

# TEXAS FORENSIC SCIENCE COMMISSION

FINAL REPORT ON COMPLAINT NO. 24.45;  
TEXAS DEPARTMENT OF PUBLIC SAFETY - HOUSTON  
(TOXICOLOGY- BLOOD ALCOHOL)

OCTOBER 24, 2025



## Table of Contents

<b><i>I. BACKGROUND</i></b> .....	1
<b>A. History and Mission of the Texas Forensic Science Commission</b> .....	1
<b>B. Jurisdiction</b> .....	1
1. Investigations of Complaints Alleging Professional Negligence and Professional Misconduct.....	1
2. Accreditation Jurisdiction .....	2
3. Licensing Jurisdiction.....	2
4. Jurisdiction Applicable to the Complaint.....	3
<b>C. Investigative Process</b> .....	4
<b>D. Limitations of this Report</b> .....	4
<b><i>II. SUMMARY OF THE COMPLAINT</i></b> .....	4
<b>A. Notice and Response by Analyst</b> .....	5
<b>B. Commission’s Decision to Accept the Complaint</b> .....	5
<b>C. Document Review and Interviews</b> .....	6
<b><i>III. TIMELINE AND COMPLAINT ALLEGATIONS</i></b> .....	6
<b>A. Failure to Disclose Pending Quality Incidents</b> .....	6
<b><i>IV. COMMISSION FINDINGS AND OBSERVATIONS REGARDING PENDING QUALITY INCIDENT DISCLOSURE OBLIGATIONS</i></b> .....	9
<b>A. Allegation of Professional/Misconduct re: Failure to Disclose in Momin</b> .....	9
<b>B. Difference Between Self-Disclosures and QIs, and their Respective Reporting Requirements Under TCCP Article 38.01 and Commission Rules</b> .....	11
<b>C. Evolution of DPS Forensic Disclosure Policy: Key Events and Legislation</b> .....	14
<b>D. DPS Policy on Pending Quality Incident Disclosure</b> .....	17
<b>E. DPS Management Testimony Regarding the DPS Quality Incident Process</b> .....	18
<b>F. Observations Re: Current DPS Policy on Disclosure of Pending QIs</b> .....	19
<b>G. Commission Finding re: Professional Negligence/Misconduct</b> .....	21
<b>H. Opportunity for DPS and Other Texas Laboratories to Evaluate Existing Disclosure Compliance Policies</b> .....	22
<b><i>V. ALLEGATIONS REGARDING ANALYST BIAS IN TESTIMONY</i></b> .....	22
<b>A. Allegation Regarding Hiding of Information Regarding the QI’s</b> .....	22

<b>B. Allegation: The Analyst is Biased Against the Defense, Including Defense Experts, and Engages in Trial Tactics/Strategies with the Prosecution.....</b>	<b>24</b>
<b>C. Allegation: The Analyst Failed to Adequately Prepare for his Testimony in the <i>Monroy</i> Trial Resulting in an Error He Failed to Correct Upon Discovery.....</b>	<b>27</b>
<b><i>VI. COMMISSION FINDINGS REGARDING ALLEGATIONS RELATED TO BIAS.....</i></b>	<b>28</b>
<b>A. The Analyst Violated the Texas Code of Professional Responsibility (Provisions 13 and 6) when he Testified in an Ambiguous, Biased, and Misleading Manner that he was “Hiding” Material from the Defense, was Biased Against the Defense, and was Engaged in Prosecution Strategy.....</b>	<b>28</b>
<b>B. The Analyst Did Not Violate the Texas Code of Professional Responsibility by Refusing to Immediately Provide Written Communications with the State to the Defense Lawyer, but he Should Have Sought Direction on How to Proceed.....</b>	<b>29</b>
<b><i>VII. ALLEGATIONS RE: TECHNICAL ISSUES.....</i></b>	<b>31</b>
<b>A. Allegation: The Analyst Relied on Data Despite Having Concerns about the Data.....</b>	<b>31</b>
<b>B. Allegation: The Analyst was Untruthful and Left a False Impression with the Court and Testified Beyond his Area of Expertise Re: Acetone.....</b>	<b>33</b>
<b><i>VIII: COMMISSION FINDINGS RELATED TO ALLEGATIONS RE: TECHNICAL ISSUES IN TESTIMONY.....</i></b>	<b>35</b>
<b>A. The Analyst Did Not Violate the Texas Code of Professional Responsibility Regarding his Testimony Concerning Baseline Drift and Acetone.....</b>	<b>35</b>
<b>B. The Analyst Did Not Violate the Code of Professional Responsibility by Failing to Notify Management or Quality Assurance Personnel of an Adverse Event Regarding Incorrect Testimony in the <i>Monroy</i> Trial.....</b>	<b>36</b>
<b><i>IX. DISCIPLINARY ACTION.....</i></b>	<b>36</b>
<b><i>X. PROCESS FOR APPEAL OF DISCIPLINARY ACTION.....</i></b>	<b>38</b>
<b><i>XI. RECOMMENDATIONS AND ACREDIDATION CHECKLIST ITEM.....</i></b>	<b>39</b>
<b>A. Recommendation Specific to DPS.....</b>	<b>39</b>
<b>B. Recommendation for all Laboratories Subject to Commission Jurisdiction.....</b>	<b>39</b>

## TABLE OF EXHIBITS

Exhibit A	Complaint
Exhibit B	Analyst Response
Exhibit C	DPS QI-HOU-2024-0104-BA
Exhibit D	DPS QI-HOU-SYS-2024-0210-BA
Exhibit E	Part I - MNT Hearing Transcripts in <i>State v. Momin</i>
Exhibit E	Part II - MNT Hearing Transcripts in <i>State v. Momin</i>
Exhibit F	Order on Defendant's MNT: <i>State v. Momin</i>
Exhibit G	Chapter 33 DPS Crime Laboratory Division Manual: Forensic Disclosure and Compliance Policy Section 33.2 H(1)-(9)(g)
Exhibit H	Email Correspondence with Prosecutor

## **I. BACKGROUND**

### **A. History and Mission of the Texas Forensic Science Commission**

The Texas Forensic Science Commission (Commission) was created during the 79<sup>th</sup> Legislative Session in 2005 with the passage of HB-1068. The Act amended the Code of Criminal Procedure to add Article 38.01, which describes the composition and authority of the Commission. During subsequent legislative sessions, the Texas Legislature further amended the Code of Criminal Procedure to clarify and expand the Commission's jurisdictional responsibilities and authority.<sup>1</sup>

The Commission has nine members appointed by the Governor of Texas.<sup>2</sup> Seven of the nine commissioners are scientists or medical doctors and two are attorneys (one prosecutor nominated by the Texas District and County Attorney's Association and one criminal defense attorney nominated by the Texas Criminal Defense Lawyer's Association).<sup>3</sup> The Commission's Presiding Officer is Jeffrey Barnard, MD.

### **B. Commission Jurisdiction**

#### **1. Investigations of Complaints Alleging Professional Negligence and Professional Misconduct**

Texas law requires the Commission to "investigate in a timely manner, any allegation of professional negligence or professional misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a crime laboratory."<sup>4</sup> The term "forensic analysis" is defined as a medical, chemical, toxicological, ballistic, or other examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of

---

<sup>1</sup> See e.g., Acts 2013, 83rd Leg. ch. 782 (S.B. 1238) §§ 1-4 (2013); Acts 2015, 84th Leg. ch. 1276 (S.B. 1287) §§ 1-7 (2015), Acts 2023, 88th Leg. ch. 742 (H.B. 3506) §§ 1-2 (2023), Acts 2023, 88<sup>th</sup> Leg. ch. 1149 (S.B. 0991) § 1 (2023).

<sup>2</sup> TEX. CODE CRIM. PROC. art. 38.01 § 3.

<sup>3</sup> *Id.*

<sup>4</sup> TEX. CODE CRIM. PROC. art. 38.01 § 4(a)(3)(A).



the evidence to a criminal action.<sup>5</sup> Crime laboratories must also self-report professional negligence or professional misconduct to the Commission.<sup>6</sup> The statute does not define the terms “professional negligence” and “professional misconduct.” The Commission defines those terms in its administrative rules.<sup>7</sup>

## **2. Accreditation Jurisdiction**

The Commission is charged with accrediting crime laboratories and other entities that conduct forensic analyses of physical evidence.<sup>8</sup> The term “crime laboratory” includes a public or private laboratory or other entity that conducts a forensic analysis subject to article 38.35 of the Code of Criminal Procedure.<sup>9</sup> The Commission currently recognizes ISO/IEC 17025:2017 and ISO/IEC 17020: 2012 forensic program accreditation by two accrediting bodies, the ANSI National Accreditation Board (ANAB) and the American Association for Laboratory Accreditation (A2LA).

