jury home so they're not
4 waiting while we do that.

5 MR. BROWN: Okay. I'd move for a directed
6 verdict real quick. Do you want to argue?
7 Argument? Ruling? Okay.

8 THE COURT: Let them out.

9 (At 3:05 p.m. jury excused for the day)

10 MR. BROWN: You want to put that on the
11 record now, Judge?

12 THE COURT: Yes, please. The jury has
13 been excused and there was an issue as it relates to
14 your objection. You had some further objections
15 regarding the jury being asked about the
16 prostitution and I told you I would let you make a
17 more thorough record once you didn't have to
18 whisper.

19 MR. BROWN: I'm fine.

20 THE COURT: All right.

21 MR. BROWN: I mean I object. Whatever.
22 Okay. And I didn't mean that dismissively when I
23 didn't it by hand like that.

24 THE COURT: Oh no I don't --

25 MR. BROWN: I know how I am and I

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1 sometimes people later on say, you know what you
2 did, I didn't mean to do it you know me.

3 THE COURT: Well I do the same thing so I
4 understand.

5 MR. BROWN: Yeah, okay. Right. I would
6 move for a directed verdict of the acquittal. I
7 understand the standard is in the light most
8 favorable to the Prosecution. You've heard the
9 case. I'm not going to argue any further and ask
10 you to make a ruling.

11 THE COURT: All right. Is there anything
12 you'd like to say in response?

13 MS. DILLON: Your Honor, as Mr. Brown just
14 eloquently stated you have to view the evidence in
15 the light most favorable to the non-moving party,
16 which would be the Prosecution and I believe that
17 with the testimony of Rachael Davis alone there's
18 enough for this case to move forward to the jury for
19 a verdict and then on top of that we've got the DNA
20 identifying Mr. Taylor from the vaginal swab so I'd
21 ask that the motion be denied.

22 THE COURT: All right. Mr. Brown, is
23 there anything else you'd like to say?

24 MR. BROWN: No, ma'am. Thank you.

25 THE COURT: Well, well under the

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1 circumstances, Mr. Brown, you know I have to view
2 the facts in the light most favorable to the
3 non-moving party and I would then have to accept as
4 true that this was a forced act of sexual
5 penetration that occurred under a threat of violence
6 and that a bat was used and that she suffered harm
7 by not only being getting a sexually transmitted
8 disease but also by being injured from being hit
9 with the bat so I have to accept all that as true
10 which would mean the motion for directed verdict
11 would have to be denied. I have provided you all
12 with proposed jury instructions. You have had those
13 jury instructions since this trial began on
14 Wednesday. Is there anything that you would like to
15 say as relates to the jury instructions?

16 MS. DILLON: Judge, I did go through the
17 jury instructions and I believe that there are some
18 that are missing that should be included.

19 THE COURT: What?

20 MS. DILLON: I believe, well, first the
21 venue instruction that was chosen is 3.10. This is
22 a sexual assault case so it should be 3.10A.

23 THE COURT: Hold on just a second. Judge,
24 Cusic's law clerk did these instructions for me
25 because I don't have a law clerk so I have to find

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1 it, and they're not in the order that Jeffrey would
2 normally put them in.

3 MS. DILLON: No, they're not.

4 THE COURT: They're all -- I have to give

5 MS. DILLON: It's at --

6 THE COURT: I see it. I'm going to have
7 to get over Jeffrey because he's gone and my life
8 will never be the same. You're correct. It should
9 be 3.10A. All right. What else?

10 MS. DILLON: The other is I don't believe
11 4.16, which is intent, should be included. I not an
12 element of the offense.

13 THE COURT: All right. I agree 4.16
14 removed. All right. What else?

15 MS. DILLON: I also in regards to prior
16 inconsistent statements used to impeach, obviously
17 there were other inconsistencies. I'm guessing that
18 attorney Brown would want 4.5 included.

19 THE COURT: Is that correct, Mr. Brown,
20 you can't 4.5?

21 MR. BROWN: That is -- which one, Judge?

22 THE COURT: Prior inconsistent statements
23 used to impeach.

24 MR. BROWN: Yes, yes, of course.

25 THE COURT: So it's 4.5 section 1,

1 paragraph 1, right? Not paragraph two? It wasn't
2 substantive evidence?

3 MR. BROWN: That's right.

4 THE COURT: Paragraph one. All right.
5 What else?

6 MS. DILLON: Also we did obviously have
7 testimony about interviews so I believe that
8 instruction 5.3 should be included.

9 THE COURT: What's that one?

10 MR. BROWN: The lawyer can talk to a
11 witness.

12 MS. DILLON: That's the one about a
13 witness who has been interviewed by a lawyer or a
14 lawyer's representative.

15 THE COURT: All right, 5.3. What else?

16 MS. DILLON: And I also believe that the
17 definition of sufficient force, 20.24.

18 THE COURT: That's not in there?

19 MS. DILLON: It's not in there.

20 THE COURT: It should be.

21 MS. DILLON: It should be in paragraphs
22 one and two I believe it should be in there.

23 THE COURT: Okay. What else?

24 MS. DILLON: In regards to -- you have
25 them there? You printed these ones you want

1 already?

2 MS. DILLON: I did. I have them but I
3 mean I scratched out like for these, of course, we
4 don't need all of that.

5 THE COURT: Oh okay. All right.

6 MS. DILLON: I can I already have them in
7 a --

8 THE COURT: No, I'll just tell Janet.
9 I'll just email her and she'll do it.

10 MS. DILLON: Okay. The other one that I
11 have is 20.30A.

12 THE COURT: What's that one?

13 MS. DILLON: That was is the sexual
14 conduct, one wrongful act but multiple aggravating
15 circumstances where, you know, they don't have to
16 agree.

17 THE COURT: They can choose, yeah, 20.30A.

18 MS. DILLON: Yep, so that definitely has
19 to be there.

20 THE COURT: There's also no verdict form.
21 She didn't prepare a verdict form either.

22 MS. DILLON: There is no verdict form,
23 that is true. And I don't think it matters but the
24 one she's got labelled as 3.20 is actually
25 instruction 3.17. It's the single defendant one

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1 count but she just had the little number was wrong.

2 THE COURT: Oh okay.

3 MR. BROWN: But the instruction is proper.

4 THE COURT: These are so different than
5 how Jeffrey does them.

6 MS. DILLON: Yeah, they do look different.

7 THE COURT: Yeah.

8 MS. DILLON: The other things in regards
9 to the elements one, Judge.

10 THE COURT: Yes.

11 MS. DILLON: The usually we -- I don't
12 know if the Court or if you're inclined to say and
13 slash or or if we wanted just or in between and I
14 think the that bottom or.

15 THE COURT: No, it's they're ors. It's
16 not and or. It's or because they're alternatives.
17 Thigh can choose either one.

18 MS. DILLON: Right, right. All right.
19 And then just the way that it's spaced, I don't know
20 if that last or should be on that page or if it
21 should be with the next instruction.

22 THE COURT: I don't really think that
23 matters. Mr. Brown, are there any instructions that
24 you would like?

25 MR. BROWN: None other than what the

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1 Prosecution has brung out.

2 THE COURT: Okay. So I'm going to ask her
3 to prepare a verdict form, 3.10A, remove 4.16, add
4 4.5 paragraph one, 5.3, 20.24 paragraphs one and
5 two, and 20.30A. I'll see you all on Monday.

6 MS. DILLON: Thank you, your Honor.

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8 (At 3:14 p.m. proceedings concluded)

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1 C E R T I F I C A T E

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3 STATE OF MICHIGAN)

4)ss

5 COUNTY OF WAYNE)

6

7 I, Bromeaica McBride, certify that this transcript
8 consisting of 148 pages is a complete, true and correct
9 transcript of the proceedings and testimony taken in this
10 case on April 28, 2017.

11

12

13

14 3-1-18 _____[BROMEICA] [MCBRIDE]_____

15 Date BROMEICA MCBRIDE, CSR 7279
16 Lincoln Hall of Justice
17 1025 East Forest, Room 105
18 Detroit, Michigan 48207
19 (313) 833-0787

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Appendix J – Jury Trial Transcript, May 1, 2017

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-7780-01

DEXTER TAYLOR

Defendant.

_____/

JURY TRIAL
BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE
Detroit, Michigan - Monday, May 1, 2017

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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<u>WITNESSES</u>	<u>PAGE</u>
None.	

E X H I B I T S

	<u>Offered</u>	<u>Received</u>
None.		

1 Detroit, Michigan

2 Monday, May 1, 2017

3 At approximately 9:44 a.m.

4 - - -

5 THE COURT: This is case number
6 16-007780-01 FC. People of the State of Michigan
7 versus Dexter Burrell Taylor here for continuation
8 of a jury trial. Your appearances for the record
9 please.

10 MS. DILLON: Good morning, your Honor.
11 Susan Dillon on behalf of the People.

12 MR. BROWN: Good morning, your Honor. May
13 it please the Court, Mark Brown appearing on behalf
14 of Mr. Taylor who is in front of me.

15 THE COURT: Good morning to you all. One
16 of our jurors was late but that person is here now.
17 We're ready to go. Is there anything that you all
18 need to address before your closing arguments?
19 Closing arguments?

20 MS. DILLON: I don't think so, Judge.

21 THE COURT: All right. How much time did
22 you have for your openings? Twenty minutes?

23 MS. DILLON: We had 20 each for openings.

24 THE COURT: So you get 40 for your
25 closing.

1 MR. BROWN: Judge, did you know the jury
2 instructions are they still working on them?

3 THE COURT: Yeah, she's had to fix them
4 so.

5 MR. BROWN: Okay.

6 THE COURT: Why?

7 MR. BROWN: Will we have them for your
8 closings?

9 THE COURT: No. You should have had them
10 from before.

11 MS. DILLON: She took our books.

12 THE COURT: Oh she took your books.

13 MS. DILLON: Yeah.

14 THE COURT: Crap. We got to figure that
15 out. Yeah, Dawn, find Ms. Matthews please. All
16 right. Just have a seat. I got to figure out where
17 they are.

18 (At 9:46 a.m. off the record)

19 (At 10:21 a.m. back on the record)

20 THE COURT: This is case number
21 16-007780-01. People of the State of Michigan
22 versus Dexter Burrell Taylor. You all have been on
23 the record today or no?

24 MR. BROWN: Yes, ma'am.

25 MS. DILLON: Yes.

1 THE COURT: All right. So okay I'm fixing
2 the jury instructions myself this time and 3.10A the
3 venue instruction now says, "The prosecutor must
4 also prove beyond a reasonable doubt that the crime
5 occurred within Wayne County. Time however is not
6 an element of criminal sexual conduct. The
7 prosecutor does not have to prove the date or time
8 of the offense beyond a reasonable doubt", so.

9 MR. BROWN: And I have no objection to
10 that. We discussed it. I agree with it.

11 THE COURT: All right. Now what's the
12 next one?

13 MS. DILLON: The next one, Judge, was
14 instruction 20.24 which in our book came right after
15 the actual elements, 20.1, in regards to the
16 definition of sufficient force.

17 THE COURT: All right. And what's your
18 problem with the proposed --

19 MR. BROWN: There are two extra
20 paragraphs. The last two paragraphs should not be
21 on the --

22 MS. DILLON: We had originally said --

23 THE COURT: But they're factually
24 appropriate.

25 MR. BROWN: No.

1 THE COURT: What's your legal argument for
2 why they're not?

3 MR. BROWN: Well it says if, the third one
4 says, if enough force -- it is enough force if the
5 defendant threatened to get even with Rachael Davis
6 in the future. There's no testimony to that affect,
7 Judge.

8 MS. DILLON: No.

9 THE COURT: Oh okay. What number? And
10 what else?

11 MR. BROWN: And the second one, I mean,
12 the last one. There's enough force -- the defendant
13 used force to induce her to submit to a sexual act
14 or seize control of her in a manner facilitate
15 commission of a sexual act without regard to her
16 wishes, I don't think that that's appropriate in
17 this case.

18 THE COURT: Well she testified that he
19 said, "Bitch, get out of the vehicle" threw her to
20 the ground, pushed her to the ground or threw her to
21 the ground, I don't remember which one, and then
22 sexually assaulted her.

23 MS. DILLON: I mean --

24 THE COURT: That was the testimony so that
25 would be force to induce or force her to submit to a

1 sexual act or seize control of her, so I'll take out
2 the third paragraph but the second paragraph --
3 wait. I'll take out --

4 MS. DILLON: The one about getting even?

5 THE COURT: Yep, the getting even stuff
6 but the fourth one stays. That's 20.24?

7 MS. DILLON: Yes, ma'am.

8 THE COURT: Let me try to find it.

9 MR. BROWN: Just for the record I object.

10 THE COURT: Okay. Do you want to say more
11 about why you object?

12 MR. BROWN: No, ma'am.

13 THE COURT: Okay. I just have to find it.
14 I'm sorry. I'm not used to doing this myself but
15 perhaps I should. I appreciate Judge Cusick's law
16 clerk for assisting me when I didn't have one.
17 They're all going to come out of the printer over
18 there so you got to make -- I'm going to print
19 another copy. Give them theirs without holes in it
20 so they can have it and then fix mine okay. What
21 did we say? 24.24, Mr. Brown?

22 MR. BROWN: Yes, ma'am.

23 THE COURT: Sorry, you all. I really
24 apologize.

25 MS. DILLON: And then there's just one

1 other.

2 THE COURT: I like things to run smoothly
3 and I hate when they don't. Now the computer is
4 doing something. Okay. What did we say? Times
5 (inaudible) 12?

6 UNIDENTIFIED SPEAKER: Let me check.

7 THE COURT: And her name is Rachell,
8 correct?

9 MR. BROWN: Yes, ma'am.

10 MS. DILLON: Yeah, R-A-C-H-E-L.

11 MR. BROWN: L-L. Two L's, isn't it?

12 MS. DILLON: It's spelled different ways
13 in different reports.

14 THE COURT: Okay. Well did he --
15 paragraph two says, "It is enough force if the
16 defendant threatened to use physical force or
17 Rachell Davis and she believed that the defendant
18 had the ability to carry out those threats", does
19 that apply?

20 MS. DILLON: Yeah. She testified he had a
21 bat.

22 THE COURT: Okay. I'm taking off
23 paragraph three. Taking no kidnapping because there
24 was none of that. Taking off this stuff about a
25 medical exam.

1 MR. BROWN: Medical exam?

2 MS. DILLON: No, she's taking it out.

3 THE COURT: That's one of the standard
4 paragraphs.

5 MR. BROWN: Oh I see what you're saying.

6 THE COURT: I don't have what Janet worked
7 from. I'm working from the actual instructions.
8 All right. So now 20.24 says, "it is enough force
9 if the defendant overcame Rachell Davis", and I
10 guess I should spell that correctly, "by force -- by
11 physical force. It is enough force if the defendant
12 threatened to use physical force on Rachell Davis
13 and Rachell Davis believed that the defendant had
14 the ability to carry out those threats. It is
15 enough force if the defendant used force to induce
16 the victim to submit to a sexual act or to seize
17 control of the victim in a manner facilitating
18 commission of a sexual act without regard to the
19 victim's wishes" and not waiving the objection that
20 you all, that you have raised, Mr. Brown, do you all
21 agree that that is what I have ruled that I will be
22 reading?

23 MR. BROWN: Well two things: I did object
24 and the prosecutor also was the person who initiated
25 the suggestion that we excise the number also.

1 THE COURT: Is there something, an
2 objection that you would like to place?

3 MS. DILLON: Well the only thing is the
4 inducement to me means that almost like if it was a
5 child and he talked her into it some how that's why
6 I didn't think it was really appropriate.

7 THE COURT: Well if you both object I'll
8 take it out. It's gone.

9 MR. BROWN: Thank you. And then the thing
10 you just read the number, the second paragraph, you
11 read her name twice and said "She instead of" twice
12 and I'd appreciate it if you would not read her name
13 twice. Thank you.

14 MS. DILLON: It's twice in the --

15 THE COURT: It's twice in the standard
16 instruction.

17 MR. BROWN: No, no, no. not in what I
18 have.

19 THE COURT: Yes, it is. I just cut and
20 paste directly from -- I'll tell you what the
21 standard instruction says. I didn't change anything
22 about that.

23 MR. BROWN: Well they must have changed it
24 in here. I'm sorry.

25 THE COURT: It says, "It is enough force

1 if the defendant threatened to use physical force on
2 named complainant and named complainant".

3 MR. BROWN: Okay.

4 THE COURT: "Believed that the defendant
5 had the ability to carry out those threats".

6 MR. BROWN: Very well. I was just looking
7 at what I had here.

8 THE COURT: Okay.

9 MR. BROWN: And it says she okay. Thank
10 you.

11 THE COURT: Well your objection is noted.

12 MR. BROWN: Thank you very much, Judge.

13 THE COURT: But I'm just following this.

14 MR. BROWN: I'll withdraw the objection
15 because mine was based not on the jury instructions.

16 THE COURT: Okay. But your preference
17 would be that her name not be read twice?

18 MR. BROWN: Yes, ma'am.

19 THE COURT: Well I'm going to just follow
20 the standard instruction.

21 MR. BROWN: Thank you.

22 THE COURT: Is there anything else?
23 There's something else?

24 MR. BROWN: Yes.

25 MS. DILLON: There is.

1 THE COURT: It's okay. I'm not going to
2 flip out or anything.

3 MS. DILLON: No, it's okay. It's in
4 regards to the verdict form, Judge.

5 THE COURT: Okay which I've never looked
6 at so tell me. We can talk about it.

7 MS. DILLON: Well the standard verdict
8 form basically says "possible verdicts and you may
9 return only one verdict on this charge. Mark only
10 one box on this sheet and then you have not guilty
11 and you have guilty of criminal sexual conduct first
12 degree". In the jury form that we were given says
13 "We the jury find the defendant, Dexter Taylor, as
14 follows: Count one, choose one, criminal sexual
15 conduct first degree the line not guilty, and then
16 the second one, guilty of criminal sexual conduct
17 first degree using force or coercion".

18 THE COURT: Which is not correct.

19 MS. DILLON: No.

20 THE COURT: Because they can find any of
21 the variables.

22 MS. DILLON: Correct. So it --

23 THE COURT: All right. I'll do a new
24 verdict form.

25 MS. DILLON: I'm sorry?

1 THE COURT: I'll do a new verdict form.

2 MS. DILLON: Okay.

3 THE COURT: I'm sorry.

4 MS. DILLON: No, it's okay.

5 THE COURT: We'll use standard language
6 from the standard verdict form. You agree that
7 that's most appropriate, Mr. Brown?

8 MR. BROWN: Yes, ma'am, I do.

9 THE COURT: To use standard language from
10 the standard verdict form.

11 MR. BROWN: I think that's appropriate.

12 THE COURT: You prepared one?

13 MR. BROWN: Yes.

14 THE COURT: Let me see it. For Ms.
15 Matthews, my law clerk, can't even get on the
16 computer. It's her first day and she can't even get
17 on the computer and won't be able to get on the
18 computer for three to four days I understand. All
19 right. I guess we'll -- this is fine. Are you okay
20 with this one?

21 MR. BROWN: Yes, ma'am.

22 THE COURT: All right. We'll just make
23 copies of that okay. All right. Did you pull the
24 stuff off the printer?

25 UNIDENTIFIED SPEAKER: I pulled them off.

1 THE COURT: All right. And here you can
2 take this and I think the -- oh God. I would be so
3 embarrassed to be giving a jury something that looks
4 like this plus I don't want to touch it. I'm dirty
5 like that. All right.

6 MS. DILLON: Was it handwritten? Was it
7 typed?

8 MR. BROWN: Underlined.

9 THE COURT: Oh there's something
10 underlined in there. Ms. Matthews.

11 MS. MATTHEWS: Find which ever number that
12 one is that is has the underlines on it and we can't
13 have that.

14 MS. MATTHEWS: Okay.

15 THE COURT: Nothing going to a jury with
16 underlying on it so make sure there's no marks on
17 anything for the jury.

18 MS. MATTHEWS: (Inaudible).

19 THE COURT: What number was that with the
20 underlining on it because maybe get one of theirs if
21 theirs has a clean copy of the one with the
22 underlining on it and copy that. Xerox that for the
23 jury. I remember seeing it.

24 MS. MATTHEWS: (Inaudible).

25 THE COURT: Okay. 3.2 had words

1 underlined.

2 MS. DILLON: Mine doesn't.

3 MR. BROWN: Nor does mine.

4 Ms. Matthews: Under "Or lack of
5 evidence"?

6 THE COURT: "Or lack of evidence" is
7 underlining.

8 MR. BROWN: I think we should leave that
9 underlining in there.

10 THE COURT: I bet you do think that, Mr.
11 Brown.

12 MS. DILLON: I don't think so. Nothing is
13 underlined.

14 THE COURT: Well we're going to make sure
15 that the jury gets a clean copy and you all will be
16 able to look at it before I send it into the jury
17 room okay.

18 MS. DILLON: Thank you, Judge.

19 THE COURT: Is there anything else?

20 MR. BROWN: No, ma'am.

21 THE COURT: All right. All rise for the
22 jury.

23 COURT OFFICER: You may be seated.

24 THE COURT: Good morning, Ladies and
25 gentlemen.

1 THE JURY: Good morning.

2 THE COURT: I'm really sorry. So today is
3 my law clerk's very first day on job. She's
4 responsible for making your jury instructions.
5 Someone in charge didn't even do what was necessary
6 for her to even have access to a computer so it's
7 just been a manic like wasn't there a song a Manic
8 Monday or something like it's just been a little bit
9 of a disaster this morning and it's not anyone's
10 fault. I really want to say that it's not really my
11 fault but so we had to try to have a law clerk from
12 a different judge's courtroom help us with the jury
13 instructions and it's just I just really feel bad
14 for my law clerk because it's her first day and
15 nothing is going right and I feel bad for you all
16 because you all have been sitting waiting, so I'm
17 really sorry but I think we have it worked, ironed
18 out now, so we'll be ready to go.

