

1           A           THAT'S HOW MANY WERE ASSIGNED 1  
2   YES.

3           Q           OKAY. YOU HAD FOUR MOTOR OFFICERS  
4   POLICE MOTORCYCLE OFFICERS?

5           A           YES.

6           Q           AND TWO POLICE CARS THAT WERE PARTICIPATING  
7   IN THE ROADBLOCK?

8           A           THE -- YES.

9           Q           AND WERE THERE OTHER SWORN OFFICERS ON THE  
10   SCENE?

11          A           YES, THERE WERE.

12          Q           HOW DID EVERYBODY GET TO THIS LOCATION?

13          A           THEY DROVE THEIR CITY VEHICLES TO THE  
14   LOCATION.

15          Q           OKAY. WERE THERE ANY VANS, LAPD VANS?

16          A           THERE WAS ONE VAN THAT IS USED TO TRANSPORT  
17   THE LIGHTS AND TO TOW -- WE HAD A PORTABLE RESTROOM --  
18   TO TOW THE PORTABLE RESTROOM AND THE BENCH THAT WE USE  
19   FOR THE SEATED PERSONS THAT ARE ARRESTED. SO IT IS MORE  
20   OF A UTILITY VAN. IT IS MARKED "POLICE," WITH EMERGENCY  
21   EQUIPMENT.

22          Q           WERE -- THERE WAS ONE VAN?

23          A           ONE VAN, ONE PORTABLE RESTROOM TRAILER  
24   ATTACHED TO THE VAN, AND -- FOR VANS, JUST THAT ONE VAN.

25          Q           OKAY. WERE THERE ANY OTHER TRUCKS OR  
26   BUSES?

27          A           THERE WAS ANOTHER TRUCK. IT IS A PICKUP  
28   TRUCK. I BELIEVE IT'S AN F-250 FOUR-DOOR PICKUP TRUCK,

1 AND THAT'S USED TO PULL OUR DUI TRAILER. THAT'S ALSO  
2 MARKED "POLICE," WITH EMERGENCY EQUIPMENT, AND THE DUI  
3 TRAILER IS MARKED "POLICE," AND THAT'S ATTACHED TO THE  
4 PICKUP TRUCK FOR TOWING.

5 Q WHERE WAS THE TRAILER PARKED?

6 A THE TRAILER WAS PARKED ON ST. CLARE, MAYBE  
7 25, 30 FEET NORTH OF VICTORY BOULEVARD.

8 Q WHERE WAS THE PICKUP TRUCK PARKED?

9 A THE PICKUP TRUCK WAS ACTUALLY PARKED ON THE  
10 TWO-WAY LEFT-TURN LANE ON VICTORY BOULEVARD. AND WE  
11 HAVE IT FACING -- WE HAVE IT FACING WESTBOUND TRAFFIC.  
12 SO WE HAVE IT FACING EASTBOUND, AND WE TURN -- THE  
13 EMERGENCY EQUIPMENT WERE TURNED ON. AND, AGAIN, IT IS  
14 FOR VISIBILITY AND OFFERS A LITTLE BIT OF PROTECTION FOR  
15 THAT OFFICER WHO'S DIRECTING CARS IN, AND SO HE COULD BE  
16 SEEN. IT HAS GOT BLUE LIGHTS AND RED LIGHTS, AND THOSE  
17 ARE FLASHING.

18 Q WHICH DIRECTION WAS IT PARKED?

19 A IT WAS PARKED FACING EASTBOUND IN THE  
20 TWO-WAY LEFT-TURN LANE SO THAT WESTBOUND TRAFFIC COULD  
21 EASILY SEE THAT THIS WAS A POLICE-RELATED --

22 Q DID IT HAVE A LIGHT BAR ON TOP?

23 A YES, IT DOES.

24 Q WAS THAT ON?

25 A YES, IT WAS.

26 Q OKAY. DOES THE TRAILER HAVE A LIGHT BAR ON  
27 THE TOP?

28 A THE TRAILER DOES NOT.

1 Q DID THE CHECKPOINT GO TO 2:00 O'CLOCK IN  
2 THE MORNING?

3 A AT THE SCENE, IT DID NOT. IT WAS CONCLUDED  
4 MAYBE 12:30, 12:45.

5 Q WHY DID YOU STOP AT THAT TIME?

6 A WE DIDN'T HAVE ANY AVAILABLE OFFICERS. WE  
7 HAD OFFICERS THAT WERE ASSISTING IN THE PROCESSING OF  
8 ARRESTEES, I BELIEVE. ONE OR TWO OF THEM MIGHT HAVE  
9 BEEN DRUG EVALUATIONS, AND WE HAD TO PULL OFFICERS TO DO  
10 THE DRUG EVALUATION. AND THERE ARE SOME OTHER  
11 ADMINISTRATIVE TASKS THAT WE HAVE TO PULL PEOPLE OFF.  
12 BASICALLY, WE RAN OUT OF OFFICERS TO SCREEN CARS.

13 Q DID YOU CHOOSE TO STOP THE CHECKPOINT?

14 A IN CONSULTATION WITH THE OTHER SERGEANT WHO  
15 WAS IN CHARGE. BUT, ESSENTIALLY, BECAUSE WE DIDN'T HAVE  
16 ANY MORE OFFICERS TO SCREEN CARS, IT DIDN'T REALLY MAKE  
17 A -- MAKE ANY SENSE TO CONTINUE ON. AND, NORMALLY, AS  
18 SUPERVISOR, I DON'T SCREEN CARS. AND THE OTHER  
19 SUPERVISOR DOES NOT SCREEN CARS.

20 Q WERE YOU THE ON-DUTY SUPERVISOR?

21 A I WAS ONE OF THE SUPERVISORS.

22 Q YOU SAID ON VICTORY BOULEVARD, THERE WERE  
23 THREE SIGNS PLACED?

24 A YES.

25 Q AND THOSE WERE 48-INCH SIGNS?

26 A YES.

27 Q HOW DO YOU KNOW THEY WERE 48-INCH SIGNS?

28 A I BELIEVE WHEN WE FIRST GOT THEM, I

1 ACTUALLY MEASURED THEM. SO THEY'RE ROUGHLY 48 INCHES.  
2 IF THEY'RE LAID OUT FLAT AND NOT BENT OR FOLDED, THEY'RE  
3 THE REFLECTIVE SCOTCH GUARD PLASTIC-LIKE MATERIAL, MUCH  
4 LIKE THE CONSTRUCTION SIGNS. THEY'RE DESIGNED TO BE  
5 FOLDED.

6 Q AND THESE SIGNS ARE THE ONES WE SAW WHEN  
7 YOU PERSONALLY DROVE A POLICE CAR THROUGH THE -- DOWN  
8 VICTORY BOULEVARD?

9 A THOSE ARE THE EXACT SIGNS.

10 Q AND THAT'S WHERE THE -- THEY WERE LOCATED  
11 FOR THE ENTIRE TIME PERIOD YOU WERE USING THEM?

12 A THAT'S CORRECT.

13 Q AND THE FIRST ONE WAS EAST OF LAUREL  
14 CANYON?

15 A YES.

16 Q AND THE SIGN IS A REFLECTIVE SIGN?

17 A YES.

18 Q BUT IT DOES NOT HAVE ANY LIGHTS ON IT  
19 ITSELF?

20 A IT DOES NOT.

21 Q AND YOU PLACED THAT SIGN, OR YOU HAD THAT  
22 SIGN PLACED IN THE NUMBER THREE LANE?

23 A YES.

24 Q YOU THEN HAD A SECOND SIGN PLACED EAST OF  
25 BELLINGHAM?

26 A THAT'S CORRECT.

27 Q AND, AGAIN, THIS SIGN WAS JUST A REFLECTIVE  
28 SIGN?

1 A THE EXACT SAME SIGN.

2 Q AND IT HAD NO LIGHTS OF ITS OWN?

3 A IT DID NOT.

4 Q AND THEN THE LAST SIGNS WEST OF BELLINGHAM?

5 A YES.

6 Q AND THIS SIGN SIMILARLY DID NOT HAVE ANY OF  
7 ITS OWN LIGHTING?

8 A THAT'S CORRECT, NONE OF THE SIGNS HAD ANY  
9 KIND OF ARTIFICIAL LIGHTING.

10 Q ALL THREE OF THOSE SIGNS WERE PLACED IN THE  
11 NUMBER THREE LANE?

12 A YES.

13 Q AND ON VICTORY BOULEVARD, WHERE ALL THESE  
14 SIGNS ARE LOCATED, THERE IS A CENTER TURN LANE?

15 A YES, THERE IS A TWO WAY LEFT-TURN LANE.

16 Q AND HOW WIDE IS THAT TWO-WAY TURN LANE?

17 A I BELIEVE IT'S TEN FEET WIDE, THE SAME  
18 WIDTH AS A STANDARD -- I BELIEVE IT'S 11 FEET WIDE, THE  
19 WIDTH OF A STANDARD TRAFFIC LANE.

20 Q SO THERE IS AN 11-FOOT-WIDE TURN LANE DOWN  
21 THE MIDDLE OF VICTORY BOULEVARD. THERE WERE NO SIGNS  
22 PLACED DOWN THAT TURN LANE, DOWN THE MIDDLE OF VICTORY  
23 BOULEVARD?