## **3. Licensing Jurisdiction**

Under Texas law, a person may not act or offer to act as a forensic analyst unless the person holds a license issued by the Commission.<sup>10</sup> While accreditation is granted to entities that perform forensic analysis, licensing is a credential obtained by individuals who, on behalf of accredited

---

<sup>5</sup> TEX. CODE CRIM. PROC. art. 38.35(a)(4).

<sup>6</sup> *Id.* at art. 38.01 § 4(a)(1)-(2) (2019); *See also*, 37 Tex. Admin. Code § 651.219(c)(5) (2020).

*(Pursuant to the Forensic Analyst Licensing Program Code of Professional Responsibility, members of crime laboratory management shall make timely and full disclosure to the Texas Forensic Science Commission of any non-conformity that may rise to the level of professional negligence or professional misconduct).*

<sup>7</sup> 37 Tex. Admin. Code § 651.302 (7), (8), and (10) (2020). The term “would substantially affect the integrity of the results of a forensic analysis” does not necessarily require that a criminal case be impacted or a report be issued to a customer in error. The term includes acts or omissions that would call into question the integrity of the forensic analysis, the forensic analyst or analysts, or the crime laboratory as a whole regardless of the ultimate outcome in the underlying criminal case.

<sup>8</sup> TEX. CODE CRIM. PROC. art. 38.01 § 4-d(b).

<sup>9</sup> *Id.* at art. 38.35(a)(1).

<sup>10</sup> *Id.* at art. 38.01 § 4-a(b); 37 Tex. Admin. Code § 651.201(c) (2018). The Texas forensic licensing program took effect on January 1, 2019.

laboratories, technically review or perform forensic analysis or draw conclusions from or interpret forensic analysis for a court or crime laboratory.<sup>11</sup>

Pursuant to its licensing authority, the Commission may take disciplinary action against a license holder or applicant for a license on a determination by the Commission that a license holder or applicant for a license committed professional negligence or misconduct or violated Texas Code of Criminal Procedure Article 38.01 or an administrative rule or other order issued by the Commission.<sup>12</sup> If the Commission issues such a finding, the Commission may: (1) revoke or suspend the person's license; (2) refuse to renew the person's license; (3) reprimand the license holder; or (4) deny the person a license.<sup>13</sup> The Commission may also place on probation a person whose license is suspended.<sup>14</sup> A person who is subject to disciplinary action by the Commission may appeal that decision to the Judicial Branch Certification Commission.<sup>15</sup>

#### **4. Jurisdiction Applicable to the Complaint**

The individual who is the subject of the complaint, Zachary Augustyn (Analyst), is currently employed at the Texas Department of Public Safety (DPS) Houston Regional Crime Laboratory. He has been licensed by the Commission as an Interpretative Toxicologist since November 2, 2020. Licensure as an Interpretative Toxicologist is the highest level of licensure an individual may receive in the toxicology discipline, as this license encompasses all activities of a toxicology technician and a toxicology analyst in addition to interpretation, provided the Interpretative Toxicologist maintains proficiency in the activities performed under each license type to the extent required by ANAB, which is the recognized accrediting body for DPS.

---

<sup>11</sup> *Id.* at art. 38.01 § 4-a(a)(2).

<sup>12</sup> *Id.* at art. 38.01 § 4-c.

<sup>13</sup> 37 Tex. Admin Code § 651.216(a)(1)-(4) (2024).

<sup>14</sup> *Id.* at (b).

<sup>15</sup> TEX. CODE CRIM. PROC. art. 38.01 § 4-c(e); 37 Tex. Admin. Code § 651.216(d) (2024).

### **C. Investigative Process**

The Commission's administrative rules set forth the process by which it determines whether to accept a complaint for investigation, as well as the process used to conduct the investigation.<sup>16</sup> The Commission's rules also describe the process for appealing final investigative reports by the Commission including possible disciplinary actions against a license holder or applicant.<sup>17</sup>

### **D. Limitations of this Report**

The Commission's authority contains important limitations. For example, no finding by the Commission constitutes a comment upon the guilt or innocence of any individual.<sup>18</sup> The Commission's written reports are not admissible in civil or criminal actions.<sup>19</sup> The Commission does not have the authority to subpoena documents or testimony. Information received during any investigation is dependent on the willingness of affected parties to submit relevant documents and respond to questions posed. Information gathered in this report was not subjected to standards for the admission of evidence in a courtroom. For example, no individual testified under oath, was limited by either the Texas or Federal Rules of Evidence (*e.g.*, against the admission of hearsay) or was subject to cross-examination under a judge's supervision.

## **II. SUMMARY OF THE COMPLAINT**

On November 6, 2024, defense attorney Mark Thiessen (Thiessen) filed a complaint with the Commission alleging the Analyst committed professional negligence and/or professional

---

<sup>16</sup> 37 Tex. Admin. Code § 651.304-307 (2019).

<sup>17</sup> 37 Tex. Admin. Code § 651.401 (2024).

<sup>18</sup> TEX. CODE CRIM. PROC. art. 38.01 § 4(g).

<sup>19</sup> *Id.* at § 11.



misconduct and violated the Texas Code of Professional Responsibility for Forensic Analysts and Crime Laboratory Management in connection with his disclosure responsibilities and testimony in three criminal cases in Fort Bend County and Montgomery County between August 29, and October 23, 2024:

- *State v. Jawed Momin*, Fort Bend (Testimony on August 29, 2024)
- *State v. Israel Monroy* Montgomery (Testimony on September 17-18, 2024)
- *State v. James Soape*, Montgomery (Testimony on October 22 and 23, 2024).

The complaint alleges that in these cases, the Analyst withheld information from the defense, exhibited bias against the defense and defense experts, testified beyond the scope of his expertise, relied on data despite having concerns regarding the data, and testified untruthfully leaving a false impression with the jury. (*See, Exhibit A – Complaint*)

#### **A. Notice and Response by Analyst**

On November 22, 2024, the Commission notified the Analyst of the complaint and advised him the complaint would be considered at the January 31, 2025, quarterly meeting. On December 27, 2024, the Analyst submitted a written response to the Commission. (*See, Exhibit B – Response*).

#### **B. Commission’s Decision to Accept the Complaint**

On January 31, 2025, the Commission voted to accept the complaint for investigation by a panel of Commission members.<sup>20</sup> Brazos County District Attorney Jarvis Parsons, Dr. Sarah Kerrigan, and Dr. Jasmine Drake were appointed to the investigative panel.

---

<sup>20</sup> 37 Tex. Admin. Code Section 651.307(b) (2024).

### **C. Document Review and Interviews**

The Commission reviewed all materials submitted by the Complainant as well as materials submitted by the Analyst. The Commission also obtained the case record in one case (*Soape*) to address a technical issue raised by the complaint. During the investigation, a motion for new trial hearing was held in the *Momin* case in Fort Bend County. The Commission obtained the relevant hearing transcripts and Court orders.

On May 5, 2025, and August 13, 2025, staff interviewed the Analyst. Commissioner Kerrigan participated in the August 13<sup>th</sup> interview.

On June 25, 2025, staff interviewed the complainant, Atty. Mark Thiessen.

On June 20, 2025, staff and Dr. Kerrigan interviewed toxicology expert, Amanda Culbertson (Culbertson).

## **III. TIMELINE AND COMPLAINT ALLEGATIONS**

### **A. Failure to Disclose Pending Quality Incidents**

A central issue in this complaint concerns the Analyst's failure to disclose two quality incidents (QIs) covering three separate evidence-packaging-and-documentation issues that were pending and being investigated by the DPS quality division in August 2024 when the Analyst testified in Fort Bend County in *State v. Momin*.<sup>21</sup>

QI is the term DPS uses to describe any event where the laboratory's activities or processes fail to conform to its own established procedures, to the requirements of ISO 17025: 2017, or the relevant supplemental standard, in this case AR-3125.<sup>22</sup> As discussed in more detail below, QIs

---

<sup>21</sup> Per DPS policy, QI's contain observations related to nonconformities, and a nonconformity (or nonconforming work)" occurs when one or more characteristic(s) or condition(s) are observed that do not conform to required specifications in a standard, procedure, or policy. See, [Texas DPS Crime Laboratory Division Manual](#) terms and definitions at 21-22 (*eff.* 4-7-25).