19 The lawyers will now make to you their
20 closing arguments. Their closing arguments are not
21 evidence. They're only meant to help you see the
22 way each side sees the case and why they think that
23 you should find in their favor. Their arguments are
24 not evidence. If they say something to you about
25 the law or about the facts that -- if they say

1 something to you about the facts that differs from
2 your own collective memories about what the facts or
3 evidence was you all are to rely on your own
4 collective memories about the evidence and
5 testimony, but if they something to you different
6 about the law than what I say the law is, you're
7 supposed to follow what I say.

8 Now because the prosecutor has the burden
9 of proof Ms. Dillon, if she wishes, may reserve some
10 of her time to respond to the things that are raised
11 by Mr. Brown during his closing argument so that
12 means, if she wants, she can have two chances to
13 speak to you this morning. It's not because what
14 she has to say is more important than what Mr. Brown
15 has to say, it's just because she has the burden of
16 proof so if she wants she can save some of her time
17 to respond to the arguments that Mr. Brown raises
18 during his closing argument. They will each have 40
19 minutes to address you and that's because I give
20 them twice the amount of time that they had at
21 opening statements because now they have to actually
22 talk about instead in the opening statement where
23 they talked about what the evidence might be, now
24 they're talking about what the evidence actually
25 was, so they will have 40 minutes to address you.

1 Please pay equal attention to both of them because
2 their arguments are equally important. I will let
3 you all know when you reached the 20 minute mark. I
4 will let you all know when you've reached the five
5 minute mark, and I will let you know when your time
6 is up but, of course, you can just look over your
7 shoulder at the trusty timer which will be going
8 with no sound to beep or anything like that.

9 Whenever you're ready you may begin, Ms. Dillon.

10 MS. DILLON: Thank you, your Honor.

11 THE COURT: You're well.

12 MS. DILLON: Good morning, everyone.

13 THE JURY: Good morning.

14 MS. DILLON: When I first addressed you I
15 told you that you were going to hear from a number
16 of witnesses and that you may hear from some of them
17 out of order and that did happen but I believe that
18 we got all the pieces in place so I want to kind of
19 go through some of that with you today and talk
20 about the elements of the case and where we came in
21 with the evidence and kind of what I think the
22 verdict should be.

23 Rachael Davis came in and she shared with
24 you what happened to her on July 25, 1996. She was
25 up front with you. She told you that at that time

1 she used crack on pretty much a daily basis. She
2 went to the area she went to that day in Ecorse
3 because she was going to go smoke crack. She told
4 you about some of the places where she smoked crack
5 back in the day. She referred to Better World. I
6 think she described it as a place that was like a
7 hotel, people stayed there, people went there. They
8 smoked crack there with people because that's what
9 they all did and they felt comfortable there, and
10 then she also talked about another place named
11 Tommy's but we know on July 25, 1996 during the day
12 she went over and was in front of the place Better
13 World, and we know that when she was there someone
14 came up in a car and offered her basically the
15 opportunity to go smoke crack and we know that was
16 Dexter Taylor, the defendant.

17 She had seen him before. She had seen him
18 in these areas, these smoke house, so she was
19 familiar with him. She didn't have any kind of a
20 relationship with him, never had a conversation with
21 him but she had seen him in the places where she
22 felt comfortable she felt comfortable and she got in
23 the car and they went to the back of the old K-Mart
24 and we know that at the time it's in the city of
25 Melvindale. It's not a functioning K-Mart any more

1 and they went to the loading dock area of the
2 K-Mart, and it was nobody else was back there. She
3 described it, and we have pictures of it that you'll
4 be able to look at, exhibits one through four.
5 Cement, concrete, dirty, trash around. I believe
6 she told you and also the officers told you that it
7 was a loading dock area and there was a lot of trash
8 there. You could see that you could tell there's
9 grass growing up between the cracks and the concrete
10 so it's an area that's not really being used much by
11 that time in 1996.

12 So they go back there and at this point
13 Ms. Davis told you that he was traveling pretty fast
14 but she thought it was because, you know, it's still
15 daylight out. They're in a hurry, let's get high,
16 but they get there and the first thing she hears,
17 "bitch get out of the car" and at that point she's
18 scared and she gets out of the car to the extent
19 where she leaves her shoes in the car because she
20 didn't leave there with her shoes and she tells you
21 that she got out. He got out. He pushed her down
22 and she's on her back on this concrete and then he
23 penetrates her. His penis goes into her vagina and
24 she said it a number of times, "He pushed me down.
25 He penetrated me. He pushed me down. He penetrated

1 me", and we know that she did have scrapes on the
2 back of her shoulders. She had a scrape on her
3 buttock and she also had a scrape on her knee. When
4 you have the opportunity you can look at People's
5 exhibit number 11, that's the nurse's report, and
6 you heard the testimony from Nurse Taylor who, back
7 in the day, was Nurse Johns and she examined Rachael
8 Davis that day and she noted in her report, there's
9 a diagram, and she noted the different abrasions.
10 She noted the abrasions, I forget the word she used
11 but aplution (ph) or something on her knee. She
12 says kind of like the skin is roughed up and
13 abrasions on the back shoulders, an abrasion on the
14 buttocks, so those are noted.

15 And the other thing that Nurse Johns,
16 Nurse Taylor said, is it was consistent with what
17 Rachael Davis told her. The injuries she saw were
18 consistent with Rachael Davis being pushed down and
19 being forced, sexually assaulted on top of that
20 concrete.

21 The thing that you need to think about as
22 far as we're talking about what's reasonable, what
23 makes common sense, if this was a case where Rachael
24 Davis got in the car thinking she was going to have
25 sex with Mr. Taylor why not have it in the car?

1 Better yet why not have it in Better World where
2 people stay and people hangout? There's no reason,
3 nothing even makes sense, that you would have it on
4 a dirty loading dock unless someone forces you down
5 on that loading dock.

6 Now Ms. Davis, granted this happened in
7 1996, she also told you that he forced her down, he
8 penetrated her and then he hit her with a baseball
9 bat, okay, there's, you know, was it a souvenir bat,
10 is it a little league bat that, Miguel, you know, is
11 it a full sized bat okay. And we know from the lab
12 report in regards to the bat, which you can look at
13 People's exhibit number 10, that it is a 24 and a
14 half inch wooden baseball bat. It maybe a T-ball
15 bat, a little league bat but it's a baseball bat.
16 It's wood okay. It's an object that was used as a
17 weapon to threaten her and hit her, and we know that
18 the Melvindale Police Department, because of the
19 testimony from the officers, that they put it into
20 evidence that day. We know Sergeant Morabito he
21 told you he took it up to the lab the next day,
22 which he did, and we know he got it back. He signed
23 for it and he put it back into evidence. We don't
24 quite know where it went from there unfortunately
25 but this was 21 years ago, but we do know that it

1 existed. We know Rachael Davis saw it. We know the
2 officers saw it. We know the State Police saw it
3 and we know it went back into Melvindale's Property
4 Room but they didn't get prints off of that that was
5 left behind.

6 However what else was left behind was Mr.
7 Taylor's DNA. And his DNA that was analyzed didn't
8 come from the panties, didn't come from the droplets
9 that the officers saw on the clothing. His DNA came
10 from Rachael Davis' vaginal swab and the only way it
11 getting in there is because that man put it there
12 when he sexually assaulted her and the DNA, the
13 swabs, again Melvindale took them up to the State
14 Police right away but you heard from the State
15 Police analyst that said at that time they had back
16 logged an unknown, you know, versus known suspects.
17 They didn't test the unknown and then they got a
18 grant that allowed them to test the unknown suspect
19 DNA and that was 2004 and that's when the vaginal
20 swab from Rachael Davis along with Rachael Davis'
21 DNA was sent to Fairfax Laboratories.

22 And you heard from Dr. Arrey who described
23 to you the process that he went through, and he had
24 an accent but hopefully yal were able to catch what
25 he was saying because basically you have the sample,

1 you have the DNA. You take out the female DNA, you
2 take out the male DNA, and then when you get that
3 male DNA you want to make sure that you've got a
4 quality sample. You want to make sure that you have
5 enough LOSI or essentially like locations, trigger
6 points, where you can identify an individual with
7 that DNA and, in this case, in this sample from
8 Rachael Davis' vaginal swab he was able to get that
9 quality sample and it was enough so that he had a
10 profile and the thing to keep in mind is when Dr.
11 Arrey is doing this he has no clue if he's looking
12 for anyone or who he's looking for. He's just
13 looking to see if he's got DNA and so that male DNA,
14 that profile then, was sent back to the Michigan
15 State Police and the State Police put it into the
16 CODIS database. It's the database that has all
17 kinds of DNA in there. I think Heather Vitta told
18 you there's Mr. Person's DNA, there's family DNA,
19 there's all kind of DNA in there, and then they
20 search. They do a search process and then they see,
21 you know, they wait to see whether or not there's
22 going to be an association. I know I said match and
23 I was corrected. She says association, and it turns
24 out an association came back and that association
25 came back to Dexter Burrell Taylor, but it doesn't

1 stop there because what Heather Vitta told you is
2 that once they have an association they take it one
3 step further. They alert law enforcement, hey, we
4 think we may know whose DNA this is. You need to
5 confirm it for us, okay, and in this case Rachael
6 Davis, we know that did that in 2005 and we know
7 Melvindale didn't get any where with that. I'm not
8 going to say why but you heard testimony they kind
9 of made a phone call or two but they really didn't
10 do too much about it and it just kind of got shelved
11 until this project came along, this task force that
12 Officer Tuski described for you.

13 And Officer Tuski told you that he started
14 investigated a case out of the city of Detroit and
15 that was Erica Doak's case and told you Erica Doak's
16 case the Statute Of Limitations was expired but
17 there was an association between the DNA in Erica
18 Doak's case and the DNA in Rachael Davis' case and
19 we'll talk about Erica Doak for just a second.

20 Erica came and told you what happened to
21 her in 1994. She was born and raised in Wyandotte.
22 He had moved to the city of Detroit and on that day
23 in February she hopped a bus because she was going
24 to visit her mom and her mom was in the area Fort
25 and Schafer and unfortunately she seemed to get on

1 the wrong bus because she told you the bus she got
2 on the driver told her sorry we can't stop there.
3 It's a jurisdictional thing so she had to get out at
4 Fort Street and Outer Drive. Officer Hayse from
5 Melvindale told you that the bus stop at Fort Street
6 and Outer Drive was only a half a mile from the old
7 K-Mart in Melvindale and then he also told you that
8 Fort Street and Schafer was just a mile and a half
9 from the old K-Mart in Melvindale so we know Dexter
10 Taylor's territory, okay. And so Erica Doak gets
11 off the bus, doesn't know the area really well.
12 It's in the middle of the day, starts walking, and
13 the next thing you know a man comes up from behind,
14 has a knife at her side and leads her to an
15 abandoned house to the basement of his abandoned
16 house. She doesn't see anybody else there. Leads
17 her downstairs. Sexually assaults her, again, with
18 his penis in her vagina and then from Erica actually
19 takes money, takes her silver bracelets, even takes
20 her coat and the thing about Erica is she told him,
21 "I'm pregnant. Don't hurt me". She was five months
22 pregnant, visibly pregnant she said at that time.

23 And then eventually her DNA got processed
24 in 2014 and Kirk Deleeuw came and told you that that
25 was his case and he worked with the DNA that Heather

1 Vitta had processed. Now part of this whole
2 situation is that once they have this profile,
3 they've uploaded it in and they have it's
4 association then the next thing you've got to do is
5 go out and get that confirmation and Officer Tuski
6 told you how he met with the defendant and he did a
7 buccal swab, swabbed the inside of his cheek, and
8 then that was sent to the Michigan State Police,
9 Heather Vitta, to do that confirmation, and Heather
10 Vitta explained to you how she did the confirmation
11 and confirmed that indeed the DNA from Rachael
12 Davis' vaginal swab is Dexter Burrell Taylor and
13 then also Kirk Deleeuw used that same buccal swab to
14 confirm that the DNA from Rachael, I'm sorry, from
15 Erica Doak's vaginal swab was Dexter Burrell Taylor.
16 Erica Doak 1994. Rachael Davis 1996. Same
17 geographical area. Same type of circumstances. He
18 gets each woman alone, one in an abandoned house,
19 one behind abandoned K-Mart. One he's got a
20 baseball bat. The other one he has a knife. He
21 assaults both of them, penis to vagina, and then he
22 takes off. He leaves behind the bat with Rachael
23 Davis. He leaves behind the knife with Erica Doak.
24 Because Erica told you that after she had gone to
25 the hospital and had her sexual assault kit exam

1 done she went back to that house with the police and
2 the knife was still there.

3 In regards to some of the inconsistencies,
4 I would be remiss if I didn't bring it up okay.
5 Rachael Davis, as you know from some of the
6 testimony, originally told the officers he forced me
7 in the car. She told you I got in that car
8 willingly because I was going to smoke some crack.
9 Think about it, in 1996 she was sexually assaulted.
10 Is it unreasonable for her to tell the police he
11 forced me in the car as opposed to telling them,
12 yeah, I got in the car? I was going to smoke some
13 crack with him. That's illegal, so I don't think
14 it's unreasonable for her to tell the police back in
15 1996 that, because we know when she met with officer
16 Tuski 20 years later she told him, "I got in that
17 car", that was her memory. I got in that car
18 willingly to smoke some crack because I had seen him
19 around and I trusted him.

20 The thing that the officers told you is
21 that when they encountered Rachael Davis she was
22 hysterical okay. Inspector Difatta just happened to
23 be an average Joe citizen that day driving back from
24 Lincoln Park into Melvindale when he heard her
25 screaming as he drove by on Outer Drive. He had his

1 son in the car and he turned around by that time we
2 know Melvindale is what, 2. something miles around?
3 The cops were already there and so he didn't
4 interact with her that day but he heard her
5 screaming enough that he made the call and turned
6 around.

7 But officer Hayse told you that that day
8 when he tried to figure out who she was and what had
9 happened that she was to hysterical he couldn't even
10 get a name out of her. He had to dig through her
11 purse, find a pay stub to figure out who she was.

12 And one of the other inconsistency is how
13 she got to the back of the K-Mart to the front? Did
14 she crawl on her knees? Did she walk? We know she
15 didn't run, okay, because no one has said that she
16 ran from the back of the K-Mart to the front and she
17 told you that she kind of crawled, she hopped, she
18 limped. She got up there and we know that Officer
19 Difatta said when he heard the scream he could see a
20 woman coming down like the embankment. She was
21 walking. She wasn't running. But through all of
22 this being sexually assaulted, already being pushed
23 down on the concrete, having scrapes, bruises
24 whether she crawled, limped one way or another she
25 made her way out there. Nobody gave her a ride and

1 once she was out there we know what happened from
2 there.

3 The other, one of the other discrepancies
4 is her clothing. She remembers she was wearing a
5 white top was stars on it. You did see a white top
6 with stars on it. It's kind of a pretty memorable
7 piece of clothing. The other bottom she said she
8 had on denim shorts. She was positive she had an
9 denim shorts but we know from what's in the bag that
10 she had on jean, denim jeans. They're still denim
11 they're just jeans. We also know from her testimony
12 we didn't bring the clothes out and have her
13 identify them in court. We had the officer identify
14 them in court and if you look at the nurse's report
15 she indicates as far as the clothing that you've got
16 are the one shirt, black white print dirty, dirt
17 leaf pieces, one pair of dark blue jeans, dirty with
18 grass and leaves and then the undergarment crouch
19 area: Brown drainage on crotch area. That kind of
20 goes with Rachael Davis telling the officers that
21 when she was section sexual assaulted she had a
22 bowel movement. She defalcated on herself. Now
23 when she was asked about that on the stand she said
24 she just didn't remember that and I know maybe that
25 is something that she just doesn't remember but we

1 also know that when the officers heard that and they
2 went to look at the loading dock to see what they
3 could find based on the information they could
4 gather. One of the things they found was some paper
5 with feces on it which supported her saying she
6 basically wiped herself with the paper, the tissue,
7 whatever she found on the loading dock. Now they
8 didn't take that into evidence and Sergeant Morabito
9 told you why they didn't take it was because it's
10 her DNA. There would be no value to that.

11 The instructions that you're going to
12 receive that Judge Lillard is going to read to you
13 and that you'll have a copy of breakout what the
14 elements are for the offense that's charged, and the
15 defendant is charged with criminal sexual conduct in
16 the first degree with some variables and the basic
17 element, the first element that you absolutely have
18 to find beyond a reasonable doubt, and I'm not
19 talking beyond all doubt but beyond a reasonable
20 doubt, is entry into Rachael Davis' genital opening
21 by the defendant's penis and entry, no matter how
22 slight, is enough. It does not matter whether the
23 sexual act was completed or whether semen was
24 ejaculated. We know that the defendant's penis
25 penetrated Rachael Davis' genital opening because he

1 left his semen in her vagina.

2 Then second from there you have three
3 variables to consider in finding whether or not
4 Dexter Taylor is guilty of criminal sexual conduct
5 in the first degree and the way, some different ways
6 you can think about this is I think about neapolitan
7 ice cream. Neapolitan ice cream has three flavors,
8 right? Chocolate, vanilla and strawberry but it's
9 all ice cream, okay, so if you find the penetration
10 then you can determine which of the variables you
11 want to go with but you all don't have to agree on
12 which variable okay. So you don't all have to say
13 chocolate ice cream. You don't all have to say
14 vanilla, and you don't all have to say strawberry.
15 You can go with what you feel the evidence provides.

16 And the first of the variables is
17 basically that the alleged sexual act occurred under
18 circumstances that involved felonious assault and
19 felonious assault we have to prove beyond a
20 reasonable doubt, first, that the defendant either
21 attempted to commit a battery on Rachael Davis or
22 did an act that would cause a reasonable person to
23 fear or apprehend an immediate battery. A battery
24 is a forceful or violent touching of the person or
25 something closely connected to the person. He had a

1 baseball bat. He hit her with the baseball bat.
2 Threatened her with the baseball bat.

3 Second, that the defendant intended to
4 injure Rachael Davis or to make Rachael Davis
5 reasonably fear an immediate battery.

6 Third, that at the time the defendant had
7 the ability to commit a battery, appear to have the
8 ability or thought he had the ability.

9 Fourth, that the defendant committed the
10 assault with a baseball bat. We know he did because
11 he left it behind.

12 THE COURT: You have 16 minutes.

13 MS. DILLON: Thank you, Judge. So that's
14 the chocolate option. The strawberry option is that
15 he was armed with a weapon; that the defendant was
16 armed at the time with a weapon or with any object
17 used or fashioned in a manner to lead Rachael Davis
18 to reasonably believe that it was a weapon. It's a
19 24 and a half inch wooden baseball bat. It was a
20 weapon.

21 And then your third option, vanilla, which
22 doesn't mean it's boring, but it's vanilla is the
23 person injury use of force or coercion. That the
24 defendant caused personal injury to Rachael Davis
25 and used force or coercion to commit a sexual act.

1 Personal injury means bodily injury, disfigurement,
2 chronic pain, pregnancy, disease, loss or impairment
3 of sexual or reproductive organ or mental anguish.
4 Mental anguish means extreme pain, extreme stress or
5 extreme suffering either at the of the event or
6 later as a result of it. We know she had bodily
7 injury because she had scraped on her shoulders, on
8 her buttocks, on her knee. We know she was
9 extremely distressed because she was hysterical when
10 the police found her.

11 And then the other element of that is
12 force or coercion means that the defendant either
13 used physical force or did something to make Rachael
14 Davis reasonably afraid of the present or future
15 danger and we know that he pushed her down on that
16 cement loading dock and then forcefully sexual
17 assaulted her.

18 If you think about all the evidence and
19 look at the pictures and look at the nurse's notes,
20 and think of the testimony that you heard Rachael
21 Davis's testimony enough is enough to find him
22 guilty for criminal sexual conduct in the first
23 degree but then think of all the evidence on top of
24 that; what the police officers had to say, the
25 baseball bat, the scrapes, the bruises. Why would

1 any of that occur if this wasn't sexual assault on a
2 concrete loading dock behind the old K-Mart in
3 Melvindale? The defendant is guilty of criminal
4 sexual conduct in the first degree. Thank you.

5 THE COURT: All right. Mr. Brown, you
6 may.

7 MR. BROWN: Good morning, Ladies and
8 gentlemen.

9 THE JURY: Good morning.

10 MR. BROWN: I think something I'd like to
11 say something but I want you to remember. I said
12 something earlier I think that I said but if I
13 didn't I meant to say, keep your eye on the ball. I
14 think I said this early on either in this voir dire
15 or opening statement or whatever and that's what I
16 want you to do because what I want you to do is to
17 follow the law and I think if you follow the law
18 your verdict is going to be not guilty. You only
19 have two choices. It's not you can choose this,
20 that or the other. You can chose guilty or not
21 guilty. I think your verdict should be not guilty.
22 I'm going to tell you why I think your verdict
23 should be not guilty but I'm telling you again what
24 I told you before which is to keep your eye on the
25 ball. Sometimes we can get diverted. In law school

1 they used to talk about red herrings. Red, the
2 color red, is something that will catch your eye.
3 If you look at red then you're diverted off on
4 another track rather than going down the track that
5 is provided by the law which is given to you by the
6 judge so I'm asking you not to -- and also in the
7 jury instructions, and I'm old and I can't remember
8 everything. I'm going to refer to my notes. I'm
9 going to refer to the jury instructions and
10 hopefully -- is that me buzzing? Hopefully -- I
11 should have turned the phone off. It's not me.
12 Hopefully you will follow the law and come to the
13 appropriate conclusion in this case.