24 A NO, THERE WEREN'T.

25 Q THERE WERE NO ELECTRONIC SIGNS PLACED DOWN  
26 THE MIDDLE OF THE STREET?

27 A NO.

28 Q THERE WERE NO ELECTRONIC SIGNS AT ALL USED

1 TO IDENTIFY THIS AS A DUI ROADBLOCK?

2 A THAT'S CORRECT.

3 Q THERE WAS NO ELECTRONIC SIGNS ADVISING  
4 ANYBODY WHO WAS DRIVING DOWN VICTORY THAT THERE WAS ROAD  
5 CONSTRUCTION OR ANY OBSTRUCTION DOWN THIS STREET?

6 A I DON'T BELIEVE THERE WAS ANYTHING -- WE  
7 DIDN'T PUT OUT ANY ELECTRONIC SIGNS. I DON'T RECALL IF  
8 THERE WERE ANY CONSTRUCTION SIGNS. I DON'T BELIEVE  
9 THERE WERE.

10 Q OKAY. LAPD DOES OWN ELECTRONIC SIGNS?

11 A YES.

12 Q THEY OWN SIGNS THAT YOU CAN PROGRAM TO SAY  
13 "DUI CHECKPOINT AHEAD"?

14 A YES.

15 Q AND THOSE WERE AVAILABLE TO YOUR TASK FORCE  
16 THAT NIGHT, IF YOU WANTED THEM?

17 A CERTAINLY.

18 Q WHEN YOU DROVE YOUR POLICE CAR AND  
19 VIDEOTAPED WHERE THESE SIGNS WERE LOCATED DOWN VICTORY,  
20 THAT'S HOW THE SIGNS WOULD HAVE APPEARED TO SOMEBODY  
21 DRIVING DOWN VICTORY; RIGHT?

22 A THAT'S CORRECT. I ACTUALLY DID NOT TAKE  
23 THAT VIDEO. THAT WAS TAKEN BY OFFICER INMAN.

24 Q WERE YOU IN THE CAR WITH HIM?

25 A I WAS NOT.

26 Q BUT YOU RECOGNIZE IT TO BE ACCURATE?

27 A CERTAINLY, YES.

28 Q AND WHEN THE CAR GOT CLOSE TO THE

1 CHECKPOINT ON VICTORY PAST BELLINGHAM, THERE WAS NO WAY  
2 FOR THEM TO MAKE A LAWFUL TURN TO GET OUT?

3 A ONCE THEY WERE WEST OF BELLINGHAM, THAT'S  
4 CORRECT.

5 Q WHAT SIGNS WERE PLACED ON LAUREL CANYON TO  
6 WARN PEOPLE THAT IF THEY TURNED ON TO VICTORY, THEY WERE  
7 HEADING TOWARDS A ROADBLOCK?

8 A WE DID NOT PUT OUT ANY SIGNS ON LAUREL  
9 CANYON.

10 Q SO IF SOMEBODY IS COMING DOWN VICTORY, THEY  
11 WOULD SEE A SIGN EAST LAUREL CANYON?

12 A YES.

13 Q BUT IF THEY CAME OFF LAUREL CANYON, THEY  
14 WOULD NOT SEE THAT SIGN?

15 A THEY WOULD NOT SEE THE SIGN EAST OF LAUREL  
16 CANYON, BUT THEY SHOULD SEE THE SIGN WEST OF LAUREL  
17 CANYON -- WEST LAUREL CANYON, EAST BELLINGHAM.

18 Q SO WE'RE DOWN FROM THREE SIGNS THREE SIGNS,  
19 TWO SIGNS, THEY COME OFF LAUREL CANYON?

20 A THAT'S CORRECT.

21 Q AND YOU WOULD AGREE THAT VICTORY BOULEVARD  
22 IS AN ARTERIAL STREET?

23 A YES.

24 Q WITH HIGH TRAFFIC?

25 A YES.

26 Q AS IS LAUREL CANYON?

27 A THAT'S CORRECT.

28 Q THEN WHEN YOU GET TO BELLINGHAM, ANYBODY

1 TURNING ONTO VICTORY FROM BELLINGHAM WOULD NOT SEE THE  
2 SIGN THAT WAS EAST OF BELLINGHAM?

3 A THAT'S CORRECT. WELL, AT LEAST THEY  
4 WOULDN'T SEE THE SIGN AND BE ABLE TO READ IT, NO.

5 Q OKAY. THEY MAY SEE THE BACK OF THE SIGN?

6 A THAT'S CORRECT.

7 Q OKAY. SO ANYBODY TURNING OFF BELLINGHAM  
8 WOULD ONLY HAVE ONE SIGN THAT THEY COULD SEE?

9 A THAT'S CORRECT.

10 Q AND AT THAT POINT, THERE IS NO PLACE FOR  
11 THEM TO GO AS FAR AS AVOIDING THE CHECKPOINT LEGALLY?

12 A THAT WOULD DEPEND ON THE TRAFFIC SIGNAL ON  
13 BELLINGHAM AND THE DIRECTION OF TRAVEL. IF THE DRIVER  
14 WAS COMING OUT NORTHBOUND BELLINGHAM FROM THE MOVIE  
15 THEATER AND A NORMAL OR REASONABLE DRIVER LOOKS AROUND  
16 FOR THINGS THAT COULD BE AN OBSTRUCTION IN THE ROADWAY,  
17 THEY SHOULD BE ABLE TO SEE THAT SIGN THAT'S WEST OF  
18 BELLINGHAM. AND, LIKEWISE, IF THEY'RE SOUTHBOUND ON  
19 BELLINGHAM, AT VICTORY AT A RED LIGHT, A REASONABLE  
20 DRIVER WOULD TYPICALLY LOOK IN AN EAST AND WESTBOUND  
21 DIRECTION BEFORE PROCEEDING OR BEFORE NEGOTIATING THAT  
22 RIGHT TURN, AND THEY THEN WOULD HAVE AN OPPORTUNITY TO  
23 SEE THE SIGN, AND THEN AT THAT POINT THEY COULD CHANGE  
24 THEIR DIRECTION OF TRAVEL.

25 Q SO THERE IS A MOVIE THEATRE PARKING LOT  
26 RIGHT THERE?

27 A THE MOVIE THEATER PARKING LOT IS ADJACENT  
28 TO THE -- ADJACENT TO BELLINGHAM THAT'S SOUTH OF



1 VICTORY.

2 Q AND ANYBODY --

3 THE COURT: MR. ROSENFELD, I DON'T MEAN TO  
4 INTERRUPT YOU, BUT I HAVE SEVERAL CASES.

5 IS THIS AN APPROPRIATE TIME TO RECESS?

6 MR. ROSENFELD: THAT'S FINE, YOUR HONOR.

7 THE COURT: WE'LL COME BACK AT 1:30. WE'RE IN  
8 RECESS IN THIS MATTER, UNTIL 1:30.

9 SERGEANT, YOU'RE ORDERED BACK HERE AT 1:30.  
10 DON'T DISCUSS YOUR TESTIMONY WITH ANY OTHER WITNESS.

11 THE WITNESS: YES, SIR.

12 THE COURT: OKAY. MR. DUNCAN, 1:30, BACK IN THE  
13 COURTROOM.

14 MR. ROSENFELD: THANK YOU, YOUR HONOR.

15

16

17 (THE PROCEEDINGS WERE ADJOURNED FOR  
18 A NOON RECESS.)

19

20

21

22

23

24

25

26

27

28

1 CASE NUMBER: 4VY01172  
2 CASE NAME: PEOPLE VS. [REDACTED]  
3 LOS ANGELES, CA JULY 3, 2014  
4 DEPARTMENT 115 HON. DENNIS MULCAHY, COMMR.  
5 REPORTER: BROOKE A. BRUBAKER, CSR NO. 9420  
6 TIME: P.M. SESSION  
7

8 APPEARANCES:  
9 (AS HERETOFORE NOTED.)  
10

11 THE COURT: WE'RE BACK ON THE RECORD ON [REDACTED]  
12 [REDACTED] 4VY001172.

13 [REDACTED] IS PRESENT WITH HIS COUNSEL,  
14 MR. ROSENFELD.

15 [REDACTED] FOR THE PEOPLE; AND [REDACTED]  
16 [REDACTED] IS ON THE WITNESS STAND.

17 YOU ARE STILL UNDER OATH, SIR.

18 THE WITNESS: YES, SIR.

19 THE COURT: AND, MR. ROSENFELD, YOU ARE ON  
20 CROSS-EXAMINATION.

21 MR. ROSENFELD: THANK YOU, YOUR HONOR.  
22

23 **CROSS-EXAMINATION (CONTINUED)**

24 BY MR. ROSENFELD:

25 Q GOOD AFTERNOON, SERGEANT.

26 A SIR.

27 Q OKAY. SO THERE WERE -- THERE WAS ONE  
28 POLICE VAN AND ONE POLICE PICKUP TRUCK ON THE SCENE?

1 A YES.

2 Q AND THEN THERE WAS A TRAILER THAT WAS  
3 PARKED AROUND THE CORNER?

4 A THAT'S CORRECT.

5 Q OKAY. THE OTHER POLICE CARS THAT WERE  
6 THERE WERE MARKED BLACK AND WHITE POLICE CARS?

7 A YEAH, THE MAJORITY OF THEM, YES.

8 Q AND THEY WERE PARKED IN THE NUMBER THREE  
9 LANE?

10 A WE HAD I BELIEVE AT LEAST ONE PARKED ALONG  
11 THE CURB, AND WE HAD THE PICKUP TRUCK PARKED IN THE  
12 TWO-WAY LEFT-TURN LANE, AND THEN THAT WAS FACING  
13 EASTBOUND SO THAT WESTBOUND TRAFFIC COULD SEE THE  
14 EMERGENCY LIGHTS FLASHING. AND WE ALSO HAD TWO MARKED  
15 POLICE VEHICLES PARKED IN THE TWO-WAY LEFT-TURN LANE A  
16 LITTLE BIT WEST OF THE PICKUP TRUCK WITH THE EMERGENCY  
17 EQUIPMENT ON. AND THAT'S FOR VISIBILITY PURPOSES AND  
18 TO -- FOR US TO QUICKLY ACCESS THE VEHICLE IN THE EVENT  
19 WE NEED TO PURSUE A VEHICLE OR LEAVE THE SCENE FOR SOME  
20 REASON.