<sup>22</sup> For ease of reference because the subject of this complaint is an analyst at DPS, we refer to quality documentation generally as QIs throughout this report, though other laboratories may use different terminology (e.g., corrective action reports or similar) to refer to the same concept.

range from minor administrative issues to serious systemic breakdowns that may impact the integrity of a forensic result. In 2024, the Analyst made three mistakes that resulted in two QIs. The mistakes were human oversights that can and do occur in any laboratory. First in December 2023, the Analyst failed to reseal evidence properly. This lapse resulted in a QI, which was finalized on October 11, 2024. (**Exhibit C: DPS QI-HOU-2024-0104-BA**). The second QI included two instances where the Analyst failed to notice swapped (and therefore incorrect) defendant information entered by the submitting law enforcement agency—once in February 2024 and a second time in May 2024. This second QI was finalized on November 7, 2024. (**Exhibit D: DPS QI-HOU-SYS-2024-0210-BA**).

1. Lack of Disclosure of Pending QIs and MNT in *State v. Momin* (Fort Bend: Aug. 2024)

On August 29, 2024, the Analyst testified in the trial of *State v. Momin* in Fort Bend County. In his response to this complaint, the Analyst asserted, that during discovery, he provided all *completed* discipline-related and analyst-related QIs (45 total), as well as a link to the DPS website which, at the time, included completed QIs but not pending QIs.<sup>23</sup> The Analyst did not disclose the two pending QIs, related to the failure to reseal evidence properly (QI-HOU-2024-0104-BA) and failure to notice swapped (and therefore incorrect) defendant information (QI-HOU-SYS-2024-0210-BA), to either the State or the defense. The defense learned about these QIs after trial and filed a Motion for New Trial.

In late October 2024, a hearing was held in Fort Bend County on the defendant’s Motion for New Trial. This hearing continued in early November. Staff obtained a transcript of the Motion

---

<sup>23</sup> This group of 45 QIs covered a range of items and analysts; they were not necessarily related to any work performed by the Analyst who is the subject of this investigation. The DPS Quality Incident Search Index can be found on the DPS website at <https://www.dps.texas.gov/section/crime-laboratory/crime-laboratory-quality-incidents>. DPS Quality Incident Records can also be found in the Texas Forensic Science Commission database at: <https://fsc.txcourts.gov/QualityIncidentPublic/Overview>.

for New Trial proceedings at which the Analyst and Houston DPS management testified. (**Exhibit E: MNT Hearing Transcripts in *State v. Momin***).

On November 12, 2024, the Court granted the defendant's Motion for New Trial, finding that timely disclosure of the pending investigation surrounding the handling of evidence may have been used by the defense as mitigation or exculpation or considered by the Court in respect to the requested suppression of evidence. (**Exhibit F: Order on Defendant's MNT: *State v. Momin***).

2. Disclosure of Pending QIs in *State v. Monroy* (Montgomery County: September 2024)

On September 17-18, 2024, the Analyst testified in a Montgomery County case, *State v. Monroy*. Before trial, the Analyst revealed the existence of the two pending QIs to the assigned Assistant District Attorney.<sup>24</sup> The State disclosed the pending QIs to the defense. On September 17, 2024, the Analyst testified at a pretrial hearing concerning the admissibility of the pending QIs.

On September 18, 2024, the court initially declined to admit the pending QIs for impeachment purposes, but at the conclusion of the Analyst's direct examination, the court reviewed the Court of Criminal Appeals decision in *Diamond v. State*<sup>25</sup> and ruled the pending QIs were admissible for impeachment purposes. Both the State and the defense questioned the Analyst about the pending QIs. Culbertson also testified for the defense. During jury deliberations, the jury filed a "question to the court" asking for a transcript of the Analyst's testimony and stating they had a disagreement about the credibility of the blood test and the "witness/lab."

3. Disclosure of Pending QIs in *State v. Soape* (Montgomery County: October 2024)

From October 22-23, 2024, the Analyst testified in another Montgomery County case, *State v. Soape*. As in the *Monroy* case, the State disclosed the two pending QIs to the defense before

---

<sup>24</sup> In his interviews with the Commission, the Analyst stated he asked his immediate supervisor whether he should disclose the pending QIs and was told that it was "up to him." Commission staff contacted the supervisor, and though she did not have a specific recollection of the conversation, she also did not dispute his assertion.

<sup>25</sup> *Diamond v. State*, 613 S.W.3d 536 (Tex. Cr. App 2020).

trial. The defense counsel and defense expert were the same in *Soape* as they were in *Monroy*. In preparation for the *Soape* trial, the defense subpoenaed communications between the Analyst and the prosecutor from the earlier *Monroy* trial. Because in these two Montgomery County cases, the QIs were disclosed by the State, there is no complaint regarding failure to disclose as there was for the *Momin* case in Fort Bend County. Instead, the complaint focuses on the Analyst's pretrial communications with the prosecutor, the Analyst's testimony regarding various technical and ethical issues, and an uncorrected mistake made during the Analyst's testimony in *Monroy*.

#### **IV.COMMISSION FINDINGS AND OBSERVATIONS REGARDING PENDING QUALITY INCIDENT DISCLOSURE OBLIGATIONS**

##### **A. Allegation of Professional Negligence/Misconduct re: Failure to Disclose in *Momin***

It is undisputed that the two QIs pending resolution by the laboratory were not disclosed to the prosecution or defense in the *Momin* case in Fort Bend County but were disclosed subsequently during the two Montgomery County cases (*Monroy* and *Soape*). The complaint alleges the lack of disclosure in *Momin* constituted professional negligence or professional misconduct by the Analyst. The Commission's administrative rules set forth the following definitions of professional negligence and professional misconduct:<sup>26</sup>

"Professional misconduct" means the forensic analyst or crime laboratory, through a material act or omission, deliberately failed to follow the standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the deliberate act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was deliberate if the forensic analyst or crime laboratory was aware of and consciously disregarded an accepted standard of practice required for a forensic analysis.

"Professional negligence" means the forensic analyst or crime laboratory, through a material act or omission, negligently failed to follow the standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the negligent act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was negligent if the forensic analyst or crime laboratory should have been but was not aware of an accepted standard of practice.

---

<sup>26</sup> 37 Tex. Admin. Code Section 651.302(8) and (9) (2020).

For the Commission to issue a negligence or misconduct finding, a forensic analyst's actions or omissions must meet one of the above definitions. We evaluate the Analyst's failure to disclose the pending QI's during the *Momin* case in Fort Bend County through this lens.

The complaint references the Commission's Legal Disclosure and Professional Responsibility Course analysts must complete to be licensed. The Commission educates analysts and administers examinations covering topics such as evidence handling, statistics, human factors, courtroom testimony, and root cause analysis. The education and related examination also include concepts under *Brady v. Maryland*,<sup>27</sup> the Michael Morton Act<sup>28</sup> and the Texas Code of Professional Responsibility for Forensic Analysts and Crime Laboratory Management<sup>29</sup>. The excerpts included in the complaint are derived from these training materials.

Analysts are taught suppression by the prosecution of evidence favorable to an accused violates due process under *Brady v. Maryland* and related caselaw. Analysts learn impeachment evidence means evidence or information used to assess the credibility or reliability of the government's witnesses and that impeachment evidence can be quite broad depending upon the facts and circumstances.

The specific training examples referenced by the complaint, however, are distinguishable from the instant case because those examples involved resolved QIs or major pending investigations into suspected misconduct where the conduct was so significant the analyst was reassigned during the pendency of the investigation. The training offered by the Commission does not specifically address the question of in-process, pending QIs in the normal course where the quality issues under investigation have not been fully assessed but there does not appear to be any

---

<sup>27</sup> *Brady v. Maryland*, 373 U.S. 83 (1963).

<sup>28</sup> Article 39.14 Texas Code of Criminal Procedure (Michael Morton Act).

<sup>29</sup> 37 Tex. Admin Code Section 651.219 (2020).

reason to remove the analyst from casework. The Commission uses case-related examples in training materials to convey to analysts and laboratory management disclosure considerations are fact-specific and complex, but courts have generally looked beyond whether the item in question has been finalized when assessing whether failure to disclose was problematic under the law. The Commission is not a court and has no jurisdiction to make determinations about whether a particular failure to disclose violates statutory or constitutional requirements. Rather, the purpose of the Commission's disclosure training is to raise awareness for crime laboratories so they may assess how to evaluate and mitigate risk when it comes to drafting and implementing their disclosure compliance policies.

In his written response to the complaint, the Analyst asserted that "QIs that are in progress are not routinely provided in discovery." In his May 5, 2025, interview with Commission staff, the Analyst explained it was his understanding that "we don't disclose quality incidents that are pending, because they are not finalized, and additional information may be entered" and "it wouldn't be right to disclose an incomplete quality incident." In his view, if any information on the QI is incomplete or inaccurate, "we would be giving out an inaccurate or incomplete QI". His understanding of DPS policy, based on his reading of the DPS Crime Laboratory Division Manual, was that DPS would only disclose a pending QI if it involved the case on trial.