14 Now I want to start out before I forget
15 with something that Ms. Dillon just said. She said
16 she was talking about inconsistencies and I think
17 that what she was doing was trying to minimize the
18 inconsistencies in this case and say oh but that's
19 not a big deal, but I beg to differ and I think it's
20 a big deal because I think the crucial thing in this
21 case is credibility; that's what the crucial thing
22 in this case is: Who you can believe? Whether you
23 can believe Ms. Davis and what she said? I'm not
24 going do shy away from any evidence or information
25 that was in the course, you know, presented in the

1 course of this case, but it comes down to Ms. Davis
2 said something happened behind the K-Mart on August,
3 August, July 25, 1996. The prosecutor has to prove
4 that beyond a reasonable doubt and I'm going to
5 write something down here. I think everybody can
6 read my not so good handwriting. I wrote the letter
7 C-O-U-L-D. Did I spell it right? It says could.
8 If the Judge, if this judge says to you something
9 about what could have happened, if she say -- then
10 I'll just I'll stop practicing law, not that you
11 care what I do, but because she's not going to say.
12 She's going to say that the prosecutor has the
13 burden of proving beyond a reasonable doubt that
14 something did happen and did happen in the way that
15 Ms. Davis and the prosecutor said it happened. Not
16 that it could have, it might have, I don't know.
17 That's very important because that's the different
18 between guilty or not guilty.

19 A lot of times I have had the good fortune
20 of practicing law for more than 30 years and I got
21 an opportunity probably about 20 years ago to do
22 something not very many criminal defense attorneys
23 had an opportunity to do and that is to sit where
24 you sit are sitting now. I was on a jury in a
25 criminal case. I'm not talking about the facts of

1 that case or what happened in that case or how it
2 was resolved but I know from my personal experience
3 what people do on juries and there's are jury
4 instructions about what you should do. You should
5 select a foreperson. You should proceed in an
6 orderly fashion. You should have discussions where
7 you respect, one word respect, I'm going to come
8 back to that in a minute. Respect each other's
9 opinions where you offer opinions based upon your
10 collective memories, not just I believe this. In
11 other words, you just don't decide that you believe
12 something and close your eyes and whatever they say
13 I don't care. Whatever it is. Whether you say that
14 for a not guilty verdict. I'm saying you have to
15 listen to your fellow jurors. Well any ways I was
16 on a jury and I was struck, first of all, I didn't
17 think I was going to be on it. I was struck by
18 being on it because the Prosecution said okay I'd
19 like to leave him on the jury. I'm a defense lawyer
20 so I can leave him. I said I don't believe this.
21 They don't usually do that but I was struck by the
22 fact that the jury, in the course of their
23 deliberations, went and followed those red herrings
24 and went off on tangents. Went over here, went over
25 there, went over what if he could have? What if

1 this and what? If you say what if, maybe, could
2 have, we don't know then you're not following the
3 law because the law requires that you find that the
4 Prosecution has proven the case beyond a reasonable
5 doubt. If you say could, there's a reasonable
6 doubt. If you say what if, there's a reasonable
7 doubt. Just remember that.

8 Now the crucial witness in this case -- oh
9 the DNA. Mr. Taylor's DNA was inside Rachael Davis.
10 There was sexual contact between, sexual contact,
11 intercourse, whatever, between Mr. Taylor and Ms.
12 Davis. Everybody heard me say that. I'm not
13 arguing that. That's the case. But the problem is
14 the prosecutor has to prove to you that that sexual
15 contact took place under certain circumstances which
16 would include force or violence; that's not -- I
17 don't think the prosecutor can prove that. I think
18 the prosecutor can prove maybe, I thought or maybe
19 she said. Now the big that stuck out in my mind I
20 was going to say to you about the inconsistencies in
21 Ms. Taylor's testimony, I can sit here for days,
22 months, weeks or whatever and talk about what about
23 was it light blue or dark blue, whether it's stars,
24 was it denim; that's not the point. This is what
25 the point is, and that's why I ask the questions I

1 asked. Sometimes you might have got tired of me
2 asking questions. I apologize and I before I go, I
3 want to say this too: I thank you all because you
4 all tried to stay awake. You all paid attention.
5 You all were here everyday. This is not a place
6 people want to be after unless you're fortunate to
7 be retired or something. I don't know. I probably
8 will never get there but the crucial thing is that
9 you understand that you can't just gloss over some
10 inconsistency and say, well, yeah maybe she was
11 wrong about the back seat or the front seat. Well,
12 maybe she was wrong about he tore my clothing, not
13 just tore them off but tore my clothing. You saw
14 the blouse. I didn't want to touch it. I'm funny
15 when I get older. You saw the blouse. You saw the
16 pants. The pants were cut. I don't know if they
17 were cut or they were whatever, but you have to use
18 your common sense and reason. There's six buttons
19 on that. It's a little tiny vest, blouse, whatever
20 and if you ripped them or my clothing was torn; it
21 wasn't torn. It wasn't ripped. Now that's what she
22 said. That's what she told you. You have to use
23 your common sense. That didn't happen. That's not
24 like that.

 And then another thing that, you know,

1 people say, well, I know. Why you keep talking a
2 crawling? Because it's important to me. It's very
3 important to me. I have had cases where I got on
4 the floor and crawled because that's what I wanted
5 to show. I'm not going to do it today because my
6 knee hurts but I will tell you this: That if
7 anybody everybody here use your common sense. You
8 see the -- there's no picture of the parking lot,
9 the big K-Mart parking lot. Everybody has been to
10 Meijer, K-Mart, Palmar. You know what the parking
11 lot looks like. The parking lot is not the size of
12 this room. It's a big parking lot.

13 I asked a person before, I think I asked
14 about how, you know, 300 yards, maybe I just said
15 that, I don't know, but you know what a parking lot
16 looks like for a K-Mart, K-Mart, Quick Save,
17 whatever, you know the parking lot. You know what
18 it is because you've probably driven by there so,
19 but if you -- and I think it's important because
20 when you sit down in the witness chair I think, the
21 word I'll use is scrutinize. You got to pay
22 attention to what people are saying and how they're
23 saying it. If you say one day, I'm going to say one
24 day like sometime before today under oath you say, I
25 crawled all the way from the loading dock of that

1 store, all the way from the loading dock all the way
2 around I crawled on my hands and knees I crawled,
3 not that I, you know, got up and walked or limped
4 I'm not -- and then I'll tell you something else
5 too. I should say this -- I apologize for jumping
6 around, but I'm not -- I'm a very sarcastic. I am a
7 sarcastic person so I apologize if you're offended
8 by my sarcasm because I really want you to think
9 about this stuff. If you say you crawled you look
10 at those jeans.

11 Now if Mr. Tuski or investigator Tuski, or
12 Officer Hayse, or Morabito, or Taft or whoever, if
13 any of those people said that they, well, after we
14 got the evidence, they included into evidence the
15 clothing of this Davis, the pants, not the shorts,
16 after we got the shorts we washed them. Put them in
17 the laundry. Watched them with a little Tide in
18 there maybe fabric softener, washed them and put
19 them in the dryer. You look at those jeans. Now
20 I'm saying everybody here look at those jeans.
21 Remember the officer, I don't know who it was, it
22 was either Taft or Hayse who said there was spots
23 all over them?

24 Then I'm going to say something else. I'm
25 not a DNA expert so I stipulated to the

1 qualifications of the DNA experts but one thing I
2 did say -- I'm going to get back to the pants. One
3 thing I did say about one of the -- Deleeuw. I
4 asked him, you know, you're going to have to use
5 your common sense. He got up here and said to
6 you -- he lied. He lied and it's not a big deal.
7 He seem like a nice guy. I don't know him but he
8 said he testified for a defendant. Why do I ask
9 that question? Because I just want to know. I'm,
10 you know, testing his credibility and what he said.
11 He said, "Yes, I did". Now you know good and well
12 that if you -- I tell you what? That's like asking
13 me did I ever prosecute a case. Ask me was I ever a
14 prosecutor and I say umm, umm, let me -- like I
15 don't know if I worked as a prosecutor as a defense
16 lawyer? Like I don't know. Come on. What's the
17 point of that? The point of that is nobody is
18 infallible. People always say stuff. They say
19 stuff to you like this is like that's the gospel or
20 the word. It's not the gospel but the drops on the
21 pants, I think, the prosecutor -- maybe it's sperm
22 inside the vagina. I already told you Mr. Taylor
23 had sex with Ms. Davis so, you know, we can run
24 around the world; that's not the issue. The issue
25 is under what conditions? And the issue is whether

1 or not the prosecutor has proven the conditions that
2 she says and that Ms. Davis says, so Morabito,
3 that's who I want to say, we got the people who
4 did -- they have all these degrees. They have a
5 forensic biology whatever some stuff I can't even
6 pronounce. They're smart people, smart degrees.
7 They got all that kind of stuff. Not Morabito. I'm
8 not saying he's not smart. He's a nice guy, Officer
9 Morabito. You know the guy who is allegedly the
10 crime scene technician and this is not CSI. It's
11 not like you have oh you can see the thing on the
12 screen, but he said, according to what the
13 prosecutor just said, she said that it's not
14 important. It's not important whether or not that
15 was Ms. Davis' feces on this paper. She said that
16 she had a bowel movement. If it's her feces then we
17 know she had a bowel movement there at the scene and
18 maybe it would corroborate, I think it would not but
19 I'm saying maybe, but he's not a DN -- he didn't
20 say -- he can't say -- inspector, lieutenant,
21 whatever his name was. Sergeant Morabito said
22 there's wasn't DNA. How is he going to say that?
23 You had three or four DNA people come in here with
24 all their degrees and stuff and tell you about DNA.
25 He can't tell you anything about DNA. He doesn't

1 know anything. He don't know whether the spots on
2 the pants are -- and you look at the jeans. You can
3 open them up. Get your rubber gloves I guess. Will
4 they come out here and do it?

5 THE COURT: We'll send it in there with
6 some gloves.

7 MR. BROWN: Okay. They'll send the gloves
8 in there and some brave soul can take it out and
9 lift them up and look at them but you add an
10 opportunity to look at them. You saw what they
11 looked like, the clothing. You saw that there's not
12 the evidence of crawling around. There's no --
13 there's an evulsion on, which is a skin being like
14 pushed over like you know what an evulsion is.
15 Somebody. The medical person will tell you what an
16 evulsion is. The skin being scraped. But that's
17 inconsistent with crawling from the back of the
18 K-Mart to the front of the K-Mart.

19 The -- I got to say one more thing to you.
20 I got a couple more minutes. The bat, you know, I
21 just want to know what kind of bat it was. I mean I
22 asked questions because I want to know. All you
23 know people, oh, he got a bat and he swung the bat
24 whatever. I brought the tape measure just so you
25 can see it's a souvenir typed sized bat if it's a

1 bat that -- I mean note if it's a bat. There's a
2 bat. There's a bat put on evidence so I'm not
3 trying to act like there was no bat but do we know
4 where the bat came from? Do we know where the bat
5 came from? Do we know? Because is Mr. Taylor's DNA
6 on the bat? You might say that's ridiculous. It's
7 not ridiculous. It's what this case is about. It's
8 not ridiculous. Did Mr. Taylor ever have a bat?
9 Did Mr. Taylor do anything with a bat? Do we know?
10 What we do know -- what you know from looking at the
11 testimony right here is Ms. Davis is an actress.
12 Oh, oh he was I can't -- now don't get me wrong,
13 anybody that got raped, I'm not playing it off like
14 I'm blowing off the fact that somebody got raped but
15 I also know I debated about whether to use the word
16 crack head. My brother used crack so crack head is
17 a whole different kind of thing. It's a thing that
18 will make a person say anything. Anything. I don't
19 care. It will make a person do anything and that
20 gets me back to what I said before, because I know
21 I'm jumping around.

22 I said something about disrespect. You
23 know I'm down here. I try cases. It's not about me
24 but I think it's relevant. The reason we're down
25 here most of the time on a murder case, on a

1 whatever case, it is it's because somebody was
2 disrespected; that's what it is. Somebody, because
3 you know, people get disrespected about something
4 like, you know, you didn't call me Mr. Brown or you
5 know, whatever, you didn't say doctor so and so;
6 somebody was disrespected and out of that disrespect
7 it just snowballed. That was wrong. I can't say
8 what I'm trying to say but it blows up and it gets
9 bigger and it gets bigger, so when people tell a
10 lie, when they tell the first lie then they got to
11 tell another lie. When they tell the second lie
12 they got to tell another lie. They got to keep on
13 lying. You can't just decide, well, I think that
14 person basically now they did tell a lie. It's like
15 it rolls up like that snowball. It gets bigger, and
16 bigger and bigger like I want everybody in here to
17 remember this. I think it was Officer Taft I
18 can't -- Taft and Hayse I get -- maybe because I
19 think about presence and it's not spelled the same,
20 H-A-Y-S-E, but any way I get them a little bit
21 confused. Whoever the who got the bat out of -- put
22 it in the car when he put it before everybody looked
23 up for that -- did he say before? Whatever. I'm
24 saying when I say whatever I'm not saying I'm not
25 blowing it off. I'm not just ignoring it, but what

1 I think is very significant, very, very significant
2 do you remember how hysterical, hysterical Ms. Davis
3 was on the stand? Do you remember how the officer
4 said she was? She was so hysterical, this is a
5 woman running out in the middle of the street
6 hysterical, I'm waving my arms -- nobody said that
7 so I'm not saying that she said that, but she's
8 hysterical. So hysterical that what? The police
9 did not get her name. I'm not talking about well
10 Ms. Davis you didn't tell us the license plate
11 number of that car. No, no, no. She didn't give
12 the police her name because she's so hysterical.
13 She's so hysterical but, but, but, but, but, but I
14 don't have anything that's 24 inches long but let's
15 just take this pen for example. But I have the
16 presence of mind in my hysteria to grab, this is
17 what the police officer said, everybody heard that?
18 What the police said? Grabbed the bat by it's edges
19 because she wanted to make sure that if there were
20 any fingerprints on the bat it was preserved.
21 That's a lie. That's a act. That's a drama,
22 dramatic, what's that word? Show. That's what it
23 is. It's a show from the start and I'm going to
24 tell you what occasion to show and, again, I'm not
25 the burden of proof is I don't have to prove

1 anything. The burden of proof is on the prosecutor.
2 That's what occasion show: This is about -- I don't
3 know if anybody ever seen crack? A little rock? A
4 little rock of crack? Mr. Taylor has seen it
5 before, I'm sure. Maybe I shouldn't say that
6 because I'm his lawyer. A rock. Crack. That would
7 make people they would do anything for that rock;
8 that's what this starts out with. This starts out
9 with a lie about the man forced me into the car and
10 he said tried to be friendly first and then after
11 trying to be friendly then he said get in the car
12 and blah, blah, blah, and was threatening. What
13 happened was some where along the line there was
14 some problem because what Ms. Davis said, if you
15 want to believe it, the Judge will say you can
16 believe all of what a witness says, part of what a
17 witness says, or none of what a witness says. She
18 says, if you want to believe this part, that she
19 didn't get to smoke, first of all, that she smoked
20 that day. She also -- and, you know, we're at a
21 disadvantage because we don't have any medical
22 records other than the nurse's notes. The medical
23 records a tox screen to see how intoxicated she was
24 with cocaine, whether she even got to smoke the
25 cocaine with Mr. Taylor or not we maybe could tell

1 that if we had that, but you don't have that, but
2 what you have is that you know she'll say one thing
3 and then she'll say a different thing; that's what
4 you have. And so if you know that, just like I'm
5 saying, you rev up I'm so hysterical, I can't tell
6 you my name but, by the way, like an asterisk. You
7 know like those little asterisks like you read in a
8 contract you get into. I was listening to something
9 last night about, or not last night, about a
10 commercial about the sit and cycle. Old people like
11 me sit down and, you know, sit and cycle, and it
12 said it's -- actually I got one of those sit and
13 cycles. I got it at like a Salvation Army or
14 something for like \$10 and I was wondering what how
15 much did it cost. At the end of the commercial it
16 said, for only \$19.95 you can have this for 30 days.
17 It's like the fine print. It's like the little like
18 we said this big thing but ultimately it's going to
19 cost you 130 something dollars or 230 something
20 dollars but \$19.95 for the first 30 days.

21 What Ms. Davis did is she did the big
22 show. I used to do Shakespeare quotes, bible
23 quotes. My father was a minister so all the bible
24 things but we're going to break this back down to
25 just ordinary live and life words here. It's, well,

1 Shakespeare said it's a tale told by an idiot full
2 of sound and fury signifying nothing. You know how
3 People whip things up. You know how you go watching
4 a television show and you get all excited, what's
5 going to happen, we'll be right back. She paused
6 that hysteria. She paused it and said, oh, by, you
7 know, excuse me. I don't want to tell you my name
8 but I want to tell you that I -- because he didn't
9 say, I found that out when I went to the hospital;
10 that was Taft. He didn't say he found that out
11 when he went to the hospital. He said she gave him
12 the bat before and then she -- unless he -- unless
13 the police officer -- none of these police officers
14 came and said I know Mr. Taylor. He's a bad guy;
15 we're going to talk about that in a minute too. I
16 know him and so I know whatever -- no. He has no
17 reason to makeup something like this so he said what
18 she said. She said "I held it by the top of the bat
19 so that you could get fingerprints off of it"
20 whatever.

21 THE COURT: You have 18 minutes.

22 MR. BROWN: Thank you, Judge. So the fine
23 print? I'm saying that because people when they're
24 deceptive, when they're deceivers, when they're
25 liars, when they're fabricators they move right in

1 and out because, you know, acting is like a lie.
2 Like you see something on TV it's a lie. It's
3 something that's, you know, it's designed to make
4 you feel like something else happened other than
5 what has happened. There is a book, you will
6 receive a book, I think of instructions, jury
7 instructions, okay, and I think that whatever you do
8 whether you're in, you know, in the medical field,
9 the legal field, the business field, social work or
10 whatever, you have rules, and that's what the deal
11 is, you have rules, so you have to follow the rules.

12 And the rules, I'm going to talk about
13 specifically jury instruction number 411: "you have
14 evidence that was introduced to show that the
15 defendant committed a crime or improper act for
16 which he is not on trial", what am I talking about?
17 Erica Doak, that's what I'm talking about, so you
18 have to process this in the way that it's supposed
19 to be processed by the jury instructions not your
20 feelings. Everybody has, you know how if you didn't
21 have rules people would say, you know what, I never
22 did like a man with a mustache. I think he's
23 guilty; you could do that, but we can't do that
24 because the rules say you are not to exhibit any
25 bias or any unfairness to anybody based upon their

1 race, creed or color, the way they look or whatever
2 else. But the Erica Doak stuff, it's like the
3 prosecutor puts Erica Doak in here that doesn't
4 prove anything about Mr. Taylor and Ms. Davis. You
5 are to here to decide whether or not Ms. Davis is
6 credible; that's essentially what you're here to
7 decide. Whether the prosecutor has proved beyond a
8 reasonable doubt you can believe, well, even then
9 you'd have to separate out and believe half, a part,
10 sort of this footnote or whatever, not whether or
11 not Mr. Taylor is a bad man or guilty of other bad
12 conduct.

13 Now if, and I'm a defense lawyer so I
14 would argue anything meaning not like I wouldn't
15 argue a lie and if you think I lied about something
16 I apologize to you because I don't think I have lied
17 about anything and I would not try to but I'm saying
18 to you you have to make sure you follow the jury
19 instructions. If you don't then you do like, like
20 what I started to say before, when I was on that
21 jury I sat back in the back in the jury room and,
22 you know, I'm not like a genius person but I can
23 read and write and I was thinking what are these
24 people talking about; my sister she had it, my
25 brother and all that. What you're here to decide,

1 you're here to decide whether the prosecutor has
2 made out the burden of proof; that's proof beyond a
3 reasonable doubt a reasonable doubt, not like you
4 got to have, well, a doubt about this and this and
5 just one. If you have one reasonable doubt what's
6 the verdict got to be? Not guilty. One reasonable
7 doubt about the elements. I don't mean reasonable
8 doubt about whether it's going to rain later or
9 something but reasonable doubt about whether or not
10 there was force or coercion used to accomplish the
11 sexual act in this case, because there was a sexual
12 able. If you don't know that it is that -- if you
13 don't know beyond any reasonable doubt your verdict
14 has to be not guilty and so when you get back and
15 say well she could have, yeah, okay, I believe that
16 she got the scrape because -- oh speaking of which.
17 Remember? Somebody is going to remember. Use your
18 collective memory. If you don't remember maybe
19 somebody over there would remember, somebody over
20 there would remember. She said something about a
21 knot on the head. I was asking her about getting
22 hit in the head. I had a knot -- we don't have the
23 medical records. We do have the nurse's notes and
24 if you find knot in here make be it's not like you
25 tie the knot or something because it's not there

1 because it's just BS; that's what it is. It's
2 just -- it is BS because if, you know what? Drama.
3 I'm talking about drama. She sat up here and I'm --
4 I hope I don't offend anybody. If I do, I'm very,
5 very sorry but this is, you know, why we're here?
6 We're here because we have a system. You know how
7 people have beliefs? You have a belief system. You
8 believe that this is -- our system is setup so we
9 can weed out, you know, you might said, well, I
10 think this is from -- weed out the untruths and get
11 to a final decision about what Mr. Taylor's status
12 is because his status right now, right now sitting
13 right here his status is, you know, how people say
14 innocent? They say until proven guilty, they mean
15 unless proven guilty but his status is he is not
16 guilty. He -- that's his status. When you came in
17 here he was not guilty. He's still not guilty. The
18 only thing that can change his status is you. If
19 you believe that the prosecutor has proven the case
20 beyond a reasonable doubt. That means that's it's
21 not just like well I just think -- no. you got to
22 do the standard and it requires that you do it.