21 Q SO YOU HAD A COUPLE OF CARS PARKED IN THE  
22 MIDDLE OF THE STREET, AND THE REST WERE PARKED ALONG THE  
23 CURB?

24 A RIGHT.

25 Q AND THE CHECKPOINT WAS LOCATED RIGHT NEAR  
26 THE ON-RAMP TO THE 170 FREEWAY?

27 A THAT'S CORRECT.

28 Q AND YOU HAD THREE LIGHTS -- THREE PORTABLE

1 LIGHTS WITH GENERATORS SET UP?

2 A YES.

3 Q AND THE AREA WHERE THOSE LIGHTS WITH THE  
4 GENERATORS WERE IS OVER -- IS ON THE FREEWAY OVERPASS;  
5 RIGHT?

6 A NO. THE FREEWAY OVERPASS IS MAYBE 1,000  
7 FEET EAST -- I'M SORRY -- 1,000 FEET WEST OF WHERE WE  
8 WERE ACTUALLY AT.

9 Q OKAY.

10 A WE WERE NOT UNDER THE OVERPASS.

11 Q OKAY. ALL RIGHT. THE FIELD SOBRIETY TESTS  
12 THAT WERE BEING DONE, WHERE WERE THOSE BEING DONE?

13 A THEY WERE COMPLETED ON THE SIDEWALK AREA,  
14 ADJACENT TO THE ROADWAY. THE SIDEWALK AREA AT THAT  
15 POINT IS ROUGHLY 20 FEET WIDE. SO A LOT WIDER THAN MOST  
16 L.A. CITY SIDEWALKS. JUST A VERY BROAD SIDEWALK.

17 Q LET ME ASK ANOTHER QUESTION: DID YOU TALK  
18 TO THE CITY ATTORNEY BEFORE TESTIFYING TODAY?

19 A YES, I DID.

20 Q AND WHAT DID YOU TALK ABOUT?

21 A JUST MY GENERAL ROLE IN THE CHECKPOINT;  
22 WHETHER I RECOMMENDED IT -- RECOMMENDED THE CHECKPOINT,  
23 WHETHER I WORKED IT, MY EXPERIENCE, PREVIOUS  
24 ASSIGNMENTS.

25 Q ALL RIGHT. DO YOU HAVE THE EXHIBITS? ARE  
26 THEY STILL UP THERE?

27 A SHE HAS THEM.

28 THE COURT: I BELIEVE THE CLERK -- DO YOU HAVE

1 THEM BACK?

2 MS. ROSMAN: I HAVE THEM.

3 THE COURT: OKAY.

4 MR. ROSENFELD: MAY I APPROACH THE WITNESS, YOUR  
5 HONOR?

6 THE COURT: SURE.

7 MR. ROSENFELD: THANK YOU.

8 OKAY. SO WHAT HAS BEEN MARKED AS PEOPLE'S  
9 1 AND 2, THE COMPSTAT STATISTICS AND THE ARREST  
10 STATISTICS, YOU TESTIFIED THAT YOU REVIEWED THOSE, BUT  
11 YOU DIDN'T PREPARE THOSE; RIGHT?

12 A THAT'S CORRECT.

13 Q AND THEN THE MAP OF THE AREA, WHICH HAS  
14 BEEN MARKED AS PEOPLE'S 3 HAS A -- HAS LIKE A MARKER AT  
15 ST. CLARE AND VICTORY.

16 IS THAT WHERE THE ROADBLOCK WAS SET UP?

17 A YES, THAT'S EXACTLY WHERE IT WAS AT.

18 Q AND WHERE WAS THE THEATRE IN RELATIONSHIP  
19 TO THE ROAD BLOCK?

20 A THE THEATRE ON THE MAP IS ROUGHLY JUST TO  
21 THE SOUTH, AND I BELIEVE IT'S MARKED "REGENCY THEATERS."

22 Q AND WHERE IS THE PARKING ON -- FOR THE  
23 REGENCY THEATERS?

24 A THE PARKING WOULD BE ROUGHLY BETWEEN THE  
25 THEATER BUILDING AND WHAT IS MARKED AS BELLINGHAM  
26 AVENUE. I BELIEVE THIS ENTIRE AREA IS PARKING HERE.

27 Q OKAY. SO WHEN SOMEONE LEAVES THE THEATER  
28 AREA, THEY GO OUT ON TO BELLINGHAM AVENUE?

1           A           THAT'S THE -- I WOULD CONSIDER THAT TO BE  
2 THE MAIN ENTRANCE AND EXIT.

3           Q           OKAY. SO IF THEY COME OUT ON BELLINGHAM  
4 AND THEY TURN LEFT, THEY'RE GOING TO HIT VICTORY  
5 BOULEVARD?

6           A           YES.

7           Q           AND IF THEY MAKE A LEFT TURN TO GET ON THE  
8 170 FREEWAY, THEY ARE IN THE ROADBLOCK?

9           A           THAT'S CORRECT.

10          Q           SO EVERYBODY LEAVING THE MOVIE THEATER  
11 THAT'S GOING TO GO GET ON THE FREEWAY IS GOING TO GO  
12 THROUGH THE ROADBLOCK?

13          A           THAT'S CORRECT, IF THEY'RE LEAVING THE  
14 THEATER AND THEY MAKE A LEFT TURN TO GO WESTBOUND  
15 VICTORY FROM BELLINGHAM, THEY WILL HAVE TO DRIVE THROUGH  
16 THE CHECKPOINT.

17          Q           OKAY. AND AT THAT POINT, THERE IS ONE SIGN  
18 ON VICTORY?

19          A           YES.

20          Q           AND THERE'S NO WAY TO MAKE A LEGAL TURN?

21          A           THAT'S CORRECT. ONCE THEY'RE ON VICTORY,  
22 THEY'RE COMMITTED.

23          Q           OKAY. AND PEOPLE'S 5-A THROUGH -G ARE  
24 COLOR PHOTOGRAPHS THAT WERE MARKED. YOU HAD A CHANCE TO  
25 REVIEW THESE?

26          A           YES, I DID.

27          Q           OKAY. AND DID YOU TAKE THESE PICTURES?

28          A           I DID NOT.

1 Q OKAY. DO YOU KNOW WHO TOOK THE PICTURES?

2 A OFFICER INMAN TOOK THE PICTURES. HE  
3 ALSO -- HE IS THE SAME ONE THAT TOOK THE VIDEO.

4 Q OKAY. DO YOU KNOW WHAT TIME THE PICTURES  
5 WERE TAKEN?

6 A I BELIEVE IT WAS SOMEWHERE AROUND 11:00,  
7 11:30 P.M.

8 Q DO YOU KNOW?

9 A I DON'T HAVE -- I DON'T KNOW EXACTLY THE  
10 TIME, BUT THAT'S THE NORMAL TIME WHERE -- WHEN THE  
11 PICTURES ARE TAKEN, THE VIDEO.

12 Q OKAY. AND IT APPEARS IN PEOPLE'S 5-A THAT  
13 THERE ARE FIVE TRAFFIC CONES; IS THAT CORRECT?

14 A THAT'S CORRECT.

15 Q AND IS THAT HOW ALL OF THE SIGNS WERE SET  
16 UP?

17 A THAT NIGHT, YES.

18 Q OKAY. AND THE SIGNS ARE SET UP IN THE  
19 NUMBER THREE LANE, WHICH IS ALSO THE PARKING LANE?

20 A CORRECT, YES.

21 Q AND IT'S LEGAL FOR CARS TO PARK THERE AT  
22 THE TIME YOU WERE RUNNING THE CHECKPOINT?

23 A THAT STRETCH, YES.

24 Q DO YOU KNOW IF THERE ARE ANY CARS PARKED IN  
25 FRONT OF OR BEHIND THE SIGNS THROUGHOUT THE EVENING?

26 A I DON'T RECALL THE -- WHETHER CARS WERE  
27 PARKED OR NOT.

28 Q DID YOU PERSONALLY GO AND LOOK?

1           A           I DROVE THROUGH THE CHECKPOINT ROUGHLY  
2   AROUND 8:30, JUST TO SEE THE CONE SET-UP -- THE CONES  
3   AND THE SIGNS AND THE GENERAL SET-UP OF THE CHECKPOINT,  
4   JUST TO MAKE SURE -- SPECIFICALLY, TO MAKE SURE THE  
5   SIGNS WERE WHERE THEY WERE SUPPOSED TO BE.

6           Q           AND WHEN YOU DROVE THROUGH, WERE THERE CARS  
7   PARKED IN FRONT OF AND BEHIND THE SIGNS?

8           A           AGAIN, I DIDN'T PAY ATTENTION TO THAT. I  
9   WOULD ONLY BE TAKING AN EDUCATED GUESS. I WOULD SAY  
10  THAT THERE WERE CARS PARKED.

11          Q           ONE MOMENT.

12  
13                               (PAUSE IN PROCEEDINGS.)

14  
15  BY MR. ROSENFELD:

16          Q           THERE ARE PARTS OF NORTH HOLLYWOOD THAT  
17  HAVE A LOT OF BARS, RESTAURANTS, AND NIGHTCLUBS; RIGHT?