#### **B. Difference Between Self-Disclosures and QIs, and their Respective Reporting Requirements Under TCCP Article 38.01 and Commission Rules**

As previously noted, DPS is accredited by ANAB under ISO 17025:2017 and AR-3125. A documented process for the management of quality issues is a basic accreditation requirement. The nature and scope of quality issues in forensic laboratories range from simple documentation errors to catastrophic failures such as intentional misconduct that could impact the reliability of reported results, the fair administration of justice, or both.



DPS documents quality issues—from minor to significant—in the form of QIs. Though not required by law, in the interest of transparency and efficiency, DPS has published all QIs on its website since March 1, 2017. In July 2024, with the Office of Court Administration’s technical assistance, the Commission released a new database allowing *any* laboratory subject to the Commission’s jurisdiction to publish QIs (or equivalent documentation) in a central location searchable on the Commission’s website. DPS now publishes all QIs directly on the Commission’s website.<sup>30</sup> Though DPS has taken this proactive step, Texas law does not require self-reporting of all QIs to the Commission. Rather, it requires the reporting of a smaller subset of significant non-conformities that may rise to the level of professional negligence or misconduct. This smaller subset of QIs is referred to generally by the Commission as “self-disclosures.”<sup>31</sup>

Since January 1, 2019, the Commission has reviewed 477 complaints and laboratory self-disclosures from all laboratories subject to the Commission’s jurisdiction. Of this total number, 178 were complaints filed by the public, and 299 were self-disclosed by laboratories. Of the 299 total self-disclosures, 66 (22%) were submitted by DPS.

The 477 complaints and self-disclosures for all forensic laboratories in Texas *do not include* the entire population of QIs and accreditation reports those laboratories have generated but rather reflect the smaller subset of serious incidents or issues requiring disclosure. To provide a sense of relative volume of total QIs for DPS during the same period, since January 1, 2019, DPS posted a total of 2,137 QIs online. Only 66 of those QIs were significant enough to require proactive self-disclosure reporting to the Commission.

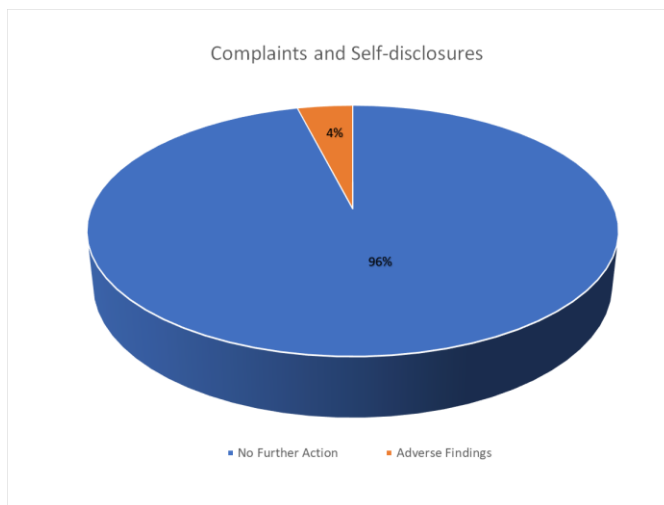
---

<sup>30</sup> To date, four laboratories—Bexar County, Brazoria County, Houston Forensic Science Center and the DPS laboratory system—have uploaded their QIs to the Commission’s database. The Commission expects utilization of the database to increase over time as laboratories become more accustomed to the database for various functions (*e.g.*, accreditation, OSAC Registry of Standards implementation, etc.)

<sup>31</sup> TEX. CODE CRIM. PROC. art. 38.01(a)(1)-(2).

The Commission evaluates each reported self-disclosure to determine whether the laboratory took sufficient action to rectify the quality issue(s) identified or whether additional investigation or disciplinary action is needed. Where additional investigation is needed, the Commission reviews the facts submitted to assess whether an analyst may have committed professional negligence or misconduct or violated any provision of the Code of Professional Responsibility for Forensic Analysts and Crime Laboratory Management. The Commission then issues a report containing its findings.

As indicated in the following chart, of the 477 total complaints and self-disclosures reviewed by the Commission from January 1, 2019, through July 25, 2025 (the Commission's last quarterly meeting), 4% resulted in an investigation that included a finding of professional negligence, professional misconduct, or violation(s) of the Code of Professional Responsibility.



The Commission provides these data to assist stakeholders in understanding the range of issues that laboratories are required to document pursuant to accreditation requirements, and to make the following observations: (1) most QIs, while focused on continuous quality improvement, do not involve an analyst doing anything “wrong”; (2) significant QIs are submitted to the Commission so the Commission may determine whether the laboratory adequately addressed the

issues identified; and (3) a smaller subset of those serious QIs require investigation by the Commission and may result in adverse findings. We make these observations not to minimize the potential impact of quality issues in forensic laboratories but rather to educate end-users on the wide range and scope of issues that may be covered by QIs.

Of critical note, the statutory requirements pertaining to reporting of certain quality issues to the Commission are separate and distinct from the question of whether a particular QI (pending or completed) should be disclosed in the context of a specific criminal case. Determinations regarding disclosure pursuant to statutory and constitutional obligations in criminal cases (*e.g.*, *Brady v. Maryland*, Michael Morton Act, etc.) fall within the sole province of the court with jurisdiction over the matter, with ultimate authority residing with the Court of Criminal Appeals.

### **C. Evolution of DPS Forensic Disclosure Policy: Key Events and Legislation**

DPS' efforts toward transparency have evolved significantly since the passage of the Michael Morton Act. Laboratory leadership has increasingly emphasized the need for transparency and just culture to exist simultaneously. Unlike other industries where internal investigations, root cause analysis, and identification of corrective actions may proceed in a completely confidential manner until issuance of a final report, there are statutory and constitutional considerations in criminal cases that may require disclosure of information to the parties and the court on a faster timeline. Additionally, in the intervening years since the Michael Morton Act was signed into law, trial and appellate courts have made disclosure decisions regarding forensic laboratories' records that may help inform a laboratory's risk assessment. These decisions necessarily mean a laboratory's disclosure compliance policy should change as needed to reflect the expressed needs of criminal justice end-users.

The following key events led to the current DPS policy on the disclosure of laboratory information, including quality system documentation such as QIs:

- **January 1, 2014:** Effective date of the Michael Morton Act, which amended Texas Code of Criminal Procedure Article 39.14. The Michael Morton Act imposes a continuing duty on the state to disclose to a defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged. This duty exists regardless of whether the defense ever requests discovery from the State.<sup>32</sup>
- **January 4, 2016:** DPS policy first referenced a “Disciplinary History Form” after recognizing that exculpatory, mitigating or impeachment information in the crime laboratory service context may be fundamentally different than exculpatory, mitigating or impeachment information for commissioned peace officers. The Disciplinary History Form was expected to include all sustained incidents such as violations of discrimination, sexual harassment, and unprofessional conduct policy. However, laboratory Quality Incidents, Quality Action Plans, and Performance Improvement Plans were not included on the form.
- **December 15, 2016:** The DPS Office of Inspector General (OIG) opened an investigation into the testimony of a blood alcohol analyst from the Garland regional laboratory after prosecutors in five North Texas counties (Collin, Dallas, Denton, Rockwall, and Tarrant) communicated significant concerns regarding inconsistent and misleading testimony he had provided under oath with respect to a switched blood sample. In May 2017, DPS self-disclosed the OIG investigative report to the Commission.
- **December 22, 2016:** DPS crime laboratory representatives and the group of North Texas prosecutors met to discuss a process for lawyers to understand and facilitate disclosure of laboratory nonconformities. As a result of extensive discussion with prosecutors during this and subsequent meetings, DPS adopted a disclosure compliance policy and implemented a new “Disclosure Form” across the laboratory system. The form was officially incorporated into DPS policy on June 1, 2017.
- **March 1, 2017:** DPS uploaded all QIs to its public facing website. While some QIs included references to names of individuals associated with the QI in some form or another, not all names were referenced, and documents were not searchable in a way that would allow an attorney to easily obtain all QIs an individual expert had ever been associated with. DPS added a link in their laboratory reports to Quality Incidents via a public-facing

---

<sup>32</sup> See, *supra*, note 2 at 695.

section of their website and a statement that the laboratory maintains a complete case record which may be discoverable under Article 39.14. <https://www.dps.texas.gov/section/crime-laboratory/crime-laboratory-quality-incidents>