23 But I started to say about how I might say
24 something offensive now. Do you remember Ms. Davis
25 with her crying and things on the stand? Do you

1 remember when we went into the crying and going
2 through some changes one time? We took a break.
3 She went out. She came back she was all cooled out?
4 You can take that for whatever you want to take it
5 for but, any way, she's crying and she kept
6 saying -- the prosecutor didn't ask her whether she
7 got an STD. I didn't ask her whether she got an STD
8 by I imagined that would be a big deal. It would be
9 a big deal to any of us for you to say somebody gave
10 me a STD. I might be crying if someone said
11 something like that, but I thought it was very, very
12 interesting because the prosecutor has referred to
13 exhibit number 11, the nurse's notes, number -- I
14 need my glasses so I can read. Number 30, number 30
15 that's on the -- I don't know what you -- I think
16 there's another page in front but you can see the
17 pages and then the numbers down on the side. Number
18 30 where it says, "has there been any" -- no. I got
19 to read it right, "Has there been recent treatment
20 of any disorder". I think I asked the nurse about
21 this and the answer, the check is, yes. It's
22 checked yes. You probably somebody remembers I said
23 this what is described? Gonorrhea, syphilis, HIV.
24 It says 1995. Now why am I saying that? Because
25 this is what I'm saying, use your common sense. I

1 don't know. I'm old, you know, I know I've heard of
2 trichomoniasis before, it's an infection and it's
3 not gonorrhea though. It's not syphilis and it's
4 not HIV so you heard her on the stand oh, oh and he
5 gave me a STD. You've been treated for gonorrhea,
6 and syphilis and HIV and you're crying about a
7 urinary track infection or, I'm not a doctor. I'm
8 not a doctor. I don't know the medical term but I
9 know it's a big difference. I know it's a
10 treatable. Trichomoniasis, I may not even be able
11 to pronounce it right but use your common sense.
12 You got somebody on the stand acting for you.
13 Academy award. I wish I had one of those little
14 statutes. Acting for you to say oh I'm so
15 distraught about when you've been treated for
16 gonorrhea, syphilis and HIV. You got to use your
17 common sense. Does that make sense? Does that add
18 up to this person telling you the truth? Not we
19 know she didn't tell the police the truth. We know
20 she told them one thing, and she told them another
21 thing, and by this, by this should all men know, you
22 know that she told you a lie too. I don't spit. I
23 apologize. You know that she lied to you too, so
24 you got to use your common sense.

25 And speaking of the nurse's notes, the

1 prosecutor made light of -- I don't remember, and
2 you use your memory because I don't remember her
3 saying denim, maybe she did, but she said shorts.
4 People know that there's shorts and there's pants.
5 You know the shorts and you know, whatever, and this
6 is not a test. This is not a memory test to see
7 what can -- I can't remember what happened 20 days
8 ago let alone 20 years ago so it's not a test to see
9 if she remembers but at the time when she's in the
10 hospital talking to the nurse back and forth, the
11 nurse didn't have any reason to lie. I asked her,
12 "Do you have any reason to makeup -- lie", she don't
13 have a reason. This is what she's telling me, and
14 not even what she's telling her. This is the
15 nurse's observation. Nurse Johns, who is now
16 Taylor, said it's my note she had on black and white
17 print, dirty, something leaf pieces, dark blue
18 jeans", and that's consistent with having sex on the
19 ground, not in the car, you know, you maybe think
20 well isn't -- you -- if you know whether or not Mr.
21 Taylor and or Ms. Davis liked to have sex outside it
22 was, you know, a nice day in the summer 1996, or
23 whatever on the ground, you know that that's
24 consistent with having sex outside on the ground,
25 but dark blue jeans, dirty, grass leaves whatever

1 else and, if you want to believe it, that could be
2 from crawling, you know, and plus I can't get over
3 the fact that those jeans are not dirty. They're
4 not dirty even now. They're not. I turned the
5 jeans around. I think I did I looked this way or I
6 didn't touch them but, whoever the officer was,
7 turned them both ways to see. It's like that's not
8 consistent with what is said.

9 Then the nurse's notes, that's the report,
10 I don't know if it's called the sexual assault
11 something report, but it's exhibit 11. All that's
12 that those three pages and this is part of exhibit
13 11. In exhibit 11 never in this does she say -- let
14 me just -- excuse me just a second.

15 THE COURT: Seven minutes.

16 MR. BROWN: Thank you. She said -- oh.
17 St. Paul, St. Vincent DePaul, that's not a lie
18 because I think it changed to St. Vincent DePaul
19 over the course of the years whatever, I don't know,
20 but isn't St. Paul part of a lie? "We headed with
21 the back. He put the car in park and grabbed the
22 baseball bat. I jumped out of the car leaving my
23 shoes in the car". Now even flip flops, you know,
24 if somebody snatched you out of your shoes, if
25 somebody, you know, something, but you jumped out of

1 the car -- unless you took your shoes off because
2 you're really comfortable and getting ready to smoke
3 that rock, but any way and this is what she's
4 telling the nurse, I believe it's -- let me see.
5 And in this part where she told the nurse, "There's
6 a guy sitting right there. He said I'm going to
7 Amoco. I asked him why didn't he get in the right
8 lane", oh this is for he supposedly is going some
9 different way than she thought he was going, but she
10 said the guy said pushed her to the ground, remember
11 that? Pushed her to ground, that's what she said.
12 I fell on my right knee, do you remember? It's like
13 common sense. I don't watch a lot of TV because I
14 don't have a television. I have to watch TV at
15 other people's houses when I just happen to be
16 there. I saw one of those crime things we're
17 talking about the like accident reconstruction and
18 the woman had fell down the steps and, you know,
19 struck the back of her head but did she fall forward
20 and turn or whatever? I don't know but pushed me
21 down, the way she said that she was pushed like
22 this, everybody remember that? Like pushed? I'm
23 putting my hands on my chest, pushed down, and she
24 said, I fell on my right knee and tumbled over facing
25 him. He said, "Bitch unbuckle your pants and bring

1 them to your knees. Lay down. Hurry up. Lay down.
2 Lay down. Hurry up. I had to do what he said",
3 which is, you know, you're like at this time it's
4 like this is right in 1996 she's telling the story
5 to the nurse which is different from the story she
6 told the police, which is different from the story
7 she told you, which is different from the story she
8 told at the preliminary exam, which is different
9 from the story -- it's just different. She's just
10 telling stories. Which another thing is she told
11 Officer Tuski I believe, or Investigator Tuski, that
12 the man had hazel eyes. Now you're talking about
13 people just lying it's like why just make up a lie?
14 What is the point? I don't know. I could look at
15 him, you can look from this distant you know what
16 hazel looks like, you know, his eyes are not hazel.
17 You got contacts? I'm sorry. I can't talk. I'm
18 sorry. He doesn't have hazel eyes.

19 THE COURT: You have four minutes.

20 MR. BROWN: Thank you, Judge. And so why
21 make that up? And then to go further than just
22 making it up, now you're describing -- maybe she was
23 trying to -- maybe she was living the life and she
24 didn't really want to be bothered with the police
25 any way because remember she said they went and

1 asked her she said she didn't want to pursue the
2 case any more but now we're back here she says oh my
3 God I got an STD.

4 But any way, what she also said is I
5 said -- she said looking at Mr. Taylor and looking
6 like -- I'm not saying she has to remember what he
7 looks like or what he did look like. I don't look
8 like I looked five years, 25, 50 years ago, I don't
9 look like 60 years, I don't look like but any way
10 what I'm saying though is she sat right there and
11 told you that the police came and brought her -- I
12 don't know what the exhibit number is but you can
13 see if you can line it, a lineup sheet. Brought her
14 to a lineup and she picked out Mr. Taylor; that's
15 what she told you. You know sometimes I forget but
16 I think I sat right here when she said that she
17 picked out the guy, picked him out and I thought it
18 was very interesting that whenever that was when she
19 picked him out then why last year in September when
20 we're all sitting in court, Ms. Dillon, myself and I
21 think Investigator Tuski and Mr. Taylor to say, do
22 you see anybody here that you recognize? Do you see
23 anybody here that was on that day or something? No.
24 Mr. Taylor is sitting right there. What? Why?
25 Why? That's the real question? She just lies for

1 no reason so you don't know the reason for the lie
2 so the prosecutor is going to ask you to say, well,
3 she probably lied about the drugs because, you know,
4 at that time she didn't want -- it doesn't matter.
5 You can't. This is what matter is you do not know
6 when and why she will lie. You do not know when
7 she's telling you the truth. If you don't know that
8 then this would just be a character Fred Flintstone,
9 Kazu. Kazu was the man from outer space who would
10 come down from outer space and talk to Fred
11 Flintstone, then what you're as jurors you're
12 abdicating your responsibility to act as jurors.
13 You're saying I'm just going to let Kazu come down
14 here and tell me what I should do because it's
15 not -- you can't do it based upon what Ms. Taylor
16 said. Now you got to use -- my time is almost over.
17 I got a --

18 THE COURT: A minute and a half.

19 MR. BROWN: Thank you, Judge. You have to
20 use your common sense and reason. Now the last
21 thing I'm going to say. I always say this because
22 this is the way it is: The prosecutor's table has a
23 huge boulder placed on it at the beginning and that
24 boulder is like mounted up here. It's like rock,
25 solid rock that you chisel like, was it Da Vinci

1 that you chisel out. It's a boulder of reasonable
2 doubts and what the prosecutor has to do is get rid
3 of every reasonable doubt, every one. The
4 prosecutor has to use her witnesses, her reports,
5 her photographs, the kits, the clothing, testimony
6 to get -- so you chip away. That's like did this
7 happen on July 25th? Chip, chip. Is her name
8 Rachael Davis? Did Officer Taft talk to her at the
9 hospital? Did Nurse Johns talk to her? There can
10 be no rock left here. There can be no doesn't of
11 the rock. Everything has to be gone. I got 20
12 seconds, 29. I now that I rambled but in my
13 rambling I hope I hit on some things that will make
14 you think about what your job is, which is to
15 function as jurors. It's not to function as
16 detectives. You're not supposed to say they
17 probably could have or should have. You're supposed
18 to find out whether the Prosecution met the burden
19 and I put to you that the prosecutor did not in this
20 case and I'd ask you to return a verdict of not
21 guilty in this case. Thank you very much for your
22 service and attention.

23 THE COURT: Thank you, Mr. Brown. You
24 finished right on the nose on the time. You may.
25 You have 13 minutes and 39 seconds.

1 MS. DILLON: Thank you, your Honor, and
2 Thank you again.

3 Mr. Brown used the word could. My dad
4 always used to say would have, should have, could
5 have but in this days I believe instead of could
6 it's did. We know what Dexter Taylor did do to
7 Rachael Davis and we know what Dexter Taylor did do
8 to Erica Doak and the instruction that Attorney
9 Brown mentioned to you is that you have heard
10 evidence that was introduced to show the defendant
11 committed a crime for an improper act for which he
12 is not on trial and if you believe this evidence you
13 must be very careful only to consider it for certain
14 purposes. You may only think about whether this
15 evidence intends to show that the defendant acted
16 purposefully, that is not my accident or mistake or
17 because he misjudged the situation. There was no
18 accident when he took Rachael Davis behind the old
19 K-Mart and sexual assaulted her. There was no
20 accident when he took Erica Doak at knife-point into
21 an abandoned house in the basement and sexual
22 assaulted her, and there was no mistake in what he
23 was doing on either occasion, and that the defendant
24 used a plan, system or characteristic scheme that he
25 has used before or since. He used his plan to

1 isolate Erica Doak with a weapon to sexual assault
2 her in 1994. He did the same kind of scheme with
3 Rachael Davis in 1996.

4 And counsel also says that there was
5 sexual contact between his client, Mr. Taylor, and
6 Ms. Davis so identification in this case doesn't
7 matter so all the arguments about the DNA and saying
8 that Kirk Deleeuw from Michigan State lied and
9 everything else. None of that matters because
10 Dexter Taylor's DNA was there because, as Mr. Brown
11 just told you, there was sexual contact, but the
12 evidence tells you that that sexual contact was not
13 wanted by Rachael Davis and it was forced upon her;
14 that it was forced upon her in the presence of a
15 dangerous weapon, which was a baseball bat, and I
16 found it interesting that counsel started his
17 argument by saying about keep your eye on the ball
18 when we are talking about a case that involves the
19 use of a baseball bat. He threatened her with a
20 baseball bat. He hit her with a baseball bat. We
21 know the baseball bat existed okay. It went for
22 testing. It came back.

23 The other thing that counsel said is crack
24 will make a person do anything an occasion to show,
25 and in this case unfortunately for Rachael Davis

1 crack made her get in a car with Dexter Taylor, and
2 to say the sexual contact they had was outside like
3 it was some sort of picnic? No. A picnic sexual
4 intercourse on the outside isn't laying on the
5 cement, a dirty filthy cement loading dock behind an
6 abandoned building to where you get scrapes on the
7 back of your shoulders, on the back of your buttocks
8 and you've got scrapes on your knees from when
9 you're pushed down, pushed on your back, those are
10 not consensual injuries and you heard from a nurse
11 the injuries that Rachael Davis suffered are
12 consistent with what she told her happened and with
13 what she told the police happened.

14 And as far as red herrings and irrelevant
15 evidence: This evidence is clear. No red herrings.
16 He picked her up. He took her behind the K-Mart.
17 He forced her on the ground. He sexual assaulted
18 her. He threatened her. He hit her with a bat and
19 he took off. Same kind of scheme, I know I've
20 already said it, that he used with Erica Doak two
21 years earlier and all in his geographical area.

22 As far as the status of Mr. Taylor:
23 Absolutely. When this case started last Wednesday
24 his status was absolutely innocent but day by day
25 you heard evidence and you heard testimony from

1 Rachael Davis and the police officers from
2 Melvindale, the DNA analyst and Erica Doak and day
3 by day piece of evidence by piece of evidence that
4 status changed and his status now is guilty as
5 charged so I thank you for your time and your
6 attention to this case. I know it's been a long
7 almost a week in this case but I thank you and I
8 thank you for listening to all the evidence and I
9 think your common sense and your reason is going to
10 compel you to change his status to guilty and find
11 him guilty as charged of first degree criminal
12 sexual conduct. Thank you.

13 THE COURT: Members of the jury, the
14 evidence and arguments in the case are finished and
15 I will now instruct you on the law, that is, I will
16 explain the law that applies to the case. Remember
17 that you have taken an oath to return a true and
18 just verdict based only on the evidence and my
19 instructions on the law. You must not let sympathy
20 or prejudice influence your decision. As jurors,
21 you must decide what the facts of this case are.
22 This is your job and nobody else's. You must think
23 about all the evidence and then decide what each
24 piece of evidence means and how important you think
25 it is. This includes whether you believe what each

1 of the witnesses said. What you decide about any
2 fact in this case is final.

3 It is my duty to instruct you on the law.
4 You must take the law as I give it to you. If a
5 lawyer says something different about the law,
6 follow what I say. To sum up, it is your job to
7 decide what the facts of the case are and to apply
8 the law as I give it to you and, in that way, decide
9 the case.

10 A person accused of a crime is presumed to
11 be innocent. This means that you must start with
12 the presumption that the defendant is innocent.
13 This presumption continues throughout the trial and
14 entitles the defendant to a verdict of not guilty
15 unless you are satisfied beyond a reasonable doubt
16 that he is guilty.

17 Every crime is made up of parts called
18 elements. The prosecutor must prove each element of
19 the crime beyond a reasonable doubt. The defendant
20 is not required to prove his innocence or to do
21 anything. If you find that the prosecutor has not
22 proven every element beyond a reasonable doubt then
23 you must find the defendant not guilty.

24 A reasonable doubt is a fair, honest doubt
25 growing out of the evidence or lack of evidence. It

1 is not merely an imaginary or possible doubt but a
2 doubt based on reason and common sense. A
3 reasonable doubt is just that; a doubt that is
4 reasonable after a careful and considered
5 examination of the facts and circumstances of this
6 case.

7 Every defendant has the absolute right not
8 to testify. When you decide the case, you must not
9 consider the fact that he did not testify. It must
10 not effect your verdict in any way.

11 When you discuss the case and decide on
12 your verdict, you may only consider the evidence
13 that has been properly admitted. Therefore, it is
14 important for you to understand what is evidence and
15 what is not. Evidence includes only the sworn
16 testimony of witnesses, the exhibits admitted into
17 evidence and anything else I told you to consider as
18 evidence. Many things are not evidence. You must
19 be careful not to consider them as such. I will now
20 describe some of the things that are not evidence:
21 The fact that the defendant is charged with a crime
22 and is on trial -- The fact that the defendant is
23 charged with a crime and is on trial is not
24 evidence. Likewise, the fact that he is charged
25 with more than one crime is not evidence.

1 MR. BROWN: Excuse me. Judge, that
2 second sentence is not correct.

3 THE COURT: Many things are not -- let me
4 reread the instruction. Many things are not
5 evidence and you must be careful not to consider
6 them as such. I will now describe some of the
7 things that are not evidence: The fact that the
8 defendant is charged with a crime and is on trial is
9 not evidence. Period.

10 The lawyer's statements, and arguments,
11 and any commentary are not evidence. They are only
12 meant to help you understand the evidence and each
13 side's legal theories. You should only accept
14 things the lawyers say that are supported by the
15 evidence or by your own common sense and general
16 knowledge. The lawyer's questions to the witnesses,
17 your questions to the witnesses and my questions to
18 the witnesses are also not evidence. You should
19 consider these questions only as they give meaning
20 to the witness' answers.

21 My comments, rulings, questions and
22 instructions are also not evidence. It is my duty
23 to see to it that the trial is conducted according
24 to the law and to tell you the law that applies to
25 this case, however, when I make a comment or give an

1 instruction I am not trying to influence your vote
2 or express a personal opinion about the case. If
3 you believe that I have an opinion about how you
4 should decide this case you must pay no attention to
5 that opinion. You are the only judges of the facts
6 and you should decide this case from the evidence.

7 At times during the trial, I have excluded
8 testimony that was offered or stricken testimony
9 that was heard. Do not consider those things in
10 deciding the case. Make your decision only on the
11 evidence that I let in and nothing else. Your
12 decision should be based on all the evidence
13 regardless of which party produced it. You should
14 use your own common sense and general knowledge in
15 weighing and judging the evidence, but you should
16 not use any personal knowledge you may have about a
17 place, person or event. To repeat once more, you
18 must decide this case based only on the evidence
19 admitted during this trial.

20 As I said before, it is your job to decide
21 what the facts of this case are. You must decide
22 which witnesses you believe and how important you
23 think their testimony is. You do not have to accept
24 or reject everything a witness said. You are free
25 to believe all, none, or part of any person's

1 testimony. In deciding which testimony you believe,
2 you should rely on your own common sense and
3 everyday experience, however, in deciding whether
4 you believe a witness' testimony you must set aside
5 any bias or prejudice you may have based on the
6 race, gender or national origin of the witness.

7 There is no fixed set of rules for judging
8 whether you believe a witness but it may help to you
9 think about these things: Was the witness able to
10 see or hear clearly? How long was the witness
11 watching or listening? Was anything else going on
12 that might have distracted the witness? Did the
13 witness seem to have a good memory? How did the
14 witness look and act while testifying? Did the
15 witness seem to be making an honest effort to tell
16 the truth or did the witness seem to evade the
17 questions or argue with the lawyers? Does the
18 witness' age and maturity affect how you judge his
19 or her testimony? Does the witness have any bias,
20 prejudice or personal interest in how this case is
21 decided? Have there been any promises, threats,
22 suggestions or other influences that affected how
23 the witness testified? In general, does the witness
24 have any special reason to tell the truth or any
25 special reason to lie? All and all, how reasonable

1 does the witness' testimony seem when you think
2 about all the other evidence in the case?

3 Sometimes the testimony of different
4 witnesses will not agree and you must decide which
5 testimony you accept. You should think about
6 whether the disagreement involved something
7 important or not and whether you think that someone
8 is lying or is simply mistaken. People see and hear
9 things differently and witnesses may testify
10 honestly but simply be wrong about what they thought
11 they saw or remembered. It is also a good idea to
12 think about which testimony agrees best with the
13 other evidence in this case, however, you may
14 conclude that a witness deliberately lied about
15 something that is important to how you decide the
16 case. If so, you may choose not to accept anything
17 that witness said. On the other hand, if you think
18 the witness lied about some things but told the
19 truth about others you may simply accept the part
20 you think is true and ignore the rest.

21 Facts can be proved by direct evidence
22 from a witness or an exhibit. Direct evidence is
23 evidence about what we actually see or hear. For
24 example, if you look outside and see rain falling
25 that is direct evidence that it is raining. Facts

1 can also be proved by indirect or circumstantial
2 evidence. Circumstantial evidence is evidence that
3 normally or reasonably leads to other facts so, for
4 example, if you see a person come in from outside
5 wearing a raincoat covered with small drops of water
6 that would be circumstantial evidence that it is
7 raining. You may consider circumstantial evidence.
8 Circumstantial evidence by itself or a combination
9 of circumstantial evidence and direct evidence can
10 be used to prove the elements of a crime. In other
11 words, you should consider all the evidence that you
12 believe.

13 You have heard evidence that was
14 introduced to show that the defendant committed a
15 crime or an improper act for which he is not on
16 trial. If you believe this evidence you must be
17 very careful only to consider it for certain
18 purposes. You may only think about whether this
19 evidence tends to show that the defendant acted
20 purposefully, that is, not by accident, or mistake,
21 or because he misjudged the situation, that the
22 defendant used a plan, system or characteristic
23 scheme that he has used before or since. You must
24 not consider this evidence for any other purpose.
25 For example, you must not decide that it shows that

1 the defendant is a bad person or that he is likely
2 to commit crimes. You must not convict the
3 defendant here because you think he is guilty of
4 other bad conduct. All the evidence must convince
5 you beyond a reasonable doubt that the defendant
6 committed the alleged crime or you must find him not
7 guilty. The defendant's intent pay be proved by
8 what he said, what he did, how he did it or by any
9 other fact and circumstance in evidence.