18          A           YES.

19          Q           IS THERE A COMMON TERM THAT'S REFERRED TO  
20  FOR THAT PARTICULAR AREA?

21          A           FOR THE AREAS THAT ARE -- HAVE A LOT OF  
22  BARS AND CLUBS --

23          Q           YES.

24          A           -- IN NORTH HOLLYWOOD?

25          Q           YES.

26          A           I DON'T KNOW IF -- I DON'T KNOW -- I'M NOT  
27  FAMILIAR WITH THE SPECIFIC TERMS THAT ARE USED IN  
28  SPECIFIC AREAS. I KNOW NOHO DOWN THE STREET ON



1 LANKERSHIM IS ONE SIGNIFICANT AREA, AND JUST THE BASIC  
2 VENTURA BOULEVARD CORRIDOR -- CAHUENGA/VENTURA BOULEVARD  
3 CORRIDOR, I KNOW, IS A HEAVILY CONCENTRATED AREA, WITH  
4 BARS, CLUBS, RESTAURANTS, THAT SERVE ALCOHOL.

5 Q ON THE COMPSTAT STATISTICS THAT YOU WERE  
6 REFERRING TO BEFORE, DO YOU KNOW WHAT THE BREAKDOWN IS  
7 AS FAR AS DUI INVESTIGATIONS AND ARRESTS THAT TAKE PLACE  
8 IN DOWNTOWN NOHO OR VENTURA BOULEVARD?

9 A I DO NOT HAVE ACCESS TO THAT INFORMATION.

10 Q DID YOU REVIEW IN PREPARATION OF MAKING A  
11 RECOMMENDATION FOR THIS LOCATION?

12 A I DID NOT.

13 Q ALL RIGHT. DID YOU CONTACT THE HIGHWAY  
14 PATROL OR REVIEW -- DID YOU CONTACT THE HIGHWAY PATROL  
15 FOR STATISTICS OR INFORMATION ON SETTING UP THE  
16 CHECKPOINT ON VENTURA -- I'M SORRY -- ON VICTORY  
17 BOULEVARD AND ST. CLARE?

18 A I DID NOT.

19 Q DID YOU REVIEW THE STATEWIDE TRAFFIC  
20 INCIDENT DATABASE BEFORE ON --

21 A I DID NOT.

22 Q DID YOU CONTACT THE SHERIFF'S DEPARTMENT  
23 AND REVIEW THEIR DATABASE FOR RECORDS, TO DETERMINE  
24 LOCATION?

25 A NO, I DIDN'T.

26 Q DID YOU LOOK AT LAPD DOCUMENTATION?

27 A THAT'S CORRECT, SIR.

28 Q AND THAT SPECIFIES NORTH HOLLYWOOD?

1           A           THE DOCUMENTATION INCLUDED NORTH HOLLYWOOD,  
2 AS WELL AS THE OTHER SEVEN -- THE OTHER SIX GEOGRAPHIC  
3 AREAS. I ALSO REVIEWED THE STATISTICS FOR OTHER  
4 DIVISIONS IN THE OTHER PARTS OF THE CITY AS WELL.

5           Q           DID YOU REVIEW ANY STATISTICS FOR VICTORY  
6 BOULEVARD?

7           A           SPECIFICALLY, VICTORY BOULEVARD, I DID NOT.

8           Q           AND FOR ST. CLARE, DID YOU REVIEW ANY  
9 STATISTICS FOR THAT STREET?

10          A           I DID NOT.

11          Q           BUT LAPD DOES KEEP RECORDS ON THE LOCATION  
12 OF ACCIDENTS?

13          A           THEY -- YES, THROUGH THE INDIVIDUAL  
14 REPORTS.

15          Q           AND THOSE ARE COMPILED IN A DATABASE?

16          A           YES.

17          Q           AND IF YOU WANTED TO, YOU COULD SEARCH A  
18 DATABASE FOR VICTORY BOULEVARD AND ST. CLARE, OR FOR  
19 VICTORY BOULEVARD AND LAUREL CANYON?

20          A           YES.

21          Q           BUT YOU NOT DO THAT IN THIS CASE?

22          A           I DID NOT.

23          Q           NO FURTHER QUESTIONS.

24          THE COURT: ANY REDIRECT?

25          MS. ROSMAN: NOTHING FURTHER, YOUR HONOR.

26          THE COURT: MAY THIS WITNESS STEP DOWN?

27          MS. ROSMAN: YES, YOUR HONOR.

28          THE COURT: DO YOU WANT HIM EXCUSED, OR DO YOU

1 WANT HIM TO JUST REMAIN?

2 MS. ROSMAN: IF YOU COULD REMAIN, THAT WOULD BE  
3 NICE, YES.

4 THE WITNESS: SURE.

5 THE COURT: DON'T DISCUSS YOUR TESTIMONY WITH ANY  
6 OTHER WITNESS.

7 REMAIN IN THE HALL, PLEASE, SIR.

8 THE WITNESS: THANK YOU.

9 THE COURT: CALL YOUR NEXT WITNESS.

10 OFFICER, IF YOU WOULD APPROACH THE WITNESS  
11 STAND, PLEASE, FACING MY DIRECTION, AND RAISE YOUR RIGHT  
12 HAND.

13 THE CLERK: YOU DO SOLEMNLY STATE THE TESTIMONY  
14 YOU ARE ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE  
15 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
16 NOTHING BUT THE TRUTH SO HELP YOU GOD?

17 THE WITNESS: I DO.

18 THE CLERK: THANK YOU.

19 PLEASE BE SEATED.

20 THE WITNESS: THANK YOU.

21 MR. ROSENFELD: YOUR HONOR, THE DEFENSE WOULD  
22 REQUEST TO VOIR DIRE THE WITNESS AS FAR AS COMPETENCY.

23 THE COURT: COMPETENCY -- AS TO WHAT ISSUE,  
24 MR. ROSENFELD? COMPETENCY TO BE A POLICE OFFICER?

25 MR. ROSENFELD: NO. FOR HIS RECOLLECTION OF  
26 EVENTS.

27 THE COURT: YOU CAN TAKE CARE OF THAT ON  
28 CROSS-EXAMINATION.

1 MS. ROSMAN: THANK YOU, YOUR HONOR.

2 THE COURT: STATE YOUR FIRST AND LAST NAME,  
3 SPELLING BOTH, PLEASE.

4 THE WITNESS: [REDACTED]  
5 [REDACTED]

6 THE COURT: ALL RIGHT. OFFICER ARGUETA, YOU'RE  
7 GOING TO BE ASKED A SERIES OF QUESTIONS BY BOTH LAWYERS.  
8 LOUD AND CLEAR VOICE, AND AT A REASONABLE CADENCE, SO  
9 THE COURT REPORTER GETS IT ALL DOWN.

10 THE WITNESS: YES, SIR.

11 THE COURT: YOU MAY BEGIN.

12 MS. ROSMAN: THANK YOU, YOUR HONOR.

13

14 **DIRECT EXAMINATION**

15 BY MS. ROSMAN:

16 Q GOOD AFTERNOON, [REDACTED]

17 A GOOD AFTERNOON.

18 Q WHAT IS YOUR OCCUPATION?

19 A I'M A POLICE OFFICER FOR THE CITY OF  
20 LOS ANGELES, CURRENTLY ASSIGNED TO SOUTH TRAFFIC  
21 DIVISION.

22 Q AND HOW LONG HAVE YOU BEEN AN LAPD OFFICER?

23 A SINCE JULY 1999, WHICH MAKES IT 15 YEARS  
24 THIS JULY 6TH.

25 Q AND HOW LONG HAVE YOU BEEN WITH THE SOUTH  
26 TRAFFIC DIVISION?

27 A SINCE 2001. THAT'S 13 YEARS.

28 Q AND WHAT ARE YOUR JOB DUTIES IN SOUTH

1 TRAFFIC?

2 A I'M CURRENTLY A FIELD TRAINING OFFICER. I  
3 WORK WITH OFFICERS WORKING IN THE FIELD OF TRAFFIC  
4 INVESTIGATIONS, COLLISION INVESTIGATIONS, AND ANYTHING  
5 RELATED TO VEHICLE INVOLVED ACCIDENTS. AND THAT  
6 INCLUDES DUI INVESTIGATIONS FOR ANYONE DRIVING IMPAIRED.

7 Q WHAT GEOGRAPHIC AREA IS ENCOMPASSED IN  
8 SOUTH TRAFFIC?

9 A WE WORK FIVE GEOGRAPHICAL AREAS. ONE OF  
10 THEM IS SOUTHWEST 77TH DIVISION, SOUTHEAST DIVISION, AND  
11 HARBOR DIVISION.

12 Q WHAT IS THE SOUTHWEST DIVISION? WHAT DOES  
13 THAT MEAN?

14 A SOUTHWEST DIVISION IS IN THE SOUTH PART OF  
15 LOS ANGELES. IN THIS CASE, I WAS WORKING IN THE VALLEY  
16 BUREAU AS -- ASSIGNED TO EOD, OPERATIONS. I WORK IN THE  
17 VALLEY DIVISION.

18 Q SIR, WHAT DOES "EOD" MEAN?

19 A EMERGENCY OPERATIONS DIVISION. IT IS A  
20 PART OF THE -- AN ENTITY OF THE LAPD THAT WE'RE ASSIGNED  
21 TO WHEN WE WORK DUI CHECKPOINTS.