- **June 1, 2017:** DPS Policy was amended to change the Disciplinary History Form to a “Disclosure Form”. The Disclosure Form was to include sustained disciplinary actions, sustained complaints against laboratory personnel, sustained allegations of misconduct, or sustained violations of department policy, as well as sustained violations of discrimination, sexual harassment, and unprofessional conduct policy. Additional incidents, specifically if related to the laboratory personnel’s technical ability were also included, such as performance improvement plans, unsatisfactory proficiency testing, unsatisfactory competency tests, testing reported and found to be incorrect, switched samples if discovered after reports were issued, and sustained complaints of professional negligence or misconduct investigated by the Commission. Also included on the Disclosure Form were “quality incidents and action plans that are determined to be significant quality events”.
- **April 20, 2018:** The Commission published its report regarding the DPS Garland blood alcohol testimony referenced above. The Commission observed that DPS should be commended for its work in developing and implementing the “Disclosure Form” and that it signified a major step in implementing the Michael Morton Act with respect to forensic laboratory records.
- **December 2018:** DPS added a searchable file of associated individuals to its public website: <https://txdpslabs.qualtraxcloud.com/ShowDocument.aspx?ID=61117>
- **April 15, 2019:** DPS implemented the first version of the Crime Laboratory Division Quality Manual including Chapter 34 the “Forensic Disclosure and Compliance Policy,” which closely aligns with the current version [now in Chapter 33].
- **September 1, 2021:** The Richard Miles Act took effect, requiring any law enforcement agency that files a case with an attorney representing the State to provide a written statement that all documents, items, and information required to be disclosed under Article 39.14 (Michael Morton Act) have been transmitted to the prosecutor.
- **November 15, 2022:** The Commission published a report describing a case in which neither the State nor the defense obtained or reviewed the portion of the laboratory case record concerning forensic biology screening, which contained information regarding significant issues with the storage of crucial DNA evidence. This case (*Ex Parte Colone*), as well as other cases around the United States concerning undisclosed scientific

information in laboratory records, spurred the passage of SB-991, the Texas crime laboratory portal legislation.

- **September 1, 2023:** SB-991 took effect requiring DPS to establish and maintain a central computerized portal that facilitates the transfer of crime laboratory records for all accredited laboratories (not just DPS) to authorized prosecutors and defense counsel. The portal, referred to as Crime Lab Records (CLR) Connect, is in the early stages of development.
- **June 12, 2024:** The Court of Criminal Appeals decided *State v. Heath*,<sup>33</sup> affirming the Michael Morton Act requires prosecutors to disclose all relevant evidence in the possession of the State, regardless of whether the prosecutor had knowledge of the evidence. The Court noted that “the State” includes both prosecutors and law enforcement agencies, as well as third party contractors *such as crime laboratories*, that have a duty to disclose evidence.<sup>34</sup>

#### **D. DPS Policy on Pending Quality Incident Disclosure**

When the Fort Bend (*Momin*) and Montgomery County (*Monroy* and *Soape*) cases were tried, DPS policy provided a list of categories that should be listed on an employee’s disclosure form. The list included sustained disciplinary actions, complaints, allegations of misconduct, violations of department policy, or allegations of falsification of governmental records. The list also contains a category for “quality incidents and corrective actions that are *determined to be significant quality events*” [emphasis added]. Additional disclosure form incidents include performance improvement plans if related to the individual’s technical ability, unsatisfactory proficiency tests, unsatisfactory competency tests, testing conclusions found to be in error, sample switch if discovered after results are reported, suspension of work for cause, and sustained complaints of professional negligence or misconduct investigated by the Commission. **(Exhibit G: Chapter 33 DPS Crime Laboratory Division Manual: Forensic Disclosure and**

---

<sup>33</sup> *State v. Heath*, 696 S.W.3d 677 (Tex. Cr. App. 2024).

<sup>34</sup> *Id.* at 695.

**Compliance Policy Section 33.2 H(1)-(9)(g)).** Absent is any specific mention of expectations regarding disclosure of *pending* QIs where the significance of the QI may not yet have been assessed.

#### **E. DPS Management Testimony Regarding the DPS Quality Incident Process**

The Houston DPS Quality Manager testified at the Motion for New Trial hearing in *State v. Momin*. She testified that the quality division assigns a risk level to a QI once it has been fully evaluated. Risk level assignment is a factor in determining whether the QI should be included on the analyst's "Disclosure Form" (in case of a significant event or other specified categories) or merely added to the DPS public facing website (where classified as low or medium risk).

In the case of the two QIs that were not disclosed to the parties in *State v. Momin*, after the QI cause analysis and correction, DPS assigned "low" risk to the QI regarding the failure to reseal evidence properly, and "medium" risk to the QI regarding the two cases of swapped defendant information (identified and corrected before report issued). Because the incidents were ultimately determined not to be "significant events", they would not be listed on the analyst's "Disclosure Form". Rather, they would be uploaded to the website alongside the rest of the QIs.

The Quality Manager further testified only the following specific items are required to be disclosed on the DPS Disclosure Form:

- Sustained disciplinary actions
- Complaints against laboratory personnel
- Misconduct
- Alleged falsification of government records
- Breaches of ethical standards
- Sustained complaints of negligence/misconduct by TFSC
- Placement on a PIP (performance improvement plan)
- Unsatisfactory PT (proficiency test)
- Unsatisfactory competency test
- Results incorrect upon further testing
- Sample switch if results reported
- Suspension of work for cause



Because none of the Analyst's actions or omissions fell into these categories and because neither QI was determined to be a "significant event," they were not listed on the Analyst's "Disclosure Form." On the question of whether a QI pending investigation should be disclosed to the parties in a case when they involve cases or incidents outside of the case, the Quality Manager's testimony was somewhat unclear but seemed to indicate her belief that it depended on the severity of the incident and whether the incident would need to be reported to the Commission and ANAB.

#### **F. Observations Re: Current DPS Policy on Disclosure of Pending QIs**

As a threshold matter, the observations in this section apply to all forensic laboratories that perform work at the request of the State and are subject to the Commission's jurisdiction. As indicated by the judges' rulings in both the *Momin* and *Monroy* trials, the failure to disclose pending QIs may run afoul of a defendant's due process rights to exculpatory, mitigating, and impeachment information. The trial court in *Monroy* relied on the Court of Criminal Appeals' decision in *Diamond v. State*<sup>35</sup> for the proposition that pending QIs should be admitted before the jury. It is not the Commission's role to debate or second-guess the courts' determinations in these cases. Instead, the Commission describes these decisions because they highlight the need for laboratories to be open to policy revisions as needed to mitigate the risk that a court (or courts) will deem the failure to disclose a pending QI as a failure to comply with statutory and constitutional requirements. The Commission's understanding is that DPS recognizes this need and is updating its policy.

In *Diamond*, the testifying analyst was removed from casework because she had mistakenly signed off on a blood alcohol analysis report in an unrelated case involving a mislabeled submission form. The prosecutor, unaware of the issue in the unrelated case, did not disclose the

---

<sup>35</sup> *Supra* at n. 23.

information before Diamond’s trial. The question before the Court of Criminal Appeals was whether this information was material. The intermediate appellate court ruled it was. The Court of Criminal Appeals ultimately determined the undisclosed information was *not* material under the case facts, but it left undisturbed the Court of Appeal’s finding the information constituted *Brady* material that should have been disclosed.<sup>36</sup> Similarly, the trial court in *Momin* granted a new trial finding the timely disclosure of the two pending QI investigations may have been used by the defense as mitigation or exculpation or considered by the Court as part of the requested suppression of the evidence. While the QIs were not ultimately deemed significant nonconformities under DPS laboratory policy, the courts in these cases determined the pending QIs should have been disclosed to permit the court to determine admissibility.

As previously stated, the DPS disclosure policy focuses on “significant quality events,” the identification of which requires a judgment call by the laboratory assuming, as in this case, that the event does not fall into any of the other named categories. The existing policy carries some risk the court—the ultimate arbiter of what needs to be disclosed to the defense and whether the information is admissible—may have a different perspective on what is “significant” than the laboratory. This dynamic is particularly challenging given the laboratory rarely has the total picture of what facts are important in the criminal case.<sup>37</sup> While a completed QI includes a written description that should help to facilitate understanding between the laboratory and the lawyers,

---

<sup>36</sup> “The undisclosed evidence is relevant because it can be used as impeachment of [the analyst’s] qualifications and the reliability of her opinion”. “We conclude that the certification of the mislabeled lab report in another case is favorable impeachment evidence.” See, *Diamond v. State*, 561 S.W. 3d 288, 295-296 (Tex. App. Houston [14<sup>th</sup>] 2018), *rev’d. on other grounds*, *Diamond v. State*, 613 S.W.3d 536, 546 (Tex. Cr. App. 2020) (finding the undisclosed evidence was not material considering the facts of the case. “The undisclosed evidence impeaching [the analyst] would not have impeached the testimony [of the officer] describing [the defendant’s] intoxicated state.”).