10 MS. DILLON: Your Honor, excuse me. That
11 instruction should not be there. We'd ask --

12 THE COURT: All right. I know it's hard
13 to un-ring a bell but there's nothing about intent
14 here so please disregard that. I know you heard it
15 but it shouldn't been in there so I apologize but
16 like I told you all before we've been having some
17 issues with these instructions today.

18 If you believe that a witness previously
19 made a statement inconsistent with their testimony
20 at this trial the only purpose for which that
21 earlier statement can be considered by you is in
22 deciding whether the witness testified truthfully in
23 court. The earlier statement is not evidence that
24 what the witness said earlier is true.

25 You have heard that a lawyer or a lawyer's

1 representative talked to a witness, there is nothing
2 wrong with this. A lawyer or lawyer's
3 representative may talk to witnesses to find out
4 what the witness knows about the case and what the
5 witness' testimony will be.

6 You should not decide this case based on
7 which side presented more witnesses. Instead, you
8 should think about each witness and each piece of
9 evidence and whether you believe them then you must
10 decide whether the testimony and evidence you
11 believe proves beyond a reasonable doubt that the
12 defendant is guilty.

13 You have heard testimony from expert
14 witnesses that's Valerie Taylor, Heather Vitta, Kirk
15 Deleeuw and Benedict Arrey. Valerie Johns was an
16 expert in the field of sexual assault forensic
17 examinations. Heather Vitta, Kirk Deleeuw and
18 Benedict Arrey were experts in the field of DNA
19 analysis. Experts are allowed to give opinions in
20 court about matters that are experts on, however,
21 you do not have to believe an expert's opinion.
22 Instead you should decide whether you believe it and
23 how important you think it is. When you decide
24 whether you believe an expert's opinion think
25 carefully about the reason and facts he or she gave

1 for the opinion and whether those facts are true.
2 You should also think about the expert's
3 qualifications and whether his or her opinion makes
4 sense when you think about the other evidence in the
5 case.

6 You have heard testimony from witnesses
7 who are police officers. That testimony is to be
8 judged by the same standards you used to evaluate
9 the testimony of any other witness.

10 All right. Here's the elements. Now you
11 all are going to have these instructions, correct
12 ones, because we will pull out the stuff that
13 doesn't belong here and remove the stuff that does,
14 so you'll get a binder like this that will have
15 these instructions for you to read along or use when
16 you go in the jury room so you don't have to try to
17 remember this, but the defendant is charged with the
18 crime of First Degree Criminal Sexual Conduct. To
19 prove this charge the prosecutor must prove each of
20 the following elements beyond a reasonable doubt:
21 First, that the defendant engaged in a sexual act
22 that involved entry into Rachael Davis', Rachelle
23 Davis' genital opening by the defendant's penis.
24 Any entry, no matter how slight, is enough. It does
25 not matter whether the sexual act was completed or

1 whether semen was ejaculated.

2 Second, that the alleged sexual act
3 occurred under circumstances that involved also
4 involved felonious assault. To prove felonious
5 assault, the prosecutor must prove each of the
6 following elements beyond a reasonable doubt:
7 First, that the defendant either attempted to commit
8 a battery on Rachelle Davis or did an act that would
9 cause a reasonable person to fear or apprehend an
10 immediate battery. A battery is a forceful of
11 violent touching of the person or something closely
12 connected with the person.

13 Second, that the defendant intended either
14 to injure Rachelle Davis or to make Rachelle Davis
15 reasonably fear an immediate battery.

16 Third, that at the time the defendant had
17 the ability to commit a battery, appeared to have
18 the ability or thought he had the ability.

19 Fourth, that the defendant committed the
20 assault with a baseball bat or that the defendant
21 was armed at the time with a weapon, or with any
22 object used or fashioned in a manner to lead
23 Rachelle Davis to reasonably believe that it was a
24 weapon, or that the defendant caused personal injury
25 to Rachelle Davis and used force or coercion to

1 commit the sexual act.

2 Personal injury means bodily injury,
3 disfigurement, chronic pain, pregnancy, disease,
4 loss or impairment of a sexual or reproductive organ
5 or mental anguish. Mental anguish means extreme
6 pain, extreme distress, or extreme suffering either
7 at the time of the event or later as a result of it.
8 Force or coercion means that the defendant either
9 used physical force or did something to make Rachael
10 Davis reasonably afraid of present or future danger,
11 so for this count the first thing that the
12 prosecutor has to prove beyond a reasonable doubt is
13 that the defendant engaged in a sexual act that
14 involved entry into Rachelle Davis' genital opening
15 by the defendant's penis. Any entry no matter how
16 slight is enough. It does not matter whether the
17 sexual act was completed or whether semen was
18 ejaculated.

19 Second, that either the sexual act was in
20 conjunction with the commission of a felony or that
21 it was -- the defendant was armed with a weapon, or
22 that the defendant caused personal injury.

23 MR. BROWN: Excuse me, Judge. May we
24 approach?

25 THE COURT: No, no.

1 MR. BROWN: I have an objection.

2 THE COURT: Okay. Well I'll let you place
3 it but not right now.

4 MR. BROWN: Well that's why I'm asking
5 now.

6 THE COURT: No, no, have a seat. I'll let
7 you make your objection but not right now.

8 MR. BROWN: Okay. Thank you.

9 THE COURT: So as I was saying, for the
10 second thing that the prosecutor has to prove it is
11 that the sexual act was in conjunction with the
12 commission of a felony or armed with a weapon, or
13 personal injury use of force or coercion. It is
14 enough force if the defendant overcame Rachelle
15 Davis by physical force. It is enough force if the
16 defendant threatened to use physical force on
17 Rachelle Davis or Rachelle Davis believed that the
18 defendant had the ability to carry out those
19 threats.

20 Now the defendant is charged with Criminal
21 Sexual Conduct in the First Degree. The prosecutor
22 claims that the alleged sexual act was accompanied
23 by one or more aggravating circumstance as I just
24 explained to you in my instructions. If you agree
25 that the defendant committed the sexual act alleged

1 it is not necessary that you all agree on which of
2 these aggravating circumstances accompanied the act.
3 As long as you all agree that the prosecutor has
4 proved at least one of the circumstances beyond a
5 reasonable doubt.

6 To prove the charges of criminal sexual
7 conduct it is not necessary that there be evidence
8 other than the testimony of Rachelle Davis if that
9 testimony proves guilt beyond a reasonable doubt.
10 To prove the charge of Criminal Sexual Conduct the
11 prosecutor does not have to show that Rachael Davis,
12 Rachelle Davis resisted the defendant.

13 To prove -- the prosecutor must also prove
14 beyond a reasonable doubt that the crime occurred
15 within Wayne County. Time, however, is not an
16 element of the crime of Criminal Sexual Conduct.
17 The prosecutor does not have to prove the date or
18 time of the offense beyond a reasonable doubt.

19 Members of the jury, leave your notebooks
20 in your chairs and please return to the jury room.

21 COURT OFFICER: All rise for the jury.

22 (At 12:08 p.m. jury exits the courtroom)

23 COURT OFFICER: You maybe seated.

24 THE COURT: Yes, Mr. Brown? The jury has
25 been excused. You may make your objection.

1 MR. BROWN: My objection is that what the
2 Court did is re-read Michigan Criminal Jury
3 instructions 20.1 and some of the sections following
4 that. I guess you were doing it to explain but
5 really what you did is you re-read the instruction.

6 THE COURT: That's your objection?

7 MR. BROWN: That's my objection.

8 THE COURT: Your objection is that I
9 re-read the instructions?

10 MR. BROWN: Yes, you did. You did.

11 THE COURT: So you interrupted me reading
12 the instructions to the jury to object to me
13 re-reading an instruction?

14 MR. BROWN: If the --

15 THE COURT: That was your objection?

16 MR. BROWN: Okay. I'll finish? May I
17 finish please?

18 THE COURT: No, I'm asking was that your
19 objection? I thought you were objecting because I
20 read something that wasn't there.

21 MR. BROWN: Yeah.

22 THE COURT: If your objection was that I
23 re-read the instruction and that's the only thing
24 that you're objecting to you could have done that
25 after I was done.

1 MR. BROWN: No.

2 THE COURT: And the jury was gone.

3 MR. BROWN: No, because --

4 THE COURT: Yes, you could because I can't
5 un-reread it. I re-read it, right?

6 MR. BROWN: You can stop re-reading it.

7 THE COURT: Well, you, Mr. Brown, hold on.
8 Hold on. No, you can't finish because I'm going to
9 finish instructing this jury and then whatever you
10 want to say about this you can say it after the
11 jury -- I'm done instructing the jury because I can
12 read the instructions more an once if I want to and
13 if you think I can't then you are happy to make a
14 full record whatever case law supports your argument
15 so that your position can be duly preserved for the
16 record but, you know, I thought I read something. I
17 mean there's been problems with the jury
18 instructions having things in here that shouldn't be
19 in here or things that are wrong, sentencing that
20 were wrong, so I thought maybe I read something
21 here, you know, there was something wrong or
22 erroneous with what was here but, you know, we can
23 talk about this later. I'm going to finish
24 instructing the jury and I'll let you make your
25 complete record about your objection to me

1 re-reading the instruction. Bring back out the
2 jury.

3 MR. BROWN: So, Judge, you stopped it --

4 COURT OFFICER: All rise for the jury.

5 THE COURT: Mr. Brown.

6 MR. BROWN: I think it's important I make
7 a record.

8 THE COURT: I'm going to let you make a
9 record. No, you don't have to make a record now.

10 MR. BROWN: You didn't stop before for
11 that reason.

12 THE COURT: Mr. Brown.

13 MR. BROWN: Yes, ma'am.

14 THE COURT: Mr. Brown, I'm going to let
15 you make a full record. You can argue whatever you
16 want about how improper it is for me to read an
17 instruction more than once, any case law to support
18 your position. I will let you make a full and
19 thorough argument about that but if your objection
20 is that I read the instruction twice I can't un-ring
21 an instruction twice.

22 MR. BROWN: I'd ask you to read --

23 THE COURT: So I'm going to let you make
24 your argument.

25 MR. BROWN: 3.2.

1 THE COURT: Bring back out the jury.

2 MR. BROWN: Please read 3.2 again, Judge.

3 THE COURT: Bring back out the jury.

4 COURT OFFICER: All rise for the jury.

5 (At 12:11 p.m. the jury enters the courtroom)

6 THE COURT: You all can be seated while we
7 wait for the other jurors. Come on out. Gary.

8 All right. When you go to the jury room
9 you will be provided with a written copy of my final
10 of the final instructions. You should first choose
11 a foreperson. The foreperson should see to it that
12 your discussions are carried on in a businesslike
13 way and that everyone has a fair chance to be heard.

14 A verdict in a criminal trial must be
15 unanimous. In order to return a verdict it is
16 necessary that each of you agrees on that verdict.
17 In the jury room you will discuss the case among
18 yourselves but ultimately each of you will have to
19 makeup your own mind. Any verdict must represent
20 the individual considered judgment of each juror.
21 It is your duty as jurors to talk to each other and
22 make every reasonable effort to reach agreement.
23 Express your opinions and the reasons for them but
24 keep an open mind as you listen to your fellow
25 jurors. Rethink your opinions and do not hesitate

1 to change your mind if you decide you were wrong.
2 Try your best to work out your differences, however,
3 although you should try to reach agreement, none of
4 you should give up your honest opinion about the
5 case just because other jurors disagree with you or
6 just for the sake of reaching a verdict. In the
7 end, your vote must be your own, and you must vote
8 honestly and in good conscious.

9 If you have any questions about the jury
10 instructions before you began deliberations or
11 questions about the instructions that arise during
12 deliberations you may submit them in writing.

13 Possible penalty should not influence your
14 decision. It is the duty of the Judge to fix the
15 penalty within the limits provided by law.

16 If you want to communicate with me while
17 you are in the jury room please have your foreperson
18 write a note and give it to a deputy. Give it to
19 the Deputy Sheriff. It is not proper for you to
20 talk directly with the Judge, the lawyers Court
21 officers or other people involved in the case.

22 As you discuss the case you must not let
23 anyone, even me, know how your voting stands.
24 Therefore until you return with a unanimous verdict
25 do not reveal this to anyone outside the room, the

1 jury room.

2 So you'll knock on the door if you have a
3 question, well, your foreperson should write it down
4 and then knock on the door and when the deputies
5 answer the door hand that note to the deputies.
6 Sometimes I might be doing other stuff, as you all
7 are a well aware, that might prevent me from getting
8 to the door right away so we hear you. I'm sitting
9 right here if you knock but just be patient. The
10 deputies will get to you as soon as they can to get
11 your notes.

12 When you go to the jury room to deliberate
13 you will be able to take your full notes, these
14 instructions and all of the exhibits will come into
15 the jury room with you and along with latex gloves
16 so that if you want to look at the stuff that's in
17 that bag you may, and if you need more gloves just
18 write a note that say we need more gloves and we'll
19 give you more gloves.

20 When you go to the jury room you will
21 given a written copy of my instructions you have
22 just heard. As you discuss the case you should
23 think about all my instructions together as the law
24 you are to follow.

25 The defendant is charged with the crime of

1 first Degree Criminal Sexual Conduct. You may
2 return a verdict of guilty of this crime or not
3 guilty.

4 I've prepared a verdict form listing the
5 possible verdicts or I should say verdict form was
6 prepared listing the possible verdicts and it's very
7 simple. You can only check one box and one box that
8 corresponds with your unanimous decision that you
9 reach and that's either not guilty or guilty of
10 Criminal Sexual Conduct in the First Degree. Once
11 you have reached a unanimous decision, you all agree
12 on it, check the box that corresponds with the
13 decision that you all have collectively reached,
14 then your foreperson should write a note that says,
15 we have reached a verdict, knock on the door and
16 hand that note to the deputy, not the verdict form.
17 Hold onto the verdict form until you come out to
18 give your verdict and then the foreperson should
19 hand the verdict form to the deputy.

20 All right. Now we need to excuse two
21 members of the jury who will become our alternates.

22 THE CLERK: Juror in seat number nine.

23 THE COURT: Mr. Taylor, if you could
24 please clear the first row. Juror number nine.

25 THE CLERK: And juror number 13.

1 THE COURT: And your number 13. Leave
2 your notebooks in your chairs.

3 COURT OFFICER: Do you have anything in
4 the jury room?

5 JUROR NO. 13: Yeah, I got --

6 COURT OFFICER: Grab your stuff.

7 THE COURT: If you could please swear the
8 deputies, Ms. Brown.

9 THE CLERK: Do you solemnly swear or
10 affirm that you will keep this jury in the manner
11 and form as described by law?

12 COURT OFFICER: I do.

13 COURT OFFICER: I do.

14 (At 12:17 p.m. deputies sworn)

15 THE COURT: All right. So it's pretty
16 much lunch time now so now that you all have been
17 sworn I'm going to excuse you all for your lunch
18 break. You'll have an hour for your lunch break so
19 I'll see you all back at it's 12:20 now, so I'll see
20 you back at 1:20. Actually by the time you get your
21 coats and stuff it will be 12:25 so I'll see you
22 back at 1:25. Leave your notebooks in your chairs
23 and return to the jury room, gather your belongings.
24 Knock on the door when you're ready to go but
25 remember this is very important. Even if you all

1 decide that you're all going to lunch together at
2 let's see where can I pick today? Pegasus, for
3 example, that's not the jury room okay. So even if
4 you all go to lunch together and you're all sitting
5 together at Pegasus you can't turn Pegasus into a
6 jury room and start deliberating there, okay. I
7 know you would never do that but I have to tell you
8 just in case so you can only discuss the case when
9 you're all together and all in the jury room.
10 Hopefully we'll have everything together with the
11 jury instructions and stuff, get the mistakes fixed
12 so that will be ready for you guys when you come
13 back from your lunch break and everything will be
14 ready for you to begin your deliberations whenever
15 you all get back from lunch so I'll see you all back
16 in an hour. Do you have a question?

17 UNIDENTIFIED JUROR: Do we have to take
18 all of our belongings out of there? Is that what
19 you said?

20 THE COURT: No, no. if you have a coat or
21 something, like your jacket, whatever personal
22 belongings you want to get with you to go on lunch
23 okay. All rise for the jury.

24 COURT OFFICER: All rise for the jury.

25 (At 12:19 p.m. the jury exits the courtroom)

1 COURT OFFICER: You may be seated.

2 THE COURT: Okay. All of the jurors have
3 been excused. You may make your objection, Mr.
4 Brown.

5 MR. BROWN: Okay. At the outset, the
6 first thing I really want to say and I mean this and
7 I think you know I mean this. I don't mean any
8 disrespect to the Court.

9 THE COURT: I don't take it as disrespect.

10 MR. BROWN: No, but I'm saying it could
11 have been perceived that way but I mean no
12 disrespect but I also want to ensure that Mr. Taylor
13 has a fair trial.

14 THE COURT: Well I don't think it's
15 disrespect. You have every right to object and if
16 something is improper you should object but, you
17 know, it was just not -- it was the timeliness of
18 the objection so, you know, I don't have a problem
19 with you objecting. I never -- my microphone is not
20 on. I don't have a problem with you objecting. I
21 take no offense to you doing your job. It's your
22 job to fight for your client I just didn't think the
23 timing of the objection was the best. It could have
24 waited but if you feel that it couldn't have waited
25 you acted in what you thought was in the best

1 interest of your client at the time and I take no
2 offense to that and I don't want you to ever think
3 that I'll be offended at you doing what is your
4 sworn duty and that is to ensure that your client
5 has a fair trial so you may.

6 MR. BROWN: Thank you very much, Judge.

7 THE COURT: You're welcome.

8 MR. BROWN: My objection was when the
9 Court read Michigan Criminal Jury Instruction number
10 20.1 which is followed by 20.5, 20.8 and 20.9; that
11 you read the instruction. I had no objection to
12 that whatsoever and then I could detect a tonal
13 difference in your voice because I think what you
14 were going to do is then explain to the jurors that
15 there were ors, In other words, that these are
16 alternative ways of finding the additional finding
17 necessary for a conviction in CSC 1. I don't have
18 any objection to that but that's you didn't just
19 explain it, Judge. You went back and initially you
20 read through 20.1 which is not -- if there's no
21 problem with that then, like I said, I asked before
22 the jury came back for you to read through 3.2,
23 which is a presumption of innocence. You didn't,
24 maybe use you thought I was being sarcastic or note
25 serious, but I was being very serious because if you

1 could just read a jury instruction a second time it
2 adds emphasis to it in the minds of the jury, the
3 jury. It's coming from the authority in the room,
4 which is the Court, and that's not what's
5 appropriate. I understand that there are times when
6 you exercise your discretion to explain something
7 that maybe confusing but explanation and re-reading
8 are not the same thing and so that is my objection.
9 That was my objection then. I started -- I made the
10 objection once I realized because I thought, like I
11 said, I thought you were going to explain the fact
12 that there were additional or alternatives but what
13 you did was read it and I think that was improper
14 and that's why I objected. Thank you.

15 THE COURT: All right. Well your
16 objection is duly noted for the record but it's
17 actually factually inaccurate because what I did was
18 when I went through the instructions the first time
19 there's each option is titled, right? Sexual act in
20 conjunction with the commission of a crime, felony;
21 armed with a weapon and personal injury, use of force
22 or coercion. The first time that I read the
23 instructions I didn't read that. I just went
24 straight to that the alleged sexual act occurred
25 under circumstances that's also involved felonious

1 assault; that the defendant was armed with a weapon
2 or with any object used or fashioned in a manner to
3 lead Rachelle Dave to reasonably believe that it was
4 a weapon, and personal injury and everything that
5 followed -- that the defendant caused personal
6 injury Rachelle Davis and used force or coercion to
7 commit the sexual act, and I neglected to read the
8 title of each separate section so when I went back I
9 went back because I neglected to read the
10 instruction as it was actually written, and that was
11 my mistake, so I didn't go back and re-read it in
12 order to emphasis anything to the jury. I went back
13 and read it because when I read it through the first
14 time I skipped the title of each or so I went back
15 to read what I didn't read the first time, but I'll
16 say that, you know, in this instance the jury having
17 separate ors, possible alternatives, that they could
18 consider is something that could be confusing to the
19 jury and it is something that does require further
20 explanation which is why there is 20.30A that talks
21 about the aggravating circumstances and the fact
22 that they don't have to agree.

23 And if there was something, I'm not really
24 sure about the tone of my voice, you know, if
25 there's any, you know, I don't know that I

1 intentionally ever emphasize words but I, you know,
2 if there's something about the tone of my voice
3 that's reflects an emphasis on something it
4 certainly was not in any deliberate attempt to try
5 to highlight anything for the jury or to bias the
6 jury in a way against the defendant. My only
7 purpose in reading, rereading through the
8 instructions was because I realized that I skipped
9 those captions and I think that those captions, I
10 guess you can call them captions or titles, are
11 there for a reason and when I realized I skipped
12 them I went back to read them because I did not read
13 them the first so, so that's what I did and that's
14 why I did it but your objection and position is duly
15 noted and preserved for the record. Is there
16 anything else that's you all would like to say about
17 the instructions?

18 MS. DILLON: Nothing on behalf of the
19 People as long as and I know the Court took the
20 intent instructions out of there.

21 THE COURT: I took it out and then I --
22 which one was that that had some words? Mr. Brown
23 point out about some --

24 MS. DILLON: It was, yeah. About him
25 being charged with more than one crime.

1 THE COURT: With multiple criminal acts,
2 what number was that? Do you remember, Mr. Brown?

3 MR. BROWN: 3.5.

4 THE COURT: Oh 3.5 I found it. So what I
5 did was I whited it out but I really don't want it
6 to go to the jury like that. That wouldn't be
7 proper.