22 Q DID YOU RECEIVE ANY TRAINING TO QUALIFY FOR  
23 THIS PARTICULAR POSITION?

24 A AS A PREREQUISITE TO WORK FOR EMERGENCY  
25 OPERATIONS DIVISION CHECKPOINT LOCATIONS, YOU MUST  
26 OBTAIN A MADD AWARD, MOTHERS AGAINST DRUG DRIVING AWARD,  
27 THAT REQUIRES YOU TO HAVE 50 OR MORE DUI-RELATED  
28 INVESTIGATIONS IN A PERIOD OF ONE YEAR.

1 Q AND ARE THERE ANY OTHER CRITERIA THAT A  
2 PERSON COULD MEET TO BE INVOLVED IN DUI CHECKPOINTS?

3 A NOT THAT I'M AWARE OF. SERGEANT HOM WOULD  
4 HAVE BEEN THE PERSON TO ADDRESS THAT ANSWER.

5 Q AND DO YOU HAVE ANY OTHER SPECIALIZED  
6 TRAINING AS IT RELATES TO IDENTIFYING PEOPLE THAT ARE  
7 UNDER THE INFLUENCE OF DRUGS OR ALCOHOL?

8 A YES. I'M ALSO A DRUG RECOGNITION EXPERT.

9 Q AND WHAT SORT OF TRAINING DO YOU RECEIVE TO  
10 BECOME A DRUG RECOGNITION EXPERT?

11 A I GO -- I WENT TO DRUG RECOGNITION EXPERT  
12 SCHOOL THAT REQUIRES TWO WEEKS OF CLASSROOM STUDIES, AND  
13 ANOTHER TWO WEEKS OF FIELD STUDY, WHERE WE GO OUT IN A  
14 MARKED POLICE VEHICLE AND DETAIN, ARREST, OR APPREHEND  
15 PEDESTRIANS, CITIZENS, DRIVING VEHICLES THAT ARE UNDER  
16 THE INFLUENCE OF A DRUG. WE CONDUCT AN EVALUATION AND  
17 WE NEED TO GET A POSITIVE TOXICOLOGY FROM OUR SID,  
18 SCIENTIFIC INVESTIGATION DIVISION, TO SEE HOW ACCURATE  
19 WE WERE IN THE DRUG CATEGORY THAT WE HAD CALLED FOR THAT  
20 SPECIFIC ARREST.

21 Q WHAT ABOUT AS IT RELATES TO ALCOHOL?

22 A AS IT RELATES TO ALCOHOL, I'VE GONE TO IDAP  
23 SCHOOL. THAT'S IMPAIRED DRIVER'S APPREHENSION PROGRAM.  
24 THAT'S ONE WEEK LONG OF SCHOOL, WHERE AT THE END OF THE  
25 SCHOOL, WE EXAMINE OFFICERS. IN THIS CASE, THEY ARE PUT  
26 UNDER THE INFLUENCE OF ALCOHOL, AND WE CONDUCT  
27 EVALUATIONS AND DETERMINE IF THEY'RE UNDER THE INFLUENCE  
28 OF ALCOHOL.

1 Q AND DID YOU COMPLETE ALL THOSE COURSES  
2 SUCCESSFULLY?

3 A YES, I DID.

4 Q AND WHAT SORT OF PRACTICAL EXPERIENCE HAVE  
5 YOU -- WITHDRAWN.

6 HOW MANY DUI INVESTIGATIONS HAVE YOU  
7 CONDUCTED FROM THE TIME YOU STARTED AS AN LAPD OFFICER,  
8 UP UNTIL MARCH OF THIS YEAR?

9 A I HAVE BEEN WITH -- I HAVE OBTAINED A MADD  
10 AWARD FOR SIX YEARS. THAT'S A MINIMUM OF 50 DUI-RELATED  
11 ARRESTS A YEAR. I WOULD ESTIMATE THAT AN AVERAGE THAT  
12 YEAR WAS POSSIBLY 65 PER YEAR. THE OTHER YEARS, I'VE  
13 NEVER KEPT TRACK OF MY DUI-RELATED ARRESTS. BUT I WOULD  
14 ESTIMATE ANYWHERE FROM 30 TO 50 DUI'S A YEAR, DUE TO  
15 WORKING MORNING WATCH. AND I'VE WORKED MANY DUI  
16 CHECKPOINTS WHERE THE CHECKPOINTS CONSIST OF OFFICERS  
17 MAKING DUI ARRESTS. AND I'VE BEEN INVOLVED WITH THOSE  
18 ARRESTS AS WELL, EITHER TRANSPORTING THEM, PROCESSING  
19 THEM, OR BEING INDIRECTLY INVOLVED WITH THEIR ARRESTS.

20 Q AND HOW MANY DUI CHECKPOINTS HAVE YOU  
21 WORKED ON IN THAT CAPACITY?

22 A I AVERAGE ABOUT TWO A MONTH, CHECKPOINTS  
23 THAT I WORK FOR, EITHER FOR EOD OR FOR MY PERSONAL  
24 DIVISION, WHICH IS SOUTH TRAFFIC DIVISION. VERY  
25 CONSISTENTLY FOR THE LAST 13 YEARS, I WOULD DO THE  
26 NUMBERS THAT WAY.

27 Q OKAY. SO APPROXIMATELY 24 CHECKPOINTS A  
28 YEAR, FOR 13 YEARS?

1 A CORRECT.

2 Q AND OF ALL THOSE DUI INVESTIGATIONS AND  
3 SOBRIETY CHECKPOINTS YOU HAVE BEEN INVOLVED WITH, HOW  
4 MANY OF THOSE SUSPECTS WERE ACTUALLY ARRESTED?

5 A I DON'T -- I DON'T WANT TO GIVE YOU A  
6 NUMBER THAT I DON'T BELIEVE -- MIGHT NOT BE ACCURATE.  
7 YOU KNOW --

8 THE COURT: THE ANSWER IS YOU DON'T KNOW?

9 THE WITNESS: CORRECT, I DON'T KNOW.

10 THE COURT: NEXT QUESTION.

11 BY MS. ROSMAN:

12 Q DO YOU ARREST EVERYONE THAT YOU DO A DUI  
13 INVESTIGATION ON?

14 A NO.

15 Q WHY IS THAT?

16 A IF THEY TURN OUT TO BE NOT UNDER THE  
17 INFLUENCE OF ALCOHOL WHEN I DO MY FIELD SOBRIETY TEST, I  
18 DETERMINE THAT IT WAS NOT SUFFICIENT, OR THEY WERE ABLE  
19 TO PERFORM THE TESTS AS I EXPLAINED TO THEM AND  
20 DEMONSTRATED THE TESTS, AND, THEREFORE, I DON'T MAKE AN  
21 ARREST.

22 Q WERE YOU ON DUTY AS AN LAPD OFFICER ON  
23 MARCH 7TH, 2014, AT APPROXIMATELY 8:55 P.M.?

24 A YES, I WAS.

25 Q WERE YOU IN UNIFORM?

26 A YES, I WAS.

27 Q WHERE WERE YOU LOCATED AT THAT TIME?

28 A WE WERE CONDUCTING A DUI CHECKPOINT AT --



1 ON VICTORY BOULEVARD, AND I BELIEVE THE OTHER STREET IS  
2 CLARE STREET.

3 Q AND --

4 A IN THE CITY OF LOS ANGELES.

5 Q OKAY. THANK YOU.

6 DO YOU RECOGNIZE ANYONE IN THE COURTROOM  
7 TODAY THAT YOU MADE CONTACT WITH ON MARCH 7TH, 2014?

8 A YES, I DO.

9 Q AND CAN YOU PLEASE POINT THAT PERSON OUT.

10 A YES. IT'S THE MALE WITH THE GRAY SUIT,  
11 SITTING NEXT TO COUNSEL.

12 THE COURT: IDENTIFYING MR. DUNCAN, FOR THE  
13 RECORD.

14 BY MS. ROSMAN:

15 Q DID YOU MAKE CONTACT WITH THE DEFENDANT YOU  
16 JUST IDENTIFIED IN THE COURTROOM ON THAT DAY?

17 A YES, I DID.

18 Q AND DID THE DEFENDANT HAVE ANY OTHER  
19 OCCUPANTS IN HIS VEHICLE?

20 A NO. I WAS WORKING THE CHECKPOINT LINE, AND  
21 THE DEFENDANT WAS DRIVING A WHITE TRUCK AND WAS THE SOLE  
22 OCCUPANT OF THE TRUCK AT THE TIME.

23 Q DID YOU NOTICE ANYTHING UNUSUAL WHEN THE  
24 DEFENDANT CAME UP TO YOU FOR YOU TO CONDUCT YOUR  
25 INVESTIGATION?

26 A YES. AS HE CAME FOR SCREENING, I NOTICED  
27 THAT FIRST HE DIVERTED HIS ATTENTION BY NOT LOOKING  
28 STRAIGHT AT ME. HE LOOKED FORWARD. I NOTICED THAT HIS

1 FACE WAS FLUSHED RED. HIS EYES WERE DROOPY. I ASKED  
2 HIM TO FACE MY DIRECTION. THE LOCATION WAS WELL-LIT. I  
3 ALSO USED A FLASHLIGHT. DIRECTING MY FLASHLIGHT TOWARDS  
4 HIS AREA -- HIS FACIAL AREA, I NOTICED THAT HIS EYES  
5 WERE BLOODSHOT RED. I ASKED HIM IF HE HAD CONSUMED ANY  
6 ALCOHOLIC BEVERAGES, AND HE SAID TO THE EFFECT THAT,  
7 "I'LL BE HONEST. I HAD TWO BEERS EARLIER."