<sup>37</sup> For example, a switched sample in an unrelated case may not be deemed admissible by many courts, but that evaluation could change if there were chain of custody concerns raised regarding the handling of the evidence between the crime scene and the laboratory. The court hears a range of information about which the laboratory may have no awareness, and that information could impact the court’s admissibility evaluation.

pending QIs are more complex because their scope and potential impact may not yet be fully understood. As the Commission has stated in other reports,<sup>38</sup> premature and incomplete disclosure can risk misleading the parties. Thus, in the case of pending QIs, communication between the laboratory and attorneys regarding the existence, subject matter, and investigative status of the suspected nonconformity is essential to ensuring the lawyers can provide timely disclosure and the court is able to perform its role in determining admissibility. Communication is a two-way street; the attorneys who work with forensic laboratories must also be willing to learn enough about the way the quality system works to understand how QIs are developed and processed, and the range of issues that QIs may cover from minor administrative errors to significant nonconformities that may impact results.

#### **G. Commission Finding re: Professional Negligence/Misconduct**

The Commission concludes the Analyst's failure to disclose the two pending QIs in the *Momin* case in Fort Bend County does not constitute professional negligence or misconduct. The Houston Quality Manager described her understanding that pending QIs would only need to be disclosed if the subject matter of the disclosure reached a certain level of severity, referred to as a "significant" nonconformity. If DPS intended something other than this policy interpretation, then a revision to the policy would be necessary to clarify the expectation. For the Commission to issue a finding of professional negligence or misconduct, the Analyst would have to either deliberately or negligently fail to follow the standard of practice that an ordinary forensic analyst would have followed, and the act or omission would have to substantially affect the integrity of the results of a forensic analysis, defined as an expert examination or test on physical evidence for the purpose

---

<sup>38</sup> See, *Final Report on Fort Worth Police Department Crime Laboratory No. 22.17 (Proficiency Testing)* <https://www.txcourts.gov/media/1456474/2217-fwpd-draft-report-033123-1.pdf> at pps.21-22.

of connecting the evidence to a criminal action.<sup>39</sup> While the Commission does reference examples of failures to disclose pending QIs in its *Brady* training material, the examples provided in those materials (significant ongoing investigations into misconduct) are not analogous to the instant case. Given the DPS policy's plain language and the professional negligence and misconduct definitions, the facts do not support a professional negligence or misconduct finding for failure to disclose pending QIs in the *Momin* case.

#### **H. Opportunity for DPS and Other Texas Laboratories to Evaluate Existing Disclosure Compliance Policies**

Notwithstanding the above conclusion regarding professional negligence or misconduct, the Commission believes this complaint presents an important opportunity for DPS and other accredited crime laboratories to revisit their policies regarding disclosure of pending QIs. Further discussion and specific recommendations follow later in this report.

### **V. ALLEGATIONS REGARDING ANALYST BIAS IN TESTIMONY**

The complaint sets forth several additional allegations regarding the Analyst's pretrial communications with the prosecutor in the *Monroy* trial and his testimony in the *Soape* trial. We describe each allegation and the Analyst's responses below. In Section VI, we describe the Commission's findings with respect to each of these allegations.

#### **A. Allegation Regarding Hiding of Information Regarding the QIs**

This allegation stems from the Analyst's response to the prosecutor's emailed question sent in preparation for the *Monroy* trial.<sup>40</sup> The prosecutor asked, "And are there any bad facts you know of that we need to address before [the defense attorney] hits them on cross-examination?" The

---

<sup>39</sup> See, Article 38.35 Section 2(4) Texas Code Crim. Procedure: "Forensic Analysis" means a medical, chemical, toxicologic, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purposes of determining the connection of the evidence to a criminal action...".

<sup>40</sup> This email exchange was discovered when the defense subpoenaed records and communications in preparation for the *Soape* trial.

Analyst responded “[the defense attorney] will address QIs that I have under my name...I have other QIs that are currently being processed that occurred in the beginning of 2024, *he should not be aware of these* as they were not complete and finalized yet, *so they shouldn’t be brought up* yet... Again, these QIs are not finalized so they *shouldn’t have a record of them yet*, but its wise for you to be aware of them”<sup>41</sup> [emphasis added].

After learning of the pending QIs via this email, the prosecutor in the *Monroy* trial disclosed them to the defense. The complaint alleges that this email, coupled with testimony the Analyst gave where he referred to “hiding” information, shows his intent was to keep defense counsel in the dark regarding the pending QIs.

In his response to the Commission regarding this email exchange, the Analyst asserted using the phrase “he should not be aware of them” was poor word choice and he should have clarified (his belief) that the QIs were still pending review so no one would have copies of them yet. The Analyst admitted his poor word choice could lead to a misunderstanding and asserted that he would not intentionally withhold information from either party. During his interviews with the Commission, the Analyst explained the reason he decided to disclose the pending QIs to the prosecutor in the *Monroy* case was because he had prior cases involving the same defense attorney, and he knew the attorney would ask questions about QIs.<sup>42</sup> During the interview, he claimed he now understands why both parties should be made aware of the existence of the pending QIs.

The complaint also alleges the Analyst was attempting to hide the pending QIs from the defense. During his testimony in the *Soape* trial, the Analyst was asked on cross examination about the email exchange detailed above:

---

<sup>41</sup> See, **Exhibit H: Email correspondence with prosecutor.**

<sup>42</sup> The Analyst had another previous QI related to a broken blood tube before the cases involved in this complaint and he was questioned about it extensively during a previous trial with the same defense attorney.

Q. So, you talked about, in an email, that there are some things that exist, but I might not know about them so you might not need to tell me about them, do you remember that?

At this point the prosecutor asked to approach the bench and lodged an objection to the line of questioning. In response to the relevance objection, the defense attorney stated:

[Defense Attorney]: It's relevant to his bias. He's been trained on *Brady*. He knows what *Brady* is. If he's hiding stuff from me in another case, how do we know if he's not hiding stuff from us in this case?

The judge overruled the prosecutor's objection, and the bench conference ended. The defense attorney told the Analyst he could answer the question, and the Analyst stated: "*The things I was hiding I believe were the two quality incidents* that I had disclosed to the prosecutor ... The quality incidents that were previously discussed, they were not finalized. They were – they were still pending at this time. I disclosed them to the prosecution, and I believe that is what the defense is referring to" [emphasis added].

During his interviews with Commission staff, the Analyst explained that though the comments made by the defense attorney (alleging he was "hiding" information) were made at the bench and ostensibly out of the jury's hearing, the attorney's voice was easily overheard. The Analyst claimed he had "used the same terminology" the lawyer did in response. The Analyst stated that he could 100% understand why the language he had used was problematic and shared that he remembers thinking, "did I really just say that?" at the time of his testimony.

**B. Allegation: The Analyst is Biased Against the Defense, Including Defense Experts, and Engages in Trial Tactics/Strategies with the Prosecution**

This allegation stems from an email the Analyst sent to the prosecutor in *Soape* regarding defense expert Culbertson. The Analyst was questioned about the email on cross-examination in the *Soape* trial, viz:

Q. Do you remember telling the State that you will be sending an e-mail about information about Ms. Culbertson?

A. I believe so.

Q. Where is that e-mail discussing Ms. Culbertson?

A. It's in my Microsoft Outlook.

Q. Okay. Please send that to me so I can see the advocacy in which you re treating—

[Objection]

Q. Will you send me that e-mail?

[Objection]

Q. You can answer.

A. It didn't have any relevance to this case or the subpoena that you had issued me.

Q. Okay. Did you hear my question?

A. Yes.

Q. Okay, So will you?

A. No.

Q. You will not send me the e-mail in which you discuss Ms. Culbertson?

[Objection]

Q. Is it your job to advocate for the state against Ms. Culbertson?

[Objection]

Q. You can answer.

A. No.

Q. So, you are taking it upon yourself to advocate for the State against another witness, another scientist?



A. It would appear that way.

Q. It would appear that way, that *you are not unbiased*, correct?

A. *Yes*.

Later in the Analyst's testimony:

Q. It is in any way your job to help the Prosecution with their *strategy*, is it?

A. Correct.

Q. But you are doing it anyway, correct?

A. Correct.

...