8 MR. BROWN: I think you're right.

9 THE COURT: So I'm going to have a new 3.5
10 made that doesn't have that on there. The girl
11 can't even get on the computer. She can't even get
12 on the computer. My law clerk can't even get on the
13 computer to do it so normally when that happened I
14 would have just sent it back to her right away so
15 she could fix it and you all could have it now but I
16 don't even have the ability to do that because she
17 doesn't have a computer so I have to do it myself
18 but, you know, if you all want to look at this
19 before if you could just hang tight for me for a
20 moment and let me fix it so you all can look at it
21 before it goes to the jury. I guess one thing we
22 could do is we could -- I could highlight it, white
23 it out real good, and then copy it and three-hole
24 punch it so that it doesn't look whited out. Are
25 you all okay with that as opposed to having her

1 retype it?

2 MS. DILLON: I'm fine with that.

3 MR. BROWN: That's fine with me, Judge.

4 THE COURT: All right. Is there --

5 MR. BROWN: There's one hyper technical
6 thing that maybe is a result of my bad hearing. I
7 know I can't hear but I thought you used plural when
8 you said the word verdict and so when you looked at
9 the verdict, you have a verdict form. I don't know
10 the exact language.

11 THE COURT: It says possible verdicts.

12 MR. BROWN: Yes, so I'm objecting to that.
13 That's all. Thank you.

14 THE COURT: It says, "Possible verdicts.
15 You may return only one verdict in this charge.
16 Mark only one box", and you believe it should say
17 verdict not verdicts?

18 MR. BROWN: Yes. In all fairness I
19 approved that because I did read it but I think that
20 it should say one verdict because --

21 MS. DILLON: But those are the possible
22 verdicts, guilty or not guilty.

23 MR. BROWN: Okay.

24 MS. DILLON: I mean that's she has the
25 actual instruction that's from the --

1 MR. BROWN: Okay.

2 THE COURT: And it's kind of crooked. Is
3 it me? Yes?

4 MS. DILLON: But I mean because it is.
5 There's two possible, yeah. I think that's --

6 THE COURT: Is there anything else?

7 MR. BROWN: No, ma'am, not that I'm aware
8 of. Thank you.

9 THE COURT: All right.

10 MS. DILLON: Judge, we have all of the
11 exhibits.

12 THE COURT: You all agree you've looked at
13 them and they are the exhibits?

14 MR. BROWN: Yes, ma'am.

15 MS. DILLON: Yes.

16 THE COURT: Okay. Let me fix this real
17 quick. I think it's good. Gary, copy that three
18 times. So if you all -- I just want you all to look
19 at this once it's Xerox and approve it on the record
20 okay.

21 MR. BROWN: Yes, ma'am.

22 THE COURT: And then we're going to just
23 put all of this in the jury room so when they come
24 back it will be in there for them and they can just
25 get started. Are you all okay with that?

1 MR. BROWN: I'm fine with that.

2 MS. DILLON: Yes.

3 THE COURT: We don't have to make another
4 record?

5 MR. BROWN: No.

6 MS. DILLON: So you don't need us here
7 then at 1:20?

8 THE COURT: Uh-uh. I don't need you back
9 at all unless there's a question or -- can you show
10 that to the lawyers? Unless there's a question that
11 necessitates your attention. If they ask a basic
12 question though I'll answer it without summoning you
13 but whatever answers even if I make an answer to the
14 jury without talking to you all about it -- are you
15 all okay with this? It looks fine now?

16 MR. BROWN: Yes, it does.

17 MS. DILLON: Yeah, it's fine.

18 THE COURT: Whited out and xeroxed okay,
19 so just three-hole punch it and stick it in there.
20 But whatever you all know I think, well, you've
21 tried a case in here before, this case, so you know,
22 any questions or answers I will, if it's something
23 complex that I need you all to discuss I'll all you.
24 If not, I'll just answer them and I'll leave a copy
25 of -- I'll make a record of the question that was

1 asked and the answer that was given. You'll be able
2 to put -- we'll put that all on the record. Okay.

3 MR. BROWN: Thank you, Judge.

4 THE COURT: Thank you.

5 MS. DILLON: Thank you.

6 THE COURT: Mr. Taylor, please go with my
7 deputies, sir.

8 (At 12:33 p.m. off the record)

9 (At 3:10 p.m. back on the record)

10 THE COURT: Okay. Members of the jury,
11 couple of things. You sent me two notes and both
12 notes were improper because the notes that you sent
13 me indicate where your voting stands. Whether you
14 do it in numbers or you do it in words you can't
15 send notes that indicate where your voting stands;
16 that's for you among the jury to know and no one
17 else. So words like we are unable to come to an
18 agreement, we have been unable to reach a decision,
19 we are unable to see eye to eye, those kind of words
20 indicate that -- do you understand what I'm saying?
21 And you know what you put on these two notes that
22 you sent me. I can't say what you put on the notes
23 that you sent me because to say it would be to
24 further reveal the problem so you can't send me
25 notes like that okay. If you're unable to come to

1 an agreement or, you know, you have to use other
2 words that don't indicate where your voting stands.
3 Do you all understand?

4 THE JURY: (Answers affirmatively).

5 THE COURT: I read you that instruction
6 before. I'm not trying to be rude or hyper
7 technical. That's the rules. We have to be very
8 care fortunately that we follow the rules okay. So
9 I know I read a lot of instructions. I know I read
10 them kind of fast. I tend to talk fast but you
11 cannot let anyone know where your voting stands
12 until you have been discharged from jury duty.
13 After you're done with jury duty you can talk
14 numbers to whoever you want. Anybody you want but
15 not while as long as you're still a juror, okay, so
16 I'm going to read you another instruction for
17 circumstances like this. You don't have this
18 instruction. This is a new instruction but as soon
19 as I can figure out how to get you a copy of it I'll
20 get you a copy of it and you can have it: "you"
21 have returned from deliberations indicating that you
22 believe you cannot reach a verdict. I'm going to
23 ask you to please return to the jury room and resume
24 your deliberations in hope that after further
25 discussion you will be able to reach a verdict. As

1 you deliberate please keep in mind the guidelines I
2 gave you earlier. Remember, it is your duty to
3 consult with your fellow jurors and try to reach
4 agreement if you can do so without violating your
5 own judgment. To return a verdict you must all
6 agree and the verdict must represent the judgment of
7 each of you. As you deliberate you should carefully
8 and seriously consider the views of your fellow
9 jurors. Talk things over in a spirit of fairness
10 and frankness. Naturally there will be differences
11 of opinion. You should each not only express your
12 opinion but also give the facts and the reasons on
13 which you base it. By reasoning the matter out
14 jurors can often reach agreement. If you think it
15 would be helpful you may submit to the deputy a
16 written list of the issues that are dividing or
17 confusing you. It would then be submitted to me. I
18 will attempt to clarify or amplify the instructions
19 in order to assist you in your further
20 deliberations.

21 When you continue your deliberations do
22 not hesitate to re-think your own views and change
23 your opinion if you decide it was wrong. However,
24 none of you should give up your honest beliefs about
25 the weight or effect of the evidence only because of

1 what your fellow jurors think or only for the sake
2 of reaching agreement. All right. So that's my
3 further instructions to you and I'm going to ask
4 that you return to your jury room and continue your
5 deliberations. All rise for the jury.

6 COURT OFFICER: All rise for the jury.

7 (At 3:13 p.m. the jury exits the courtroom)

8 THE COURT: Anything for the record?

9 MR. BROWN: No, your Honor.

10 MS. DILLON: Nothing, Judge.

11 THE COURT: All right.

12
13 (At 3:14 p.m. proceedings concluded)
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24
25

1 C E R T I F I C A T E

2

3 STATE OF MICHIGAN)

4)ss

5 COUNTY OF WAYNE)

6

7 I, Bromeaica McBride, certify that this transcript
8 consisting of 105 pages is a complete, true and correct
9 transcript of the proceedings and testimony taken in this
10 case on May 1, 2017.

11

12

13

14 3-8-18 _____[BROMEICA] [MCBRIDE]_____

15 Date BROMEICA MCBRIDE, CSR 7279
16 Lincoln Hall of Justice
17 1025 East Forest, Room 105
18 Detroit, Michigan 48207
19 (313) 833-0787

20

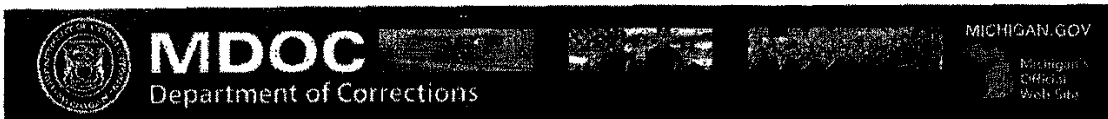
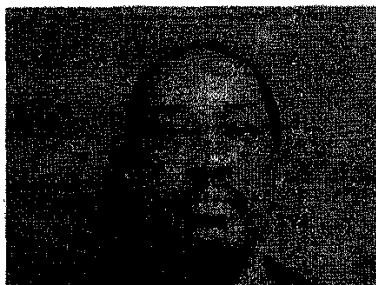
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**BIOGRAPHICAL INFORMATION****DEXTER BURRELL TAYLOR****EXHIBIT A**

MDOC Number: 185287
SID Number: 1738559X
Name: DEXTER BURRELL TA
Racial Identification: Black
Gender: Male
Hair: Black
Eyes: Brown
Height: 5' 11"
Weight: 170 lbs.
Date of Birth: 11/01/1966 (51)
Image Date: 7/5/2017

MDOC STATUS

Current Status: Prisoner
Assigned Location: Gus Harrison Correctional Facility
Security Level: IV

Earliest Release Date: 10/01/2046
Maximum Discharge Date: 09/16/2081

ALIASES**MARKS, SCARS & TATTOOS**

Scar- Center Abdomen - surgery scar on center of abdomen

Scar- Forehead

Scar- Right Cheek

Scar- Upper Face

Scar- Upper Lip

Tattoo- Center Right Arm - It on rt arm / bicep area

Tattoo- Upper Right Arm

MICHIGAN DEPARTMENT OF CORRECTIONS
PRESENTENCE INVESTIGATION REPORT

CFJ-145

Rev. 11/09

Honorable: Qiana D Lillard

County: Wayne County

Sentence Date: 05/23/2017

MDOC Nbr.: 165287

Attorney: Mark L. Brown

Appointed/Retained: Appointed

Defendant: Taylor, Dexter Burrell

Age: 50

D.O.B.: 11/01/1966

CURRENT CONVICTION(S)

Final Charge(s)	Max			Jail Credit Days	Bond	Convicted By	Conviction Date
	Yrs	Mo.	Days				
Charge(1): 16007780-01-FC	750.520B	Criminal Sexual Conduct, 1st Deg	LIFE	0	Not Posted	Jury	05/02/2017

SOR Required: ☒ Y

Date SOR Completed: 5/19/2017

Plea Agreement: None noted.

HYTA: No

Pending Charges: None

Where: N/A

Status at Time of Offense: Parole

PRIOR RECORD

Conviction: Felonies: 6

Misdemeanors: 24

Juvenile Record: No

Probation: Active: No

Former: Yes

Pending Violation: No

Parole: Active: No

Former: Yes

Pending Violation: No

Current Michigan Prisoner: No

Currently Under Sentence: No

Sentence Date	Offense	County/State	Sentence	Min.	Max.

PERSONAL HISTORY

Where Employed: Unemployed

Education: Ninth Grade

Psychiatric History: No

Physical Handicaps: No

Marital Status: Single

Substance Abuse History: Yes

What	How Long
THC (Marijuana, Hashish, etc.)	1990 to 2006
Cocaine	1992 to 01/01/1999

Investigating Agent: WARREN K HARRISON

Caseload No.: 1932

Date: 05/18/2017

Worksite: Wayne/Detroit Court Serv./Probation

Phone No: (313) 224-7935

MICHIGAN DEPARTMENT OF CORRECTIONS
PRESENTENCE INVESTIGATION REPORTCFJ-145
Rev. 11/09

DEPARTMENT OF CORRECTIONS RECOMMENDATION

Jail Credit:

DOCKET NO.			
Date(s)	Action	Sentence Details	Days
6/10/16-5/23/17	Arrest	Wayne County Jail	289
Total Days Jail Credit			0

It is respectfully recommended the defendant be sentenced to a period of incarceration with the Michigan Department of Corrections.

1. (01.11) You must register, as required by the Michigan Sex Offenders Registration Act and comply with all of the requirements of that act. You must provide a completed copy of the Michigan Sex Offenders Registration form to your field agent on your first in-person report following vacating your residence, any address change, address verification, or change in your status with an institution of higher education. At each address change or verification period you must present your Michigan Operator's License, Chauffeur's License, or Personal Identification Card to the field agent at your first in-person contact.

2. (01.15) To facilitate sex offender case management team (CMT) meetings you must waive confidentiality and allow the disclosure and exchange of information between the Michigan Department of Corrections, including its authorized agents, and all CMT members.

3. (08.11) You must consent to assignment of wages until court ordered assessments are paid in full, unless otherwise directed by the field agent.

4. (08.18) You must pay \$408 State Cost as ordered by the Court.

5. (08.2) You must pay a crime victim's assessment in the amount of \$139 as ordered by the court.

6. (08.4) You must pay court costs of \$1300 as ordered by the court.

7. (08.4) You must pay attorney fees of \$400 as ordered by the court.

Supervisor: MALINA M FARAJ

Date: 05/18/2017

**Michigan Department of Corrections
Presentence Investigation**

CFJ-284

Rev. 10/03

Evaluation and Plan

Appearing before the Court for sentencing is Dexter Burrell Taylor a 50 year old resident of Detroit, Michigan and United States Citizen. The defendant is a single male who claims paternity of one child. The defendant was identified by information obtained from the Wayne County Sheriff's Department and information from LEIN. It should be noted the defendant could not be identified by his Social Security number or Driver's License due to being held in the Wayne County Jail.

The defendant Dexter Burrell Taylor, a single 50 year old male, was born in Chicago, Illinois. The defendant's family moved to Greenville, Mississippi for several years prior to the defendant moving to Detroit in 1990. The defendant was residing with his sister, Angela Taylor, at 3173 Liddesdale Street, Detroit, MI 48207. 382-6821. The defendant's mother Bessie Jackson is deceased. The defendant has never married, however he does have one 22 year old daughter Sharika Richardson, age 28. It should be noted that the defendant did not have any phone numbers for his family members.

The defendant was educated at Greenville High School in Greenville, Mississippi, he completed the ninth grade. This defendant obtained his GED certificate in 2004 while incarcerated with Michigan Department of Corrections/Riverside Correctional Facility (Verified). This defendant has never served in the military. This defendant has not had employment for several year, he reports earning needed income by doing odd jobs.

The defendant has a history of marijuana and crack cocaine abuse, he has used these drugs off and on since 1990. He reports to be drug and alcohol free at the present time. He indicates that he last attended at Sobriety House in 1999. In regards to the defendants mental and physical health. Mr. Taylor states that he is in good health

This defendant has had extensive contact with the criminal justice system consisting six prior felonies and 24 misdemeanors. A LEIN check did not reveal any outstanding warrants.

The defendant's sentencing guideline range is 72 to 180 months. The defendant does not qualify to be sentence to community supervision programs based upon the nature of the offense.

Agent's Description of the Offense

The following information was garnered from Wayne County Prosecutors Office Information Felony Report dated 6/21/2016:

State of Michigan, County of Wayne in the name of the People of the State of Michigan: The Prosecuting attorney for this county appears before the Court and informs the Court that on 7/25/1996 at the location at 25201 West Outer Drive in the City of Melvindale, MI., the defendant did engage in a sexual penetration, to wit: Penis to Genital, with Rachel Davis, under the following circumstances during the commission of the felony of

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Felonious Assault, and or defendant was armed with a weapon or any article used or fashioned in a manner.

On 8/8/2016 the defendant was arrested by the Wayne County Prosecutors Office and charged with 1 count of Criminal Sexual Conduct 1st Degree. On 5/2/2017 the defendant was found guilty by a jury trial before the Honorable Judge Qiana Denise Lilard.

Consecutive Sentences

There is a sentence agreement with the Prosecutor's Office that the within conviction will run concurrent with two other cases.

Victim's Impact Statement

On 5/17/17 writer spoke with victim Rachel Colette Davis by telephone. She informs this writer that she wishes that the defendant receives the maximum time in prison. She is still in counseling and is still experiencing sleeping problems in which she is under medication from her doctor

Defendant's Description of the Offense

The defendant did not wish to make a statement.

Criminal Justice**Juvenile History:**

This investigation revealed no juvenile criminal history for this offender.

Adult History:**NO. 1 OF 28**

Offense Date:	02/12/1986
Status at Time of Offense:	
Arrest Date:	02/12/1986
Arresting Agency:	Greenville Police Department
Charge(s) at Arrest:	Grand Larceny
Court of Jurisdiction:	Unknown
Final Charges:	Grand Larceny
Conviction Date/Method:	Unknown / Plea
Sentence/Disposition:	5 years at Ranken Correctional Facility
Sentence Date:	1987
Attorney Present:	Unknown
Discharge Date:	1987
Notes:	Completed 19 months

NO. 2 OF 28

Offense Date:	04/10/1991
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Status at Time of Offense:	
Arrest Date:	04/10/1991
Arresting Agency:	Greenville Police Department
Charge(s) at Arrest:	Possession of Cocaine; Contempt of Court
Court of Jurisdiction:	Unknown
Final Charges:	Possession of Cocaine
Conviction Date/Method:	Unknown
Sentence/Disposition:	1 year
Sentence Date:	Unknown
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 3 OF 28

Offense Date:	03/08/1994
Status at Time of Offense:	
Arrest Date:	03/08/1994
Arresting Agency:	Melvindale Police Department
Charge(s) at Arrest:	Larceny Over \$100
Court of Jurisdiction:	Recorder's Court, Docket 94-3081
Final Charges:	Retail Fraud First Degree
Conviction Date/Method:	03/29/1994 / Plea
Sentence/Disposition:	2 years probation
Sentence Date:	05/19/1994
Attorney Present:	Yes
Discharge Date:	09/27/1994
Notes:	Closed without improvement.

NO. 4 OF 28

Offense Date:	07/22/1994
Status at Time of Offense:	
Arrest Date:	07/22/1994
Arresting Agency:	Lincoln Park PD
Charge(s) at Arrest:	Retail Fraud 1st, Habitual 4th
Court of Jurisdiction:	3rd Circuit Court, Docket 94-8305
Final Charges:	Retail Fraud 1st, Habitual 4th (E)
Conviction Date/Method:	08/12/1994 / Plea
Sentence/Disposition:	2 to 15 years SPSM
Sentence Date:	09/27/1994
Attorney Present:	Yes
Discharge Date:	08/29/2015
Notes:	Paroled 7/22/196, absconded 9/9/96, returned 1/31/97, 8/29/15 discharged on the maximum without parole.

NO. 5 OF 28

Offense Date:	07/25/1996
Status at Time of Offense:	Parole
Arrest Date:	05/10/2017

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Arresting Agency:	Wayne County Prosecutors Office
Charge(s) at Arrest:	CSC 1st Degree
Court of Jurisdiction:	3rd Circuit Court Docket# 16-007780-01
Final Charges:	CSC 1st Degree
Conviction Date/Method:	05/02/2017 / Plea
Sentence/Disposition:	within offense
Sentence Date:	Unknown
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 6 OF 28

Offense Date:	09/28/1996
Status at Time of Offense:	
Arrest Date:	09/28/1996
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th Circuit Court, Docket #96-2861CM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	01/09/1997 / Plea
Sentence/Disposition:	4 days jail
Sentence Date:	01/09/1997
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 7 OF 28

Offense Date:	11/09/1996
Status at Time of Offense:	
Arrest Date:	09/28/1996
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Retail Fraud 1st (2 counts)
Court of Jurisdiction:	3rd Circuit Court, Docket 96-503792
Final Charges:	Retail Fraud 1 count (E)
Conviction Date/Method:	12/05/1996 / Plea
Sentence/Disposition:	3 years probation 1st year WDF
Sentence Date:	01/07/1997
Attorney Present:	Yes
Discharge Date:	08/30/1999
Notes:	

NO. 8 OF 28

Offense Date:	10/06/1998
Status at Time of Offense:	
Arrest Date:	10/06/1998
Arresting Agency:	Dearborn Police Department
Charge(s) at Arrest:	Larceny

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Court of Jurisdiction:	19th District Court, Docket #98-53228CM
Final Charges:	Larceny in a Building
Conviction Date/Method:	10/12/1998 / Plea
Sentence/Disposition:	90 days jail
Sentence Date:	10/12/1998
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 9 OF 28

Offense Date:	02/25/1999
Status at Time of Offense:	
Arrest Date:	02/25/1999
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Misd Larceny
Court of Jurisdiction:	25th District Court
Final Charges:	Retail Fraud 3rd
Conviction Date/Method:	08/20/1999 / Plea
Sentence/Disposition:	90 days
Sentence Date:	08/20/1999
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 10 OF 28

Offense Date:	11/09/1999
Status at Time of Offense:	
Arrest Date:	11/09/1999
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Dangerous Drugs, Larceny
Court of Jurisdiction:	25th District Court, Docket 99958CM, Docket 994236CM, Docket
Final Charges:	Possession of Marijuana, Retail Fraud 2nd, Retail Fraud 2nd
Conviction Date/Method:	02/25/2000 / Plea
Sentence/Disposition:	90 days
Sentence Date:	02/25/2000
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 11 OF 28

Offense Date:	12/10/2001
Status at Time of Offense:	
Arrest Date:	12/10/2001
Arresting Agency:	Lincoln Park PD
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket 014069CM, 014070CM
Final Charges:	Retail Fraud 2nd, Disorderly Interfering With a PO

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Conviction Date/Method:	01/24/2002 / Plea
Sentence/Disposition:	2 days
Sentence Date:	01/24/2002
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 12 OF 28

Offense Date:	06/29/2003
Status at Time of Offense:	
Arrest Date:	06/29/2003
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Dangerous Drugs, Retail Fraud 2nd
Court of Jurisdiction:	25th District Court, Docket 03-1981CM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	06/30/2003 / Plea
Sentence/Disposition:	30 days
Sentence Date:	06/30/2003
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 13 OF 28

Offense Date:	01/30/2007
Status at Time of Offense:	
Arrest Date:	01/30/2007
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Robbery
Court of Jurisdiction:	3rd Circuit Court, Docket 07-5383
Final Charges:	Retail Fraud 1st
Conviction Date/Method:	03/02/2007 / Plea
Sentence/Disposition:	6 months - 5 years MDOC
Sentence Date:	03/19/2007
Attorney Present:	Yes
Discharge Date:	8/29/2015
Notes:	Returned on 2/18/11 as a parole violator; 8/29/15, discharged on the maximum without parole.