8 AT THAT TIME, I DETECTED AN ODOR OF  
9 ALCOHOLIC BEVERAGE EMITTING FROM HIS BREATH. I THEN  
10 DIRECTED HIM OUT OF THE VEHICLE FOR A FIELD SOBRIETY  
11 TEST THAT HE AGREED TO COMPLETE.

12 Q AND COULD THERE BE ANY OTHER REASONS FOR  
13 WHY HE HAD BLOODSHOT EYES OR A FLUSHED FACE; ANYTHING  
14 LIKE THAT?

15 A ALL OF THE SYMPTOMS ARE CONSISTENT WITH A  
16 DUI, PERSON DRIVING UNDER THE INFLUENCE OF ALCOHOL: THE  
17 SMELL OF ALCOHOL, THE BLOODSHOT EYES. SO AT THAT TIME,  
18 I DETERMINED THAT ALCOHOL WAS POSSIBLY THE ONLY CAUSE,  
19 AND I ASKED HIM TO SUBMIT TO A TEST.

20 Q DID YOU ASK HIM IF HE WAS SICK OR INJURED?

21 A PRIOR TO CONDUCTING THE FST'S, I DID, YES.

22 Q AND WHAT DID HE SAY?

23 A HE SAID HE WAS NOT INJURED. THERE IS FIVE  
24 QUESTIONS I ASK THAT ARE DOCUMENTED ON MY REPORT, AND HE  
25 ANSWERED "NO" TO ALL OF THEM.

26 Q WHAT ARE THOSE FIVE QUESTIONS?

27 A I HAVE THEM IN MY DUI FACESHEET. IF I CAN  
28 SEE MY REPORT TO RECOLLECT MY MEMORY, I WOULD LIKE TO DO

1 THAT.

2 MS. ROSMAN: YOUR HONOR, MAY I APPROACH?

3 THE COURT: YES. TAKE A LOOK AT THE REPORT, AND  
4 SEE IF IT REFRESHES YOUR RECOLLECTION, AND THEN PUT IT  
5 ASIDE AND BE PREPARED TO ANSWER THE QUESTIONS.

6 THE WITNESS: OKAY. THE QUESTIONS ARE, "ARE YOU  
7 SICK OR INJURED?

8 THE COURT: NO, NO, NO, NO. HAVE YOU REVIEWED  
9 THAT DOCUMENT?

10 THE WITNESS: YES, I HAVE.

11 THE COURT: OKAY. AND THAT REFRESHES YOUR  
12 RECOLLECTION?

13 THE WITNESS: TO THE QUESTIONS I ASKED, YES.

14 THE COURT: OKAY. LET COUNSEL ASK THE QUESTIONS,  
15 AND JUST TURN THE DOCUMENT OVER.

16 GO AHEAD, COUNSEL.

17 BY MS. ROSMAN:

18 Q OKAY. WHAT WERE THE FIVE QUESTIONS THAT  
19 YOU ASKED THE DEFENDANT BEFORE YOU HAD HIM SUBMIT TO THE  
20 FIELD SOBRIETY TEST?

21 A I SAID, "ARE YOU SICK OR INJURED?"

22 HE ANSWERED, "NO."

23 I SAID, "DO YOU HAVE ANY PHYSICAL DEFECTS?"

24 HE ANSWERED, "NO."

25 "DO YOU TAKE ANY INSULIN?"

26 HE ANSWERED, "NO."

27 "ARE YOU UNDER THE CARE OF A DOCTOR OR A  
28 DENTIST?"

1 HE ANSWERED, "NO."

2 Q AND YOU SAID THAT HE AGREED TO SUBMIT TO  
3 FIELD SOBRIETY TESTS; CORRECT?

4 A YES, HE DID.

5 Q WHEN YOU ASKED HIM TO SUBMIT TO FIELD  
6 SOBRIETY TESTS, WHERE DID YOU ASK HIM TO GO TO CONDUCT  
7 THEM?

8 A WE WALKED TO A FLAT SURFACE ON THE NORTH  
9 CURB OF VICTORY BOULEVARD, AND WE CONDUCTED THE FST'S OR  
10 STANDARDIZED FIELD SOBRIETY AT THAT LOCATION.

11 Q HOW WAS THE LIGHTING ON THAT PARTICULAR  
12 LOCATION?

13 A THE LIGHTING WAS WELL-LIT BY SURROUNDING  
14 LIGHTING FROM BUSINESSES, AND THE REFLECTION OF THE  
15 LIGHTS THAT ARE SET THERE BY EMERGENCY OPERATIONS  
16 DIVISION.

17 Q WHAT WAS THE FIRST FIELD SOBRIETY TEST YOU  
18 HAD THE DEFENDANT PERFORM?

19 A I PERFORMED THE EYE EXAMINATION.

20 Q AND WHAT IS THAT CALLED?

21 A THE EYE EXAMINATION TEST.

22 Q THERE IS NOT A MORE SPECIALIZED NAME FOR  
23 IT?

24 A NO. THE EYE EXAMINATION.

25 Q OKAY. AND WHAT DOES THE EYE EXAMINATION  
26 TEST --

27 A THAT CONSISTS OF -- WE'RE LOOKING FOR SIX  
28 DIFFERENT THINGS. ONE OF THEM IS A VERTICAL GAZE

1 NYSTAGMUS. IF HE'S WEARING ANY KIND OF CONTACT GLASSES,  
2 HORIZONTAL GAZE NYSTAGMUS, IF HE IS WEARING ANY HARD  
3 LENSES, AND LACK OF SMOOTH PURSUIT. AND I BELIEVE  
4 THAT'S IT, UNLESS I CAN REVIEW MY REPORT AND --

5 THE COURT: GO AHEAD AND TAKE A LOOK AT YOUR  
6 REPORT AND SEE IF IT REFRESHES YOUR RECOLLECTION.

7

8 (PAUSE IN PROCEEDINGS.)

9

10 THE WITNESS: OKAY. I HAD LEFT OUT THE LACK OF  
11 CONVERGENCE.

12 BY MS. ROSMAN:

13 Q AND HOW IS IT THAT THIS EYE EXAM DETERMINES  
14 IF A PERSON IS UNDER THE INFLUENCE OF ALCOHOL?

15 A THERE IS INDICATORS THAT WE LOOK FOR. A  
16 PERSON THAT HAS VERTICAL GAZE NYSTAGMUS IS ONLY CAUSED  
17 BY WHAT WE CALL AT THIS TIME DRUGS, DEPRESSANTS,  
18 INHALANTS OR DISOCIO ANESTHETICS. AT THIS TIME, HE HAD  
19 HORIZONTAL GAZE NYSTAGMUS, HE HAD LACK OF CONVERGENCE,  
20 AND HE HAD LACK OF SMOOTH PURSUIT.

21 Q OKAY. WHEN YOU SAY "HORIZONTAL GAZE  
22 NYSTAGMUS," WHAT DOES THAT MEAN?

23 A HORIZONTAL GAZE NYSTAGMUS IS WHEN I DIRECT  
24 MY STIMULUS OR A PEN 12 TO 15 INCHES AWAY FROM THE NOSE,  
25 I THEN RAISE IT SLIGHTLY ABOVE EYE LEVEL, AND I ASK HIM  
26 TO FOLLOW MY STIMULUS WITHOUT MOVING HIS HEAD. AT THE  
27 TIME THE PEN REACHES THE MAXIMUM DEVIATION POINT, THE  
28 EYE HAS WHAT WE CALL AN INVOLUNTARY JERKING AT MAXIMUM

1 DEVIATION, AND WE OBSERVE THAT FOR A PERIOD OF FOUR  
2 SECONDS. AT THAT TIME, WHEN I CONDUCTED THE TEST, HE  
3 HAD DISTINCT AND SUSTAINED NYSTAGMUS WITHIN FOUR  
4 SECONDS. AND AT THE TIME OF MY OBSERVATION, I  
5 DOCUMENTED THAT IT WAS PRESENT.

6 Q SO YOU'RE SAYING THAT HIS EYES HAD A  
7 VOLUNTARY -- OR INVOLUNTARY JERKING TO THEM BEFORE THEY  
8 HIT -- I'M SORRY -- THE EDGE?

9 A AT THE EDGE OR MAXIMUM DEVIATION POINT  
10 WHERE YOUR EYE CAN NO LONGER GO FURTHER TO THE RIGHT OR  
11 TO THE LEFT.

12 Q AND HOW ACCURATE IS THE PRESENCE OF  
13 HORIZONTAL GAZE NYSTAGMUS FOR DETERMINING PERSONS UNDER  
14 THE INFLUENCE OF ALCOHOL?

15 A WELL, IT'S ONLY CAUSED BY DRUGS,  
16 DEPRESSANTS, INHALANTS, OR DISSOCIATIVE ANESTHETICS.  
17 AND AT THIS TIME, I DIDN'T SUSPECT INHALANTS, NOR DID I  
18 SUSPECT DISSOCIATIVE ANESTHETICS -- AND DISSOCIATIVE  
19 ANESTHETICS REFERRED TO AS PCP OR KETAMINE. I KNEW THAT  
20 WASN'T THE CASE. SO MY ONLY RULING WOULD BE ALCOHOL.

21 Q BUT HOW ACCURATE IS IT, BASED ON YOUR  
22 TRAINING -- HOW ACCURATE IS IT IN DETERMINING IF SOMEONE  
23 IS UNDER THE INFLUENCE OF ALCOHOL?

24 MR. ROSENFELD: OBJECTION. LACK OF FOUNDATION.

25 THE COURT: I'M GOING TO SUSTAIN IT. OFFICER,  
26 THE -- THE HORIZONTAL GAZE NYSTAGMUS IS LETTING YOU KNOW  
27 WHETHER OR NOT A PERSON HAS CONSUMED ALCOHOL; CORRECT?