Q. What were you trying to achieve by sending emails to the prosecutor with more information about Ms. Culbertson?

A. Mainly tips about her area counts and the graphs she generates.

The complaint contends this testimony raises serious concerns about the Analyst's integrity and independence. During his interviews with the Commission, the Analyst explained the Culbertson email concerned the arguments he anticipated she would make regarding area counts for internal standards the laboratory uses to quantify ethanol and information regarding baseline drift. He is familiar with her testimony in this area from previous trials where he has observed her testify. In the email to the prosecutor, he was attempting to explain why, in his view, her technical arguments are flawed. The Analyst asserted he had sent the email to the prosecutor in the *Soape* trial as part of pretrial preparation.<sup>43</sup> At the time he was questioned about it, the Analyst felt the email was "not relevant" to the case (*Soape*)—meaning that it was not responsive to the subpoena—so he did not produce it. The Analyst conceded the email titled "testimony against Amanda" could make him appear biased against the defense and its expert but maintained the

---

<sup>43</sup> To the Commission's knowledge, no work product objection was raised with respect to the email communications.

email's substance was about defending against the assertion that DPS area counts for the internal standard were out of tolerance.

According to the Analyst, when he was answering the questions about bias and strategy with the prosecution, he felt like he was “getting attacked pretty brutally,” and his responses were a result of high emotion and frustration. It was the second day of his testimony, late in the afternoon, and he had been at the courthouse most of the day. He was “hungry and ready to go home” and had “plenty of emotions going on.” During his interview with the Commission, he conceded that his flat refusal to provide an email to a defense attorney when requested could make him appear biased against the defense.

**C. Allegation: The Analyst Failed to Adequately Prepare for His Testimony in the *Monroy* Trial Resulting in an Error He Failed to Correct Upon Discovery**

This allegation stems from the Analyst's testimony in the *Monroy* pretrial that a technical reviewer caught the swapped submissions forms in one of his pending QIs. He also made an error regarding the identity of the submitting agency. Later, in the *Soape* trial, he testified that he was the one who caught the error and corrected the name of the submitting agency. The Analyst's respective trial testimony is inconsistent. The complaint asserts that the Analyst “(allegedly) realized he made a mistake in his testimony” at some point between the two trials but neither the Analyst nor his superiors notified defense counsel of the mistake. The complaint asserts the Analyst was responsible for ensuring “through the proper management channels” the stakeholders were aware of his incorrect testimony under the provisions of the Texas Code of Professional Responsibility for Forensic Analysts.

The complaint further alleges the Analyst knew there would be a *Monroy* pretrial hearing regarding pending QI admissibility and he failed to adequately prepare for the hearing, resulting in the error in his *Monroy* pretrial hearing testimony.

During his interviews and written complaint responses, the Analyst maintains he was not aware of his misstatement in the *Monroy* trial until it was brought to his attention during the *Soape* trial. It should be noted the *Monroy* testimony occurred in September 2024, and the *Soape* testimony occurred in October 2024, so the Analyst would not have had the benefit of the *Monroy* transcript to aid him. The Analyst maintains he made every attempt to prepare for testimony. However, at the time he was preparing, the QIs had not yet been finalized so there was limited QI documentation available for his review. For one of the instances of the swapped information QI (the May event), he only had the case numbers and a laboratory submission form. According to the Analyst, the limited available information explains why he made the mistake in his testimony.

## **VI. COMMISSION FINDINGS REGARDING ALLEGATIONS RELATED TO BIAS**

### **A. The Analyst Violated the Texas Code of Professional Responsibility (Provisions 13 and 6) When He Testified in an Ambiguous, Biased, and Misleading Manner that He Was “Hiding” Materials from the Defense, Was Biased Against the Defense, and Was Engaged in Prosecution “Strategy”**

Based on the email to the prosecutor in the *Monroy* trial that the defense “shouldn’t be aware” of the pending QI’s, the complaint alleges the Analyst was hiding information as further evidenced by his own admission on cross-examination. While the Commission understands trial is an adversarial and stressful environment, the forensic scientist must remain neutral and composed and avoid getting swept into a defensive or argumentative posture regardless of the lawyers’ behavior. Attorneys are adversaries and may assume different tactics, strategies, and even personalities depending upon the case and the issue. The Analyst’s explanations (being frustrated, feeling attacked, tired or hungry) for his own problematic statements under oath are insufficient to

overcome a finding he violated the scientist's professional obligation to testify in a clear, straightforward and objective manner, and to avoid phrasing testimony in an ambiguous, biased or misleading manner (Code Provision 13). By his own sworn admission, the Analyst conceded the appearance of bias. Whether a result of frustration or defensiveness, the Analyst's impartiality was brought into question by his own testimony. The opinions and attitudes he expressed under oath lacked the objectivity forensic experts are expected to display (Code Provision 6).

**B. The Analyst Did Not Violate the Texas Code of Professional Responsibility by Refusing to Immediately Provide Written Communications with the State to the Defense Lawyer, but He Should Have Sought Direction on How to Proceed**

In the *Soape* trial, the Analyst refused to provide defense counsel an email he had sent to the prosecutor in the *Monroy* trial. The e-mail pertained to Culbertson's anticipated testimony since she had testified at both trials as an expert for this same attorney. The Texas Code of Professional Responsibility provides that a forensic analyst shall not issue reports *or other records or withhold information* for strategic or tactical litigation advantage (Code Provision 11) and *communicate honestly and fully* with all parties (investigators, prosecutors, defense attorneys, and other witnesses), unless prohibited by law. (Code Provision 15).<sup>44</sup> The communication requested by defense counsel in the *Soape* trial may not have been responsive to the subpoena issued in the case. The Commission concludes the Analyst did not violate the Code by declining to hand over a copy of the email immediately upon request because there may be circumstances in which doing so would be an inappropriate decision to make unilaterally. However, rather than engaging in argument with the lawyer or making his own determination about what was "relevant," the Analyst's response should have been that he would provide whatever communications or other

---

<sup>44</sup> 37 Tex. Admin. Code Section 651.219 (11) and (15) (2020).

information he was permitted to provide by law. Seeking guidance from the court would have been a more prudent and appropriate course for this Analyst (or any analyst similarly situated).

With respect to the allegation the Analyst engaged in inappropriate trial strategy by providing information about the types of technical arguments toxicology expert Culbertson would likely raise, the Commission observes this question is more challenging and nuanced. First, the applicable Code of Professional Responsibility Provision (11) states analysts should refrain from issuing reports or other records or withholding information from reports for strategic or tactical litigation advantage. While it is true forensic analysts should not engage in trial advocacy, they are permitted to educate the lawyers on the scientific principles involved in the forensic discipline (in this case forensic toxicology) as part of trial preparation if they are explaining the science, the analytical methods, and the basis for the methods used in the case. Analysts should present their results to the factfinder in a clear and helpful manner and may discuss with the prosecutor what makes sense in terms of the timing of the information presented given its complexity. The line between education/explanation and advocacy can be difficult and subjective. Defending one's work is appropriate; engaging in trial advocacy is not. The complainant asks the Commission to find the Analyst violated the above-referenced Code Provision because the Analyst recommended the prosecutor not raise proficiency testing results as an indicator of reliability unless it was necessary on rebuttal to refute technical criticism the Analyst believed was unfounded. While decisions regarding order of testimony are typically the lawyer's domain, the Analyst's recommendation to hold off on raising laboratory proficiency testing results unless needed in rebuttal does not constitute a violation of the provision described above. Because a determination of what crosses the line from appropriate trial preparation into advocacy is necessarily fact-dependent, the Commission re-emphasizes the most prudent course is for analysts to stay well

within the confines of education and explanation, maintaining neutrality and impartiality during all phases of trial (including preparation).

## **VII. ALLEGATIONS RE: TECHNICAL ISSUES**

### **A. Allegation: The Analyst Relied on Data Despite Having Concerns about the Data**

During the *Soape* trial, the prosecutor asked the Analyst if there were any “concerns” when he ran the calibration and controls in the case when he was testing the batch (that included the *Soape* sample). The Analyst responded:

The only real concern that I had with some of the quality control data was with the chromatogram – sorry, not chromatogram, the second detector in the second column...The second column has a little bit of baseline drift...this second race is mainly for qualitative purposes...So, again, it’s not the prettiest data, but it is data nonetheless.

When asked whether he had any concerns about the results obtained in the case, the Analyst responded that he did not. The Analyst was questioned about this topic on cross-examination:

Q. And you testified yesterday that the baseline, it’s a problem. You found one problem, right?

A. I testified that—

Q. Yes or no, sir? That’s your testimony. You did find one problem?

A. It is not a problem.

Q. Okay. Yesterday you testified that you did find one problem.

A. I don’t think I labeled it as a problem.

Q. Okay. Sorry. A concern. You called it a concern.

A. I might have.

The complaint alleges having a valid result is contingent upon having sound, valid, scientific data. The complaint asserts it is “nonsensical” that a scientist would admit to having a concern about the data and then say there is no concern with the result. The complaint alleges the

batch in which the *Soape* sample was analyzed had “baseline drift” throughout.<sup>45</sup> In his interview with the Commission, the Analyst explained the baseline drift was limited to the second column of the dual column gas chromatograph. This column is for *qualitative* purposes only (to confirm the presence of the volatile substance or to verify the presence of another contaminant). He stated he had no concern regarding the *quantitative* results because the baseline drift did not impact the blood alcohol calculations.