NO. 14 OF 28

Offense Date:	03/20/2008
Status at Time of Offense:	
Arrest Date:	03/20/1988
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #08-857-OM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	11/26/2008 / Plea
Sentence/Disposition:	90 days jail

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Sentence Date:	11/26/2008
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 15 OF 28

Offense Date:	09/29/2008
Status at Time of Offense:	
Arrest Date:	09/29/2008
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	11/26/2008 / Plea
Sentence/Disposition:	90 days jail
Sentence Date:	11/26/2008
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 16 OF 28

Offense Date:	09/29/2008
Status at Time of Offense:	
Arrest Date:	09/29/2008
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #08-533OM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	11/26/2008 / Plea
Sentence/Disposition:	90 days jail
Sentence Date:	11/26/2008
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 17 OF 28

Offense Date:	10/08/2008
Status at Time of Offense:	
Arrest Date:	10/08/2008
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	Third Circuit Court, Docket #08-2358
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	11/26/2008 / Plea
Sentence/Disposition:	90 days jail
Sentence Date:	11/26/2008
Attorney Present:	Unknown

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Discharge Date:	Unknown
Notes:	

NO. 18 OF 28

Offense Date:	10/21/2008
Status at Time of Offense:	
Arrest Date:	10/21/2008
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #08-2481-OM
Final Charges:	Assisting/Resisting/Obstructing Police Officer
Conviction Date/Method:	11/26/2008 / Plea
Sentence/Disposition:	1 day jail
Sentence Date:	11/26/2008
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 19 OF 28

Offense Date:	04/25/2009
Status at Time of Offense:	
Arrest Date:	04/25/2009
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #09-224-SM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	06/24/2009 / Plea
Sentence/Disposition:	30 days jail
Sentence Date:	06/24/2009
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 20 OF 28

Offense Date:	06/22/2009
Status at Time of Offense:	
Arrest Date:	06/22/2009
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Ordinance Violation - Controlled Substance
Court of Jurisdiction:	25th District Court, Dockets #09-1040 & 09-1041
Final Charges:	Ct. 1) Controlled Substance-Sale of Paraphernalia; Ct. 1) Police Officer Assault/Resisting/Obstructing
Conviction Date/Method:	04/27/2009 / Plea
Sentence/Disposition:	3 days jail on each count
Sentence Date:	04/27/2009
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

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NO. 21 OF 28

Offense Date:	07/09/2009
Status at Time of Offense:	
Arrest Date:	07/09/2009
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #09-1658-OM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	08/18/2009 / Plea
Sentence/Disposition:	17 days jail
Sentence Date:	08/18/2009
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 22 OF 28

Offense Date:	07/14/2009
Status at Time of Offense:	
Arrest Date:	07/14/2009
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	3rd Circuit Court, Docket #09-1694
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	08/18/2009 / Plea
Sentence/Disposition:	17 days jail
Sentence Date:	08/18/2009
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 23 OF 28

Offense Date:	08/02/2009
Status at Time of Offense:	
Arrest Date:	08/02/2009
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #09-263-SM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	08/18/2009 / Plea
Sentence/Disposition:	120 days jail
Sentence Date:	08/18/2009
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 24 OF 28

Offense Date:	07/21/2010
Status at Time of Offense:	

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Arrest Date:	07/21/2010
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #10-263-SM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	08/03/2010 / Plea
Sentence/Disposition:	120 days jail
Sentence Date:	08/03/2010
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 25 OF 28

Offense Date:	09/10/2010
Status at Time of Offense:	
Arrest Date:	09/10/2010
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	10/26/2010 / Plea
Sentence/Disposition:	45 days jail
Sentence Date:	10/26/2010
Attorney Present:	Yes
Discharge Date:	Unknown
Notes:	

NO. 26 OF 28

Offense Date:	02/18/2011
Status at Time of Offense:	
Arrest Date:	02/18/2011
Arresting Agency:	Lincoln Park Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #11-431-OM
Final Charges:	Retail Fraud 2nd
Conviction Date/Method:	06/01/2011 / Plea
Sentence/Disposition:	30 days jail
Sentence Date:	06/01/2011
Attorney Present:	Yes
Discharge Date:	06/10/2011
Notes:	

NO. 27 OF 28

Offense Date:	02/18/2011
Status at Time of Offense:	
Arrest Date:	02/18/2011
Arresting Agency:	Lincoln Park Police Department

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Presentence Investigation**

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Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	25th District Court, Docket #11-431-OM
Final Charges:	Retain Fraud 2nd
Conviction Date/Method:	06/11/2011 / Plea
Sentence/Disposition:	30 days jail
Sentence Date:	06/10/2011
Attorney Present:	Unknown
Discharge Date:	Unknown
Notes:	

NO. 28 OF 28

Offense Date:	02/18/2011
Status at Time of Offense:	
Arrest Date:	02/18/2011
Arresting Agency:	Wyandotte Police Department
Charge(s) at Arrest:	Larceny
Court of Jurisdiction:	3rd Circuit Court, Docket #12-3401
Final Charges:	Attempt Retail Fraud 1st
Conviction Date/Method:	08/27/2012 / Plea
Sentence/Disposition:	6 1/2 months to 2 years MDOC
Sentence Date:	09/14/2012
Attorney Present:	Yes
Discharge Date:	8/29/2015
Notes:	

Personal Protection Order(s): None

Gang Involvement:

There has been no known prior gang involvement for the defendant.

Start Date	End Date	Gang Name	Gang Location	Gang Role	Gang Rank/Status
None					

Gang Marks, Scars, & Tattoos: None

Gang Names: None

Family

Name	Relationship	Age	Address	Phone	Occupation
Wright, Jerry	Father	69	1869 Beatrice Detroit, Michigan	(313) 367-7132	Retired - Great Lakes Steel
Jackson, Carlos	Brother	54	Flint, Michigan		Electronic Company
Taylor, Angela	Sister	52	2426 S. Edsel Detroit, Michigan	(313) 382-6821	Unknown
Jackson, Deldra	Sister	49	2124 LIDDESDALE DETROIT, Michigan 48217	(313) 386-7132	

**Michigan Department of Corrections
Presentence Investigation**

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Jackson, Bessie	Mother	Deceased	Michigan		
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Comments:

The defendant's father Jerry Wright resides at 1869 Beatrice Street, Detroit, Michigan. He is retired from Great Lakes Steel. The defendant's mother Beatrice Jackson is deceased. The defendant has one brother residing in Flint, Michigan and two sisters residing in Detroit. The telephone number that was provided to this writer for verification was disconnected. It should therefore be noted that the defendants family could not be verified.

Marriage

Name	Relationship	Age	Address	Phone	Occupation
Richardson, Sharika	Daughter	28	Greenville, Mississippi	Unknown	Unknown
Richardson, Tara	Former Significant Other	Unknown	Greenville, Mississippi	Unknown	Unknown

Comments:

The defendant has never married; however he does have a 22 year old daughter residing in Greenville, Mississippi.

Employment

Employer Name	Start Date	End Date	Position	Rate of Pay	Termination Reason
Salvation Army Thrift Store	09/10/2009	11/01/2010	Laborer	min wage	Quit
Pak Rite	05/01/2006	01/01/2010	Laborer	min wage	Arrested

Education**High School:**

Name	Start Date	End Date	Level Completed	Area of Study	Certificate
Greenville High School		11/22/2010	Ninth Grade		None

The defendant was educated in Greenville, Mississippi. The defendant attended Greenville High School up until the ninth grade. The defendant completed his GED certificate with Michigan Department of Corrections at Riverside Correctional Facility in 2004.

College/Advanced Degrees:

Name	Start Date	End Date	Level Completed	Area of Study	Certificate
None					

Vocational/Other Training:

Name	Start Date	End Date	Level Completed	Area of Study	Certificate
None					

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Substance Use and Treatment

Substance Use:

Drug	Start Date	End Date	Frequency	Age of First Use
THC (Marijuana, Hashish, etc.)	1990	2006	Daily	24
Cocaine	1992	1999	Daily	27

Substance Abuse Treatment:

Treatment Type	Provider	Start Date	End Date	Completed
Residential	Sobriety House	03/1999	03/1999	NO

Health

Physical Health:

Health Problem	Medication	Treatment	Treatment Begin Date
Other Physical Health Problem	Zantac	Medicine	

The defendant describes his current health as poor. He is under doctor's care and taking medication.

Mental Health:

Health Problem	Medication	Treatment	Treatment Begin Date
None			

Finances

Income:

Type	Amount	Description
None		

Assets:

Type	Estimated Value	Description
None		

Liabilities:

Type	Amount	Description
None		

RS

Appendix L - Presentence Investigation Report

L 0773a

MICHIGAN DEPARTMENT OF CORRECTIONS
BASIC INFORMATION REPORT4836-6101
12/06 CFJ-101

Court Name (Last, First, Middle) Taylor, Dexter Burrell			MDOC Nbr. 165287		Given Name (Last, First, Middle) Same	
Name Type			Other Names (Last, First, Middle)			
Alias			JACKSON, DEXTER; JACKSON, DEXTER B; TAYLOR, DEXTER BURRELL; THOMAS, DEXTER TAYLOR; DEXTER, JACKSON; DEXTER, TAYLOR; JACKSON, DEXTER BURRELL; JACKSON, ERIC BURRELL; LAMAR, THOMAS; TAYLOR, DEXTER B; THOMAS, LAMAR; THOMAS, LEROY BERRELL; TAYLOR, DAVID CUR			
Court/Commitment Name			TAYLOR, DEXTER; TAYLOR, DEXTER BURRELL			
Place of Birth Illinois			Citizenship USA		Last Known Address & Telephone No.	
State & DLN Michigan J250108802182, Michigan T 460 139 024 841, Michigan MI/T 460 139 024 841			DOB 11/01/1966		3173 Littlesdale	
SID No. 1736559X			FBI No. 690630EA5		Detroit Michigan 48101	
Race Black or African American		Sex Male	Hair Black	Eyes Brown	0-	
Height 5' 11"	Weight 170	Highest Grade Completed Ninth Grade	Occupation None	Health Ins. No	Assets-\$1,500 & Up No	Monthly Income of \$75 & Up No
Marital Status Single	Dependents 1	Religion No Preference	Military Branch None	Military Dates None	Discharge Type None	
Marks, Scars, Amputations, Tattoos				Drug Abuse	Alcohol Abuse	Mental Health Treatment
Tattoo Right Center Arm		Scar Center Abdomen		Yes	No	No
Scar Forehead		Scar Upper Lip				
Tattoo Right Upper Arm		Scar Right Cheek				

CRIMINAL HISTORY

Juvenile			Adult				Status at Time of Offense			
Comm. 0	Prob. 0	Esc. 0	Jail 22	Pris. 5	Prob. 2	Esc. 0	<input checked="" type="checkbox"/> X None <input type="checkbox"/> HYTA <input type="checkbox"/> Probation <input type="checkbox"/> District Probation <input type="checkbox"/> Federal Probation <input type="checkbox"/> Federal Parole	Delayed Sentence Parole Jail State Prison On Bond Juvenile Court Supervision		
Age of First Arrest 19		Sex Offense Convictions 0		SAI Eligible No						
Pending Charges in Court No		No. of Prior Felony Convictions 6								
Type of Report Presentence		County Wayne County		Agent & Caseload No. WARREN K. HARRISON - 1932						
DOC Recommended Disposition 4		Probation Violation New Sentence No		Probation Violation Technical No						

CURRENT OFFENSE

NO. 1	OF 1	Docket No.: Charge (1): 16007780-01-FC	Last Name: Taylor		
PACC Code 750.520B	Offense Criminal Sexual Conduct, 1st Deg.			Max LIFE	Consecutive Sentence No
Victim / Relationship Davis, Rachel C. - Unknown			Codefendant(s) None		
Circuit 03rd Circuit Court - Wayne County		Judge Qiana D Lillard	Attorney Mark L. Brown		Retained / Appointed Appointed
Method of Conviction Jury	Date of Offense 07/02/1996	Date of Arrest 05/01/2017	Date of Bond N/A	Date of Conviction 05/02/2017	Jail Credit 0
			Guilty But Mentally Ill No		

DISPOSITION

Sentence Type			Sentence Date 05/23/2017		CTN 821671125701	Fine	Cost	Restitution
MINIMUM			MAXIMUM		LIFE	JAIL	Supervision Fees	Crime Victims Assessment
Years	Months	Days	Years	Months	Days	Months	Days	

Taylor, Dexter Burrell - 165287
05/19/2017 14:51:18

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Appendix L - Presentence Investigation Report

L 0774a

MICHIGAN DEPARTMENT OF CORRECTIONS
BASIC INFORMATION REPORT

4836-6101
12/06 CFJ-101

Attorney Fees		Forensic Fees		Restitution Fund Fees		Other Fees	
Sentencing Guidelines							
RANGE		LIFE	NA	Prior Record Total		Offense Variable Total	
Low:	High:		X				
Comments:							

Dear U-Honor

I'm hoping this letter finds you in the best of health as for well being. I'm doing Fairly well under the circumstances I would like to thank you for taking time out of your very busy schedule to read my letter. U-Honor I'm writting this etter in regards to my upcoming Sentencing hearing Schedule Before you on 5-23-19. U-Honor first and foremost I take full responsibility for my Criminal actions that I was found built by of. I would like to apologize to my victims in this matter and ask that you would allow me to do so at my Sentencing Hearing. U-Honor I want you to know I'm not a Bad person but I've really made some Bad decision in Life. The most detrimental decision was choosing to smoke "crack cocaine" that lead to a Life of crime and to the situation I'm in right now

I'm not faulting anyone except myself because I made the decision to start smoking crack and now I'm facing the possibility of spending the rest of my life in prison. U-Honor I've been smoking "Crack Cocaine" for the last 30 yrs as you can see from my criminal record I'm not a violent person all my crimes were committed to support my habit this is why ~~no~~ all my crimes are property crimes except for the one that could cause me the rest of my life in prison. U-Honor I've got 5 yr old twin daughters at home Ebony, Erica who I love very much and I miss them since I've been locked up. U-Honor I'm begging you "please" to have mercy on me be lenient on me please U-Honor allow me to do some so I may still come out and be a part of my daughter's lives and become a productive member of society; U-Honor I'm 30 yrs old, I'm so sorry for what I did to Mrs Rachelle Davis as

Well as Ms Erica Dook,
U-Honor I say this it may be
hard for people to believe but
I would've never did this to
hurt this innocent Ladies if
I wasn't on "Crack". U-Honor
I know I should be punished
but I'm throwing myself on the
mercy of the court and ask
you to please have be lenient on
me. U-Honor before I appeared before
you I was told by several individuals
that you dealt with Drug Addicts
on a regular bases and you always try
to help them so please U-Honor
"please" help me. Please give me a chance
to go to prison and still come out
and be apart of my Syn old daughters
life and become a productive member
of society. I'm not a bad person
U-Honor but I've really made some bad
decision. There's a program I'm told
they have in prison now and I
promise I'm going to take it
during my incarceration. It called
"Thinking for a Change" I'm also
going to take up Substance Abuse

U-Honor if you show me mercy and be lenient on me. I won't disappoint you, my Family or Society I promise. U-Honor I prayed to God and asked Him to forgive me and he has and I'm going to ask Ms Davis and Mr Doak to forgive me if I'm allowed to address the court

U-Honor in closing I would like to thank you for taking time out of your very busy schedule to read my letter

Any assistance you can give me on this matter U-Honor will be greatly appreciated

Thank you U-Honor for your time and effort on this matter which is also greatly appreciated

Respectfully,

Mr. Dexter Taylor

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-01

DEXTER TAYLOR

Defendant.

_____/

ARRAIGNMENT

BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE

Detroit, Michigan - Tuesday, September 13, 2016

APPEARANCES:

On behalf of the People: SUSAN DILLON, P72904
1441 St. Antoine Street
Detroit, Michigan 48226
(313) 224-5777

On behalf of defendant: MARK L. BROWN, P39562
645 Griswold
Suite 972
Detroit, Michigan 48226
(313) 999-0150

Transcribed by: Bromeaica McBride, CSR 7279

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1 Detroit, Michigan

2 Tuesday, September 13, 2016

3 At approximately 10:17 a.m.

4 - -

5 THE CLERK: Calling case number
6 16-007780-01-FC. People of the State of Michigan
7 versus Dexter Taylor. The parties are here today
8 for arraignment on the information. Appearances
9 please.

10 MS. DILLON: Your Honor, Susan Dillon on
11 behalf of the People.

12 MR. BROWN: Good morning, your Honor. May
13 it please the Court, Mark Brown appearing on behalf
14 of Mr. Taylor who stands to my right.

15 THE COURT: Good morning, Ms. Dillon.
16 Good morning, Mr. Brown, and good morning to you,
17 Mr. Taylor.

18 DEFENDANT TAYLOR: Good morning, your
19 Honor.

20 THE COURT: Today is the date and time set
21 for a arraignment on the information. What's your
22 client's pleasure?

23 MR. BROWN: We'd waive the formal reading
24 of the information and stand mute, your Honor.

25 THE COURT: I'll enter a not guilty plea

1 on his behalf.

2 MR. BROWN: May I have just a moment,
3 Judge.

4 THE COURT: Sure. Well hold on. Your
5 conversation is being recorded by the microphone so
6 if you want to discuss something private ly with
7 your client you should step over to the box.

8 MR. BROWN: That's fine. Thank you.

9 THE COURT: This case is 20 years old?
10 Happened 20 years ago? 1996?

11 MR. BROWN: Alleged ly. Alleged ly.

12 THE COURT: The allegations arose 20 years
13 ago?

14 MR. BROWN: I know, Judge.

15 THE COURT: How about that?

16 MR. BROWN: There we go.

17 THE COURT: Have there been any offers?

18 MS. DILLON: Not at this point, Judge.

19 THE COURT: Why not. Who is Quiana Lewis,
20 Phillip? That's what this form say. I don't know
21 who that is.

22 THE CLERK: I don't either. You changed
23 my name. How come there hasn't been an offer?

24 MS. DILLON: Judge, we just had the prelim
25 last week and we haven't had a chance to really put

1 an offer together. On these cases I basically I
2 have to get approval all the up for any sort of
3 deviation from whatever the guidelines maybe.

4 THE COURT: What do you mean these cases?

5 MS. DILLON: This is part of the sexual
6 assault kit task force.

7 THE COURT: Oh so there's DNA?

8 MS. DILLON: Yes, there is.

9 THE COURT: We just have to get a new form
10 that doesn't they Qiana Lewis.

11 THE CLERK: I don't know how I --

12 THE COURT: I don't know either, Phillip.
13 You know why because we have a bench trial today
14 with Kenyatta Lewis is the defendant and his lawyer
15 came in here wearing that green tie rooting for the
16 Spartans and it just kind of through Phillip in a
17 trance. That's what happened. Don't look at that
18 green tie, Phillip. I'll have to put lucky the
19 leprechaun next to you to protect you from that
20 green tie.

21 MR. BROWN: I didn't graduate but I would
22 be talking about basically had I -- I did. I did
23 finally graduate. Don't you think I'm standing
24 here?

25 THE COURT: Yeah, Phillip. Mr. Lewis

1 already has a wife. You can't marry me off to the
2 defendant, Phillip. Here he comes back with that
3 green tie. Avert your eyes.

4 UNIDENTIFIED SPEAKER: Make sure all the
5 video camera sees.

6 THE COURT: No they can't see you. I
7 control where the camera goes. All right. No offer
8 at this time. How many witnesses for the People?

9 MS. DILLON: Your Honor, we have
10 approximately it will probably be eight to ten and
11 then if there's any stipulation to chain and
12 custody.

13 THE COURT: How many witnesses that
14 defense?

15 MR. BROWN: Perhaps two, Judge.

16 THE COURT: The preliminary exam was held
17 and the transcript is due October 11th. Phillip,
18 what's the last day for juries?

19 THE CLERK: I think it's December 19th.
20 Let me check and make sure.

21 THE COURT: Okay check. That sounds a
22 little late. I think it's the Thursday before that.

23 THE COURT: Let me just check my email.
24 Let me look at my email.

25 THE CLERK: You think it's the 15th?

1 THE COURT: I think. I can just search my
2 email the last day for juries. It's Wednesday,
3 December 14th. Here I printed it for you. How is
4 Monday December 5th for trial?

5 MR. BROWN: The 5th that's fine with me,
6 Judge.

7 THE COURT: For the People?

8 MS. DILLON: That's fine, Judge.

9 THE COURT: Any motions shall be time
10 stamped and filed no later than October 25th.
11 They'll be heard at a final conference to occur,
12 well, any motions shall be time stamped and filed no
13 later than October 28. They'll be heard at a final
14 conference to occur on November 4th, and then the
15 trial will be December 5th, a little over a month
16 after that. Given the nature of this offense I
17 think it will take three days to try this case.