28 THE WITNESS: THAT'S WHAT IT DOES. IT LETS ME

1 KNOW THAT HE HAS CONSUMED ALCOHOL.

2 BY MS. ROSMAN:

3 Q OKAY. YOU ALSO SAID THERE WAS A LACK OF  
4 CONVERGENCE. WHAT DOES THAT MEAN?

5 A LACK OF CONVERGENCE IS DURING THE SAME EYE  
6 EXAMINATION, I MOVE IN THIS CASE MY PEN OR ANY STIMULUS  
7 THAT YOU CHOOSE IN A CIRCULAR MOTION. AT THAT TIME, I  
8 BRING IT ABOUT TWO INCHES AWAY FROM THE NOSE, AND I ASK  
9 HIM TO CONVERGE TO THE TIP OF THE PEN. AND AT THIS  
10 TIME, HIS EYES WERE NOT ABLE TO CONVERGE TO THE MIDDLE  
11 OF THE PEN.

12 Q AND IS THAT INDICATIVE OF SOMEONE WHO IS  
13 UNDER THE INFLUENCE OF ALCOHOL?

14 A YES, IT IS.

15 Q DID YOU GIVE THE DEFENDANT INSTRUCTIONS ON  
16 HOW TO PERFORM THOSE TESTS?

17 A YES, I DID.

18 Q DID HE APPEAR TO UNDERSTAND YOUR  
19 DIRECTIONS?

20 A YES, HE DID.

21 Q WAS HIS PERFORMANCE ON THE EYE EXAM  
22 CONSISTENT WITH A PERSON WHO IS UNDER THE INFLUENCE OF  
23 ALCOHOL?

24 A YES, IT WAS.

25 Q WHAT WAS THE NEXT TEST YOU CONDUCTED WITH  
26 THE DEFENDANT?

27 A NEXT TEST IS CALLED THE MODIFIED ROMBERG  
28 BALANCE.

1 Q AND WHAT IS THAT TEST?

2 A THAT TEST IS CALLED INTERNAL CLOCK TEST,  
3 WHERE WE ASK THE DEFENDANT TO CLOSE HIS EYES, TILT HIS  
4 HEAD -- I'M SORRY -- CLOSE HIS EYES, TILT HIS HEAD BACK,  
5 AND ESTIMATE 30 SECONDS IN HIS MIND.

6 Q IS THIS ALL WHILE THE DEFENDANT IS  
7 STANDING?

8 A YES, WHILE HE'S STANDING, WITH HIS HANDS TO  
9 HIS SIDES.

10 Q AND HAVE YOU EVER ADMINISTERED THE TEST IN  
11 THE FIELD BEFORE?

12 A YES, I HAVE.

13 Q HOW MANY TIMES, ESTIMATE?

14 A EVERY TIME I DO A DUI EXAMINATION, THAT'S  
15 ONE OF THE TESTS THAT I PERFORM. AND THE NUMBERS THAT I  
16 HAD GIVEN EARLIER WERE PRETTY ACCURATE.

17 Q AND HOW IS IT THAT THAT TEST SHOWS THAT A  
18 PERSON IS UNDER THE INFLUENCE OF ALCOHOL?

19 A THERE IS A SYMPTOMS WE LOOK FOR TO SEE IF  
20 HIS INTERNAL CLOCK IS SLOWER, HIGHER, TO DETERMINE WHERE  
21 HIS INTERNAL CLOCK IS AT THE TIME. AND WE ALSO LOOK TO  
22 SEE IF HE HAS GOT ANY KIND OF A SWAY MOTION THAT  
23 INDICATES IMPAIRMENT.

24 Q I'M SORRY. GO AHEAD.

25 A AT THIS TIME, I DOCUMENTED THAT HE  
26 ESTIMATED 26 SECONDS AS BEING 30, AND I NOTICED HE HAD A  
27 CIRCULAR SWAY OF ONE INCH CIRCULAR.

28 Q IS THAT CONSISTENT WITH SOMEONE WHO IS



1 UNDER THE INFLUENCE OF ALCOHOL?

2 A THAT'S ONE OF MY TESTS THAT I PERFORM.  
3 AND, YES, IT IS.

4 Q AND DID YOU SHOW THE DEFENDANT HOW TO  
5 PERFORM THE TEST BEFORE YOU HAD HIM DO IT?

6 A YES, I DID.

7 Q DID HE APPEAR TO UNDERSTAND YOUR  
8 INSTRUCTIONS AND DEMONSTRATION?

9 A YES, HE DID.

10 Q DID THE DEFENDANT INDICATE THAT HE HAD ANY  
11 BALANCE PROBLEMS THAT WOULD KEEP HIM FROM PERFORMING  
12 THAT TEST CORRECTLY, OR PERFORM WELL?

13 A NO, HE DID NOT. HE ANSWERED THAT HE DID  
14 NOT HAVE ANY KIND OF MEDICAL PROBLEMS.

15 Q WHAT WAS THE NEXT TEST THAT YOU HAD THE  
16 DEFENDANT PERFORM?

17 A NEXT TEST, WE DO THE -- IT'S CALLED THE  
18 WALK AND TURN TEST.

19 Q AND WERE YOU TRAINED TO ADMINISTER THAT  
20 TEST?

21 A YES, I WAS.

22 Q HOW IS THAT TEST ADMINISTERED?

23 A I GIVE HIM DIRECTIONS TO PUT HIS FOOT ON  
24 THE LINE THAT WE USE AT THE LOCATION, AND WE ASK HIM TO  
25 PUT HIS LEFT FOOT ON THE LINE AND PUT HIS RIGHT FOOT IN  
26 FRONT OF IT. AT THAT TIME, I DIRECT HIM TO WALK NINE  
27 STEPS DOWN THE SAME LINE, TOUCHING HEEL-TO-TOE, COUNTING  
28 HIS STEPS. AND AT THE END OF NINE STEPS, I ASK HIM TO

1 MAKE SMALL PIVOT TURNS WHILE HE KEEPS HIS LEAD FOOT  
2 FORWARD, AND WALK ANOTHER NINE STEPS FORWARD AGAIN.

3 Q AND DID YOU INSTRUCT THE DEFENDANT TO  
4 PERFORM THE TESTS THE WAY YOU JUST SAID TODAY?

5 A YES, I DID.

6 Q DID HE APPEAR TO UNDERSTAND YOUR  
7 INSTRUCTIONS?

8 A YES, HE DID.

9 Q AND HOW DID HE PERFORM ON THAT TEST?

10 A I'D HAVE TO SEE MY FACESHEET FOR THE  
11 RESULTS. THERE'S A LOT OF DOCUMENTATION.

12 THE COURT: AND THAT WOULD REFRESH YOUR  
13 RECOLLECTION?

14 THE WITNESS: I HOPE SO.

15 THE COURT: ALL RIGHT. TAKE A LOOK AT IT.

16

17 (PAUSE IN PROCEEDINGS.)

18

19 THE COURT: ALL RIGHT. DOES THAT REFRESH YOUR  
20 RECOLLECTION?

21 THE WITNESS: YES, IT DID.

22 THE COURT: ASK YOUR QUESTION.

23 BY MS. ROSMAN:

24 Q OKAY. SO HOW DID THE DEFENDANT PERFORM THE  
25 WALK AND TURN TEST?

26 A I DOCUMENTED THAT AT THE SEVENTH AND EIGHTH  
27 STEP, HE LOST HIS BALANCE, STOPPED WALKING, PLACED HIS  
28 FOOT OFF THE LINE, USED HIS ARMS FOR BALANCE, AND BRACED

1 HIS ARMS. AND AT THE END OF THE NINTH STEP, HE DID NOT  
2 PIVOT THE STEPS AS INDICATED. INSTEAD, HE MADE AN  
3 ABOUT-FACE TURN WITHOUT MAKING SMALL PIVOTS, AS  
4 INDICATED. AND AS HE WALKED NINE STEPS FORWARD AGAIN, I  
5 INDICATED AT THE SIXTH, SEVENTH, EIGHTH, AND NINTH STEP,  
6 HE USED HIS ARMS FOR BALANCE AND MISSED HEEL-TO-TOE.

7 Q IS THAT PERFORMANCE CONSISTENT WITH A  
8 PERSON WHO IS UNDER THE INFLUENCE OF ALCOHOL?

9 A THAT'S AN INDICATION. AT THE END OF THE  
10 TEST, I FORMED THE OPINION -- THIS IS JUST  
11 DOCUMENTATION.

12 Q OFFICER, PLEASE JUST ANSWER THE QUESTIONS  
13 THAT I'M ASKING.

14 THE COURT: HE'S TRYING TO, COUNSEL.  
15 BY MS. ROSMAN:

16 Q WERE THERE ANY OTHER TESTS THAT YOU HAD THE  
17 DEFENDANT PERFORM?

18 A YES. THE NEXT TEST THAT WE PERFORMED IS  
19 THE ONE-LEG-STAND EXAMINATION.

20 Q OKAY. WERE YOU TRAINED TO ADMINISTER THAT  
21 TEST?

22 A YES, I WAS.

23 Q HOW WAS THAT TEST ADMINISTERED?

24 A I ASKED THE DEFENDANT TO LIFT HIS FEET SIX  
25 INCHES OFF THE GROUND, POINT HIS TOE OUTWARDS, LOOK AT  
26 HIS TOE, AND COUNT 1,001, 1,002, UNTIL ASKED TO STOP.