18 MR. BROWN: I agree.

19 THE COURT: Is there anything else?

20 MS. DILLON: Not for the People, Judge.

21 MR. BROWN: No, Judge. Thank you very
22 much.

23 THE COURT: What's your client's bond?

24 MR. BROWN: Pardon?

25 THE COURT: What's his bond currently?

1 MR. BROWN: I don't. What is your bond,
2 Mr. Taylor?

3 DEFENDANT TAYLOR: A million dollars.

4 THE COURT: I'm sorry what did you say?

5 DEFENDANT TAYLOR: A million dollars.

6 MR. BROWN: Could we have a DSU, Judge?

7 THE COURT: Sure.

8 MR. BROWN: All right. Thank you very
9 much.

10 THE COURT: We'll have a bond hearing one
11 week from today. I'll see you all back for a bond
12 hearing on Tuesday, September 20th.

13 MR. BROWN: Thank you.

14 THE COURT: That concludes this matter.
15 Please go with my deputies, sir. Are there other
16 cases allegedly associated with this defendant?

17 MS. DILLON: We'll be filing in regards to
18 that. The Statute of Limitations expired on it.

19 (At 10:26 a.m. proceedings concluded)
20
21
22
23
24
25

1 C E R T I F I C A T E

2

3 STATE OF MICHIGAN)

4)ss

5 COUNTY OF WAYNE)

6

7 I, Bromeaica McBride, certify that this transcript
8 consisting of nine pages is a complete, true and correct
9 transcript of the proceedings and testimony taken in this
10 case on September 13, 2016.

11

12

13

14 1-30-18 _____[BROMEICA] [MCBRIDE]_____

15 Date BROMEICA MCBRIDE, CSR 7279
16 Lincoln Hall of Justice
17 1025 East Forest, Room 105
18 Detroit, Michigan 48207
19 (313) 833-0787

20

21

22

23

24

25

Appendix N – Opinion of the Court of Appeals

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEXTER BURRELL TAYLOR,

Defendant-Appellant.

UNPUBLISHED

March 26, 2019

No. 340028

Wayne Circuit Court

LC No. 16-007780-01-FC

Before: SHAPIRO, P.J., and BECKERING and M. J. KELLY, JJ.

PER CURIAM.

Defendant, Dexter Taylor, appeals as of right his jury conviction of first-degree criminal sexual conduct (CSC-I), MCL 750.520b(1)(e) and (f). Taylor was sentenced pursuant to the judicial sentencing guidelines to 37 to 80 years in prison. Because there are no errors warranting reversal, we affirm.

I. BASIC FACTS

In July 1996, Rachel Davis reported that she was sexually assaulted behind a vacant building on Outer Drive in Melvindale in July 1996. Davis accepted a ride from Taylor, believing that they would smoke crack cocaine together. She did not know Taylor, but had previously seen him at locations where crack cocaine users gathered. According to Davis, Taylor drove behind the vacant building and parked in a loading dock area. He ordered her out of the car, and she got scared and jumped out, losing her sandals in the process. After she got out of his car, Taylor pushed her to the pavement and penetrated her vagina with his penis. He then hit her a few times with a baseball bat before eventually leaving in his vehicle. Davis made her way to the front of the store where she yelled for help from passing cars. She was eventually taken to a hospital where she received a rape-kit examination.

In 2016, the Wayne County Prosecutor's Office Sexual Assault Kit Task Force received information that Taylor's DNA profile matched the DNA profile collected from Davis's rape kit, and also from a rape kit for another person, Erica Doak, who was sexually assaulted in Detroit in 1994. Taylor was charged with CSC-I for the offense against Davis, but was not charged with any offense against Doak because the limitations period for the 1994 assault against Doak had

expired.¹ Taylor was first tried in December 2016. The jury deadlocked, however, and a mistrial was declared.

Before Taylor was retried, the prosecution moved to admit testimony from Doak under MRE 404(b)(1). The trial court granted the motion. At trial, Doak testified that she was sexually assaulted on February 17, 1994, when she was six months pregnant. She stated that she was walking on Fort Street near Schaefer Street when a man approached her with a knife, which he held to her side. The man brought her to the basement of an apparently vacant house, where he sexually assaulted her. Afterward, Doak received a rape-kit examination at a hospital. The DNA profile from a sample collected during that examination matched Taylor's DNA profile.

Taylor's defense at trial was that he had engaged in sexual activity with Davis, but that it was consensual.

II. SUFFICIENCY OF THE EVIDENCE

A. STANDARD OF REVIEW

Taylor argues that the prosecution failed to present sufficient evidence to convict him of CSC-I. "This Court reviews de novo a defendant's challenge to the sufficiency of the evidence supporting his or her conviction." *People v Perry*, 317 Mich App 589, 599; 895 NW2d 216 (2016). This Court reviews "the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the prosecution proved the crime's elements beyond a reasonable doubt." *Id.*

B. ANALYSIS

The elements of CSC-I under MCL 750.520b(1)(e) are that the defendant engaged in sexual penetration with another person and (2) the defendant "is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon." The elements of CSC-II under MCL 750.520b(1)(f) are that (1) the defendant engaged in sexual penetration with another person and (2) the defendant caused "personal injury to the victim and force or coercion is used to accomplish sexual penetration." The phrase "force or coercion" is statutorily defined in relevant part to include the following:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

¹ Currently, there is no limitations period for CSC-I. See MCL 767.24(1)(a). However, at the time of the 1994 sexual assault in Doak's case, the limitations period for CSC-I was six years. Although the period of limitations was expanded to more than six years, the amendment to the statute did not occur until 2001. *People v Blackmar*, 309 Mich App 199, 201; 870 NW2d 579 (2015). The statutory amendment "could not revive a charge for which the limitations period had already run." *Id.* Accordingly, the six-year limitations period in Doak's case expired in 2000, before the statutory amendment and could not be revived.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats. . . .

It is well-established that a “complainant’s testimony can, by itself, be sufficient to support a conviction of CSC.” *People v Szalma*, 487 Mich 708, 724; 790 NW2d 662 (2010). Here, Davis testified that Taylor pushed her to the ground, ripped her shirt off, pulled her pants down and penetrated her vagina with his penis. She also testified that after he raped her, Taylor hit her with a baseball bat, striking her shoulders and legs. She stated that at the time she “[j]ust wanted it to end” and that she did not know if she was “going to live or die.” She recounted that after the assault she had bruises and little scrapes on her legs and her shoulder. A nurse testified to observing those injuries on Davis at the hospital, and rape kit was taken at the hospital. Taylor’s DNA was located in Davis’s vagina. On appeal, Taylor argues that Davis’s testimony should be discounted because she told multiple, confused and contradictory versions of the facts, which rendered her testimony incredible. However, in reviewing challenges to the sufficiency of the evidence, we “will not interfere with the jury’s role of determining the weight of evidence or the credibility of witnesses.” *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). Therefore, viewing this evidence in the light most favorable to the jury’s verdict, we conclude that Taylor’s conviction was supported by sufficient evidence.

III. OTHER-ACTS EVIDENCE

A. STANDARD OF REVIEW

Taylor argues that the trial court abused its discretion by allowing the prosecution to introduce Doak’s testimony pursuant to MRE 404(b)(1). We review for an abuse of discretion a trial court’s decision to admit evidence. *People v Burns*, 494 Mich 104, 110; 832 NW2d 738 (2013). “An abuse of discretion occurs when the court chooses an outcome that falls outside the range of reasonable and principled outcomes.” *People v Unger*, 278 Mich App 210, 217; 749 NW2d 272 (2008).

B. ANALYSIS

MRE 404(b)(1) provides that “[e]vidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith.” The rule also provides that such evidence may be admissible, however, for “other purposes, such as proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identify, or absence of mistake or accident when the same is material” MRE 404(b)(1). “[T]he rule is *inclusionary* rather than *exclusionary*.” *People v VanderVliet*, 444 Mich 52, 64; 508 NW2d 114 (1993), amended 445 Mich 1205 (1994) (quotation marks and

citation omitted).² Yet, because of the dangers inherent in introducing other-acts evidence, there are constraints on the admission of such evidence.

First, procedurally, the prosecution must “provide written notice at least 14 days in advance of trial, or orally on the record later if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial and the rationale, whether or not mentioned in [MRE 404(b)(1)], for admitting the evidence.” MRE 404(b)(2). In addition, our Supreme Court has explained that in order to admit other-acts evidence under MRE 404(b)(1), the evidence must be first be offered for a proper purpose, i.e., to show something other than propensity. *VanderVliet*, 444 Mich at 74. Second, “[t]he evidence must be relevant to an issue other than propensity.” *Id.* Evidence is relevant if it has “any tendency to make a fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” MRE 401. It is the responsibility of the prosecution to explain how the evidence is relevant to a proper purpose. *People v Dobek*, 274 Mich App 58, 86; 732 NW2d 546 (2007). Third, the probative value of the evidence must not be substantially outweighed by the danger of unfair prejudice. *VanderVliet*, 444 Mich at 74-75; MRE 403. Satisfaction of the third requirement requires the trial court to conduct the balancing test set forth in MRE 403. *Id.* Finally, when admitting other-acts evidence under MRE 404(b)(1), the court may provide a limiting instruction under MRE 105. *Id.* at 75.

In this case, the prosecution moved to admit the other-acts evidence, i.e. Doak’s testimony and the DNA evidence related to her case, more than 14 days before trial. The prosecution argued that the other-acts evidence was relevant to show Taylor’s intent, motive, and system in doing an act, and that it was also relevant to show a lack of consensual sexual activity. In doing so, the prosecution did not mechanically recite the proper purpose without explaining how the evidence related to the recited purpose. See *People v Crawford*, 458 Mich 376, 387; 582 NW2d 785 (1998) (noting that “[m]echanical recitation of” a proper purpose for the evidence “without explaining how the evidence relates to the recited purposes, is insufficient to justify admission under MRE 404(b)”). Instead, the prosecution highlighted the similarities between the charged and uncharged crimes and argued that its probative value was not substantially outweighed by unfair prejudice.

“[E]vidence of similar misconduct is logically relevant to show that the charged act occurred where the uncharged misconduct and the charged offense are sufficiently similar to support an inference that they are manifestations of a common plan, scheme, or system.” *People v Sabin (After Remand)*, 463 Mich 43, 63; 614 NW2d 888 (2000). “To establish the existence of a common design or plan, the common features must indicate the existence of a plan rather than a series of similar spontaneous acts, but the plan thus revealed need not be distinctive or unusual.” *Id.* at 65-66 (quotation marks and citation omitted). Yet, “[i]f the prosecution creates a theory of relevance based on the alleged similarity between a defendant’s other act and the

² We note that MRE 404(b) is also a rule of exclusion in that it prohibits the use of a defendant’s other acts “to prove the character of a person in order to show action in conformity therewith.”

charged offense, we require ‘striking similarity’ between the two acts to find the other act admissible.” *People v Denson*, 500 Mich 385, 403; 902 NW2d 306 (2017).

In *Sabin*, our Supreme Court concluded that there was sufficient similarity and common features between the charged and uncharged acts because (1) the defendant had a father-daughter relationship between both victims, (2) the victims were of a similar age at the time of the abuse, and (3) the defendant used the same type of threat to keep the victims from disclosing the abuse. *Sabin*, 463 Mich at 67.

Here, as in *Sabin*, there are many similarities between the charged act, the sexual assault of Davis, and the uncharged act, the sexual assault of Doak. Davis testified that she was walking alone in a high-drug area when she was approached by Taylor. Likewise, Doak testified that she was walking alone in a high-drug area when she was approached by Taylor. In fact, both assaults took place in the same general area. Doak testified that she was approximately 2 to 3 blocks from the intersection of Fort Street and Schafer Street when she was accosted. A police officer testified that there were approximately 1 ½ miles between that intersection and the area where Davis was assaulted. Another similarity is that Taylor took the women to an isolated location before beginning his sexual assault and in both cases he removed their pants before forcefully penetrating their vaginas with his penis. He left DNA evidence of the assaults on both women. A weapon was used both times and in both cases he left that weapon at the scene after threatening his victims. From these common features, a reasonable factfinder could infer that Taylor had a system that involved (1) targeting young women walking alone in a specific and limited geographical area, (2) taking the women to an isolated or abandoned location, (3) sexually assaulting the women, and (4) using a weapon to enable him to perpetrate sexual abuse on them before leaving the scene and the weapon behind.

In his argument against the uncharged act’s admission, Taylor relies on dissimilarities between the charged and uncharged acts. For example, the weapon in Davis’s case was a baseball bat that was not used until after the sexual assault, whereas in Doak’s case, a knife was used to coerce her to go with Taylor to an abandoned house. Additionally, unlike Davis, Doak was several months pregnant and was not planning on smoking crack cocaine with Taylor before the assault. Further, in Davis’s case, Taylor drove her to the isolated location and did not rob her, but in Doak’s case, Taylor walked her at knifepoint to an abandoned house before robbing and raping her. Yet, these differences do not warrant reversal. The *Sabin* Court noted that the fact that there are *dissimilarities* between the charged and uncharged acts is not fatal to the admissibility of the uncharged act, but instead noted that such differences in the crimes can allow “reasonable persons [to] disagree on whether the charged and uncharged acts contained sufficient common features to infer the existence of a common system used by [the] defendant in committing the acts.” *Id.* at 67. Accordingly, just because the acts were not identical does not mean that they are not strikingly similar enough to establish that Taylor used a common plan or scheme to perpetrate both acts. See *Denson*, 500 Mich at 403.

Taylor also suggests that the probative value of the evidence was substantially outweighed by the danger of unfair prejudice, especially considering that Doak was pregnant. When considering the prejudicial effect of evidence, we consider

the tendency of the proposed evidence to adversely affect the objecting party's position by injecting considerations extraneous to the merits of the lawsuit, e.g., the jury's bias, sympathy, anger, or shock. Moreover, admission of [e]vidence is unfairly prejudicial when . . . [the danger exists] that marginally probative evidence will be given undue or preemptive weight by the jury. [*People v Cameron*, 291 Mich App 599, 611; 806 NW2d 371 (2011) (quotation marks and citations omitted; alterations in original).]

Here, although there was testimony that Doak was pregnant, it was only offered as background information on Doak and it was not presented or argued in a fashion designed to inflame the passions of the jury. During closing and rebuttal arguments, to the extent that the prosecution mentioned Doak's pregnancy, it was only used as a background detail. Indeed, the prosecution very carefully stressed the similarities between the two assaults, thereby confining the arguments related to the evidence to the purpose for which it was admitted. Taylor also asserts that the evidence was unfairly prejudicial because the assault was so old that the statute of limitations had expired on it. Yet, the charged and uncharged acts were only two years apart from each other, and there is nothing on the record to suggest that the other-acts evidence was any more or less prejudicial simply because more than twenty years elapsed between 1994 and 2017. Moreover, the prejudicial effect of the evidence was minimized by the trial court, which properly instructed the jury that the other-acts evidence must not be construed as evidence of Taylor's character or propensity and that the jury must not convict defendant on the basis of his guilt or innocence of the uncharged act. The prejudicial effect was further diminished by Taylor's lawyer, who continuously cautioned the jury on the proper use of the evidence during voir dire, his opening statement, and his closing argument. Therefore, on this record, the trial court did not abuse its discretion by determining that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice.

Consequently, in granting the prosecution's motion to admit the other-acts evidence, the court considered the similarities and the dissimilarities between the charged and uncharged acts. The court determined that the similarities were sufficient to establish a common plan or scheme, notwithstanding that there were some differences. The court also evaluated the prejudicial effect of the evidence in light of its probative value, and it concluded that, given the availability of a cautionary instruction under MRE 105, the probative value of the evidence was not outweighed by the danger of unfair prejudice. Although a different court may have reached a different result, a court's decision on a close evidentiary decision is not ordinarily an abuse of discretion. *Sabin*, 463 Mich at 67. Consequently, in this case the trial court's decision to admit the evidence was not outside the range of reasonable and principled outcomes.

IV. PROPORTIONALITY

A. STANDARD OF REVIEW

Taylor next contends that his sentence of 37 to 80 years is impermissibly excessive and disproportionate. Because the offense was committed in 1996, before the legislative sentencing guidelines became effective on January 1, 1999, the trial court applied the former judicial sentencing guidelines to determine an appropriate sentence. *People v Hendrick*, 472 Mich 555, 560; 697 NW2d 511 (2005). "From 1983 through 1998, Michigan's courts employed guidelines

crafted by [the Supreme] Court and promulgated by administrative order.” *People v Hegwood*, 465 Mich 432, 438; 636 NW2d 127 (2001). The judicial sentencing guidelines “were ‘mandatory’ only in the sense that the sentencing court was obliged to follow the procedure of ‘scoring’ a case based on the basis of the circumstances of the offense and the offender, and articulate the basis for any departure from the recommended sentence range yielded by this scoring.” *Id.* A sentence imposed under the judicial guidelines is reviewed for an abuse of discretion. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). “[A] given sentence can be said to constitute an abuse of discretion only if that sentence violates the principle of proportionality, which requires sentences imposed by the trial court to be proportionate to the seriousness of the circumstances surrounding the offense and the offender.” *Id.*³

B. ANALYSIS

At sentencing, the trial court determined that Taylor’s guidelines range under the judicial sentencing guidelines was 240 to 480 months or life. The trial court’s 37-year minimum sentence is within this range. “As a general rule, a sentence that falls within the [judicial] guidelines’ range is presumed to be neither excessive nor disparate.” *People v Kennebrew*, 220 Mich App 601, 609; 560 NW2d 354 (1996). However, “even a sentence within the sentencing guidelines could be an abuse of discretion in unusual circumstances.” *Milbourn*, 435 Mich at 661.

Taylor argues that his sentence is disproportionate because the offense was committed 21 years before sentencing, and the absence of similar offenses since then shows that he has already been rehabilitated. Even if the 21-year lapse between Taylor’s commission of the sexual assault and his conviction may be considered unusual, the record does not support his claim that he has been rehabilitated. His presentence report indicates that he has a criminal history spanning a period of 25 years, and involving six felonies and 24 misdemeanors. Although most of Taylor’s prior convictions involve property crimes for larceny or retail fraud, his most recent conviction before the instant case was in 2012 and resulted in a prison sentence of 6 months to 2 1/2 years. Taylor was not discharged from prison until 2015, after fully serving his maximum sentence. Thus, the claimed rehabilitation demonstrated by the lack of additional allegations of sexual abuse between the commission of the sentencing offense and the time of sentencing, is not actually supported by the record.

Taylor also argues that his sentence is excessive because he is 50 years old and in poor health, which will essentially ensure that he will die before serving his minimum sentence. In *People v Lemons*, 454 Mich 234, 257; 562 NW2d 447 (1997), our Supreme Court rejected the defendant’s argument that his sentences of 60 to 90 years were disproportionate because the

³ Taylor was sentenced under the former judicial sentencing guidelines, so MCL 769.34(10) does not apply to this case. Accordingly, to the extent that Taylor argues on appeal that his right to have his sentence reviewed is improperly constrained by MCL 769.34(10), we find his argument to be without merit.

defendant would be more than 96 years old when his sentences were completed. The Court stated:

[W]e find no basis in *Milbourn* for a requirement that the trial judge tailor every defendant's sentence in relationship to the defendant's age. Persons who are sixty years old are just as capable of committing grievous crimes as persons who are twenty years old. We find no principled reason to *require* that a judge treat similar offenses that are committed by similarly depraved persons differently solely on the basis of the age of the defendant at sentencing where the Legislature has authorized the judge to impose life or *any* term of years. A judge may, however, consider a defendant's age at sentencing in deciding whether the sentence about to be imposed is proper, just as the judge considers the recommended range under the guidelines and any other factors not expressly prohibited by law. [*Lemons*, 454 Mich at 258-259.]

Similarly, we find no principled reason why Taylor's current age and health status render his sentence disproportionate.

Finally, Taylor argues that he accepted responsibility for his actions and expressed remorse for his conduct. Although the trial court expressed its appreciation at sentencing that Taylor was willing to accept responsibility for his conduct, this is not an unusual circumstance to overcome the presumptive proportionality of Taylor's sentence. Taylor's sentence, although lengthy, is proportionate to the seriousness of the offense and his lengthy criminal history. Accordingly, the trial court did not abuse its discretion.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Jane M. Beckering
/s/ Michael J. Kelly

Order

January 24, 2020

159612

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

DEXTER BURRELL TAYLOR,
Defendant-Appellant.

Michigan Supreme Court
Lansing, Michigan

Bridget M. McCormack,
Chief Justice

David F. Viviano,
Chief Justice Pro Tem

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

SC: 159612
COA: 340028
Wayne CC: 16-007780-FC

On order of the Court, the application for leave to appeal the March 26, 2019 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

We further ORDER the Wayne Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint William Branch, if feasible, to represent the defendant in this Court. If this appointment is not feasible, the trial court shall, within the same time frame, appoint other counsel to represent the defendant in this Court.

The appellant shall file a supplemental brief within 42 days of the date of the order appointing counsel addressing: (1) whether the other-acts evidence offered to show a common plan, scheme, or system contained a "striking similarity" to the charged act as required by *People v Denson*, 500 Mich 385, 403 (2017); (2) whether the other-acts evidence was admissible under the "doctrine of chances," see *People v Mardlin*, 487 Mich 609, 616-617 (2010); and (3) if the evidence was not offered for a proper purpose, whether its admission was harmless.

In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant

within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



p0121

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 24, 2020

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk

Appendix P – Order Appointing Counsel

STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No.: 16-000780-FC

Hon: Judge Prentis Edwards, Jr.

-v-
DEXTER BURRELL TAYLOR,

Defendant

ORDER APPOINTING APPELLATE COUNSEL

At a session of Court held at the Frank Murphy Hall of Justice
in the City of Detroit, Wayne County, Michigan
on: 1/31/2020

This matter is before the court pursuant to an Order from the Michigan Court of Appeals to determine whether the Defendant is indigent and to appoint counsel to represent Defendant in the Michigan Court of Appeals. The court orders as follows:

IT IS ORDERED THAT William Branch (P26846) is appointed to represent the Defendant in the appellate proceedings.

IT IS SO ORDERED.



Judge Prentis Edwards, Jr. (P69337)
Third Circuit Court

Dated: January 31, 2020.