27 Q AND DID HE FOLLOW YOUR INSTRUCTIONS?

28 A NO, HE DID NOT. HE RAISED HIS FOOT

1 APPROXIMATELY 20 INCHES OFF THE GROUND. HE DID NOT  
2 POINT HIS TOE OUTWARDS. AND I INDICATED THAT HE DROPPED  
3 HIS FOOT AT SEVEN SECONDS AND AT 13 SECONDS.

4 Q AND WHEN YOU DID GIVE HIM THOSE  
5 INSTRUCTIONS TO DO THAT TEST, DID HE INDICATE TO YOU  
6 THAT HE UNDERSTOOD YOUR INSTRUCTIONS AND WAS READY TO DO  
7 THE TEST?

8 A AFTER I PERFORMED -- OR GIVE HIM  
9 INSTRUCTIONS TO DO THE TEST, I ASK HIM, "DID YOU  
10 UNDERSTAND THE TEST?" AND IF HE SAID "NO," I WOULD HAVE  
11 NOT CONDUCTED THE TEST AND EXPLAINED TO HIM AGAIN UNTIL  
12 HE WOULD UNDERSTAND. SO, YES, HE UNDERSTOOD THE TEST.

13 Q SO WAS HIS PERFORMANCE CONSISTENT WITH THAT  
14 OF A PERSON WHO IS UNDER THE INFLUENCE OF ALCOHOL?

15 A YES.

16 Q DID THE DEFENDANT INDICATE THAT HE HAD ANY  
17 OTHER INJURIES OR BALANCE ISSUES THAT WOULD KEEP HIM  
18 FROM PERFORMING THE ONE-LEGGED STAND TEST PROPERLY?

19 A NO, HE DID NOT.

20 Q WAS THERE ANY OTHER FIELD SOBRIETY TEST  
21 THAT YOU ADMINISTERED TO THE DEFENDANT?

22 A YES.

23 Q WHAT TEST WAS THAT?

24 A THE LAST TEST, FINGER TO NOSE TEST.

25 Q OKAY. AND HOW WAS THAT TEST PERFORMED?

26 A I TOLD THE DEFENDANT THAT HIS TEST -- HE'S  
27 GOING TO CLOSE HIS EYES, HE'S GOING TO TILT HIS HEAD  
28 BACK, AND I WOULD DIRECT THE TIP OF HIS FINGERS, HIS

1 RIGHT INDEX FINGER AND LEFT INDEX FINGER TO TOUCH THE  
2 TIP OF HIS NOSE. ONCE HE UNDERSTANDS THAT, HE'S READY  
3 TO PERFORM IT, I PERFORM IT FOR HIM, AND I SHOW HIM HOW  
4 TO DO THE EXAM.

5 Q OKAY. AND DID HE -- I'M SORRY. DID HE  
6 APPEAR TO UNDERSTAND THE INSTRUCTIONS?

7 A YES, HE DID.

8 Q OKAY. AND HOW DID HE PERFORM ON THAT TEST?

9 A I DOCUMENTED MY RESULTS IN MY ARREST  
10 FACESHEET, AND I'D LIKE TO SEE IT AGAIN TO RECOLLECT MY  
11 MEMORY.

12 THE COURT: GO AHEAD.

13

14 (PAUSE IN PROCEEDINGS.)

15

16 THE WITNESS: OKAY.

17 BY MS. ROSMAN:

18 Q IS YOUR MEMORY REFRESHED?

19 A YES.

20 Q OKAY. SO HOW DID THE DEFENDANT PERFORM IN  
21 THE TEST?

22 A I INDICATED IN MY REPORT THAT THE FIRST  
23 RIGHT HAND THAT HE DIRECTED TO HIS NOSE, HE MISSED THE  
24 TIP OF HIS NOSE AND READJUSTED IT TO TOUCH THE TIP OF  
25 HIS NOSE, FOLLOWING THE TIP -- THE CONTACT. HE DID THAT  
26 ALSO WITH A SECOND -- THERE'S SIX TESTS THAT WE DO. THE  
27 FIRST AND SECOND AND THE SIXTH TEST, HE READJUSTED TO  
28 TOUCH THE TIP OF HIS NOSE, MEANING HE TOUCHED AWAY. AND

1 I'VE INDICATED THE POINTS IN MY REPORT.

2 Q SO WHERE DID HE TOUCH HIS FACE ON THE FIRST  
3 ONE?

4 A I'D HAVE TO LOOK AT MY REPORT AGAIN. THERE  
5 ARE SO MANY POINTS THAT I HAVE IN THERE.

6 THE COURT: GO AHEAD.

7

8 (PAUSE IN PROCEEDINGS.)

9

10 THE WITNESS: OKAY.

11 BY MS. ROSMAN:

12 Q SO IS YOUR MEMORY REFRESHED?

13 A YES.

14 Q AND WHERE DID HE TOUCH HIS FACE ON THE  
15 FIRST TRY.

16 A THE FIRST TRY, IT APPEARS WITH THE DRAWING  
17 THAT I HAVE THAT HE TOUCHED THE -- HIS FINGER TO THE  
18 UPPER PART OF THE NOSE, ABOUT -- ABOUT HALF AN INCH TO  
19 THE LEFT OF HIS NOSE.

20 Q AND THE SECOND ONE?

21 A THE SECOND ONE, IT APPEARS THE SAME WAY.  
22 BUT TO THE RIGHT SIDE, APPROXIMATELY ANOTHER HALF AN  
23 INCH AWAY FROM THE NOSE.

24 Q AND THE THIRD?

25 A THE THIRD, FOURTH, AND FIFTH LOOKED TO BE  
26 IN THE MIDDLE OF HIS NOSE. AND THE SIXTH WAS AGAIN OFF  
27 HIS NOSE, TO THE BOTTOM, ABOUT HALF INCH TO THE BOTTOM  
28 RIGHT.

1 Q AND WAS THAT PERFORMANCE, ONLY HITTING THE  
2 TIP OF HIS NOSE THREE OUT OF THE SIX TIMES CONSISTENT  
3 WITH A PERSON WHO IS UNDER THE INFLUENCE OF ALCOHOL?

4 A HE WAS -- HE WASN'T -- HE DID NOT PERFORM  
5 IT AS INDICATED.

6 Q SO IS THAT CONSISTENT WITH A PERSON WHO IS  
7 UNDER THE INFLUENCE OF ALCOHOL?

8 A YES.

9 Q DID YOU PERFORM ANY OTHER FIELD SOBRIETY  
10 TESTS?

11 A NO.

12 Q AFTER HE -- HIS PERFORMANCE ON THOSE TESTS,  
13 HAD YOU COME TO A CONCLUSION AS TO WHETHER HE WAS UNDER  
14 THE INFLUENCE OF ALCOHOL?

15 A AT THE COMPLETION OF THE FIVE EXAMINATIONS  
16 THAT WE JUST DISCUSSED, I THEN FORMED AN EXPERT OPINION  
17 THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF ALCOHOL.

18 Q AND WHAT HAPPENED NEXT?

19 A I THEN ADMONISHED HIM TO PERFORM A  
20 PRELIMINARY ALCOHOL SCREENING TEST, USING A DEVICE THAT  
21 HE AGREED TO COMPLETE, AND PROVIDE US A BREATH SAMPLE.

22 Q AND I'M SORRY -- YOU SAID HE AGREED TO TAKE  
23 THE TEST?

24 A YES, HE DID.

25 Q AFTER YOU ADMONISHED HIM?

26 A CORRECT.

27 Q OKAY. AND WERE YOU TRAINED TO ADMINISTER  
28 THE PAS DEVICE TESTS?

1           A           YES, I HAVE.

2           Q           HOW MANY HOURS OF TRAINING HAVE YOU  
3 RECEIVED?

4           A           IT WAS APPROXIMATELY ONE HOUR TRAINING IN  
5 THE MACHINE ON HOW TO PROPERLY USE IT, HOW TO READ IT,  
6 OPERATE IT, AND SUCCESSFULLY COMPLETE THE COURSE.

7           Q           AND HOW MANY TIMES HAVE YOU ADMINISTERED A  
8 PAS TEST?

9           A           I DIDN'T USE IT FOR MANY, MANY YEARS. JUST  
10 ABOUT TWO YEARS AGO, I RECENTLY STARTED USING IT. AND I  
11 ONLY USE IT IN CHECKPOINT LOCATIONS. AND SO ABOUT 50  
12 TIMES.

13          Q           BUT YOU COMPLETED THE TRAINING COURSE FOR  
14 USING PAS DEVICES?

15          A           YES, I DID.

16          Q           HOW WAS THE PAS TEST ADMINISTERED?

17          A           I ACTIVATE THE MACHINE TO THE ON POSITION.  
18 I USE A BRAND-NEW MOUTHPIECE THAT WE PUT ON THE TIP OF  
19 THE MACHINE. AT THAT TIME, I ADVISE THE DEFENDANT THAT  
20 HE NEEDS TO BLOW IN THE MACHINE UNTIL HE HEARS A  
21 CLICKING NOSE. THAT MEANS THE MACHINE HAS RECEIVED A  
22 SUFFICIENT SAMPLE. AND ONCE THE MACHINE READS, "PLEASE  
23 BLOW," I DIRECT IT TO HIS MOUTH, GIVE HIM DIRECTION ON  
24 HOW TO PROVIDE A PROPER SAMPLE, AND HE BLEW IN THE  
25 MACHINE, AND THE MACHINE PROVIDED US WITH A READING.

26          Q           AND DID YOU FOLLOW ALL THOSE SAME STEPS YOU  
27 JUST DESCRIBED WITH THE DEFENDANT?

28          A           YES, I DID.