Staff obtained the technical record in the *Soape* case. Commission staff and Dr. Kerrigan discussed the data and related testimony with both the Analyst and Culbertson<sup>46</sup>. During this process, all experts (including Culbertson) agreed the controls in *Soape* were within range and there was no baseline drift impact observed on retention time. Because the baseline drift was limited to the second column, there was no impact on quantitative results. Thus, while the Analyst may have used the word “concern” while testifying to describe his observations regarding baseline drift in the second column, the data reviewed by the Commission including information provided by the complainant do not support any baseline drift concerns that would impact the reported results.

---

<sup>45</sup> Baseline drift is a natural phenomenon in chromatographic techniques, whereby the “baseline” signal from the detector may change over time. In gas chromatographic methods, this may be observed as an elevated or more “noisy” baseline signal from the detector. The use of appropriate controls, internal standard, integration parameters, and acceptance criteria for chromatographic performance are routinely used to address this.

<sup>46</sup> The Analyst stated that Culbertson created a chart in the *Soape* trial related to area counts and baseline drift. The Commission requested the chart and Culbertson advised she no longer has it. She did produce some charts from other cases. The Commission declines to extrapolate the information provided from other cases to the *Soape* case but would revisit technical concerns were the complainant to resubmit evidence of the problem in another case with data applicable to that case.



**B. Allegation: The Analyst Was Untruthful and Left a False Impression with the Court and Testified Beyond his Area of Expertise Re: Acetone**

In *Soape*, in addition to detecting ethanol and n-propanol (the internal standard added by the laboratory), the analysis detected acetone. At trial, the Analyst testified to the detection of acetone and its possible origins on direct examination:

Q. Was acetone detected in this case?

A. It was, yes.

Q. And what does that mean?

A. So aside from ethanol and N-Propanol, the substance we add to the mixture ourselves, acetone, is probably the next most common volatile that we see in casework. It's a very small molecule and it – it can appear from several different reasons. If someone has not eaten in a while, acetone will show up. It will show up in large concentrations in people who are diabetic. It can also come from drugs ingested. It can come from congeners in alcoholic drinks. And if you are wondering what a congener is, raspberry vodka, it's that raspberry flavoring. That's considered a congener. Those are some examples where it can come from.

Q. And does it affect the blood alcohol content or BAC result?

A. It does not.

...

The defense inquired further on this topic on cross examination:

Q. You were talking about acetone yesterday, acetone being in his blood, correct?

A. Yes.

Q. And you said acetone can be in your blood through certain drugs?

A. It's possible.

Q. What drugs?

A. I can't name any off the top of my head. But as I stated yesterday in my testimony, it's a very simple compound and it can originate from a lot of things.

Q. And you said the most common reason why it would be in blood was if the person was diabetic, correct?

A. No. What I said was it's the next most common volatile that we see and it's in large concentration in someone who is diabetic.

Q. Okay, So – and also if someone had not eaten, correct?

A. It would not be as high of a concentration for someone who has not eaten in a couple of hours.

Q. Has any case that you and I have ever reviewed together ever had acetone in it?

[Objection]

Q. You say that it's common for acetone to be in blood, correct?

A. No.

Q. No, it's not common?

A. Correct.

Q. Okay. Would you expect to see acetone in someone's blood if they're not diabetic, they had not taken any drugs, and they had just eaten chicken wings and tater tots?

A. It could be possible.

Q. Would you expect to see it?

A. I do not know.

...

The complaint alleges the Analyst volunteered the statement about acetone possibly originating from consumed drugs, and his inability to name a specific drug that could metabolize to acetone indicated he was being untruthful. The complaint further alleges the Analyst made a distinction between endogenous or natural production of acetone that may “show up” and exogenous acetone through consumption of another substance (“can originate from a lot of things”). By so doing, the complaint asserts, the Analyst left a false impression with the jury the defendant could have been under the influence of a controlled substance other than alcohol.

In his interview with the Commission, the Analyst explained the goal of his testimony was to explain that acetone is the most common volatile seen in blood samples (aside from ethanol). He stated he was attempting to explain that acetone “can come from a lot of things,” but the defense concentrated on his statement that it could come from drugs. The Analyst disputed he was trying to imply the defendant had used drugs.

## **VIII. COMMISSION FINDINGS RELATED TO ALLEGATIONS RE: TECHNICAL ISSUES IN TESTIMONY**

### **A. The Analyst Did Not Violate the Texas Code of Professional Responsibility Regarding his Testimony Concerning Baseline Drift and Acetone**

As previously discussed, the small amount of baseline drift observable in the second column is insignificant because the column is used for qualitative purposes and had no impact on the reported results. The Analyst could have provided a more detailed explanation of the data rather than adopting the prosecutor’s use of the word “concern,” but his actual reliance on the data in reporting the result was scientifically supported. The *Monroy* and *Soape* transcripts highlight the need for examiners to be able to explain clearly chromatographic phenomena such as baseline drift, area counts, absolute versus relative peak areas, and the basis of the quantitative measurement. We note, however, that in *Soape*, the analyst was not called on rebuttal to testify about area counts or baseline drift, so it is difficult to know whether he would have clarified the issue if given the opportunity.

The Commission does not believe there is sufficient information to support the complainant’s assertion the Analyst was lying or attempting to imply the defendant had used drugs. During testimony, the Analyst provided possible explanations for the presence of the small quantity of acetone. However, the Analyst was unable to provide a response when asked what type of drug would metabolize into acetone. Additionally, the Analyst’s response to the same question

during his Commission interview was incorrect. His inability to answer correctly the question about which drugs or substances may metabolize into acetone does not meet the definition of professional negligence previously described in this report but it does point to two areas for improvement: (1) retraining of the Analyst on this subject; and (2) a more general review of blood alcohol toxicology training materials to ensure the concepts (sources of acetone and metabolism of substances into acetone) are adequately covered.<sup>47</sup>

**B. The Analyst Did Not Violate the Code of Professional Responsibility by Failing to Notify Management or Quality Assurance Personnel of an Adverse Event Regarding Incorrect Testimony in the *Monroy* Trial**

As noted earlier, the *Soape* trial occurred approximately one month after the *Monroy* trial. The Analyst maintains he did not realize his mistaken explanation in the first trial about who identified the swapped defendant information until he was testifying in the second trial. The Commission believes this explanation is reasonable for why the Analyst did not alert the parties to the inaccurate information about how the error was identified (that he himself—not the technical reviewer—identified the label switch by the submitting law enforcement agency).

**IX. DISCIPLINARY ACTION**

If the Commission determines a license holder violated a rule or order of the Commission under Article 38.01, Code of Criminal Procedure, the Commission may: (1) revoke or suspend the person's license; (2) refuse to renew the person's license; (3) reprimand the license holder; or (4) deny the person a license.<sup>48</sup>

Factors considered in determining the appropriate disciplinary action against a license holder may include: (1) the seriousness of the violation; (2) the prevalence of misconduct by the

---

<sup>47</sup> The Code of Professional Responsibility requires an analyst to commit to continuous learning, not offer opinions or conclusions that are outside one's expertise, and to guard against making invalid inferences or misleading the judge or jury.

<sup>48</sup> 37 Tex. Admin. Code § 651.216(a)(1)-(4) (2024).

individual; (3) the person's conduct history, including any investigative history by the Commission; (4) the harm or potential harm to the laboratory or criminal justice system as a whole; (5) attempts to conceal the act by the individual; and (6) any other relevant factors.<sup>49</sup>

The Commission also may decide one or more of the following factors warrants less severe or less restrictive disciplinary action in a particular investigation: (1) candor in addressing the violation, including self-reported and voluntary admissions of the misconduct or violation; (2) acknowledgement of wrongdoing and willingness to cooperate with the Commission; (3) changes made by the individual to ensure compliance and prevent future misconduct; (4) rehabilitative potential; (5) other relevant circumstances reducing the seriousness of the misconduct; or (6) other relevant circumstances lessening responsibility for the misconduct.<sup>50</sup> The license holder has the burden to present evidence regarding any mitigating factor that may apply.<sup>51</sup>

The Commission finds the Analyst's testimony regarding "hiding" evidence and appearing biased to be serious. The Analyst does not have an investigative history with the Commission and exhibits rehabilitative potential. The harm or potential harm to the laboratory and criminal justice system is significant as the Analyst will be asked about the above issues in future cases and extensive resources, including on re-training, have been expended during the course of the investigation. The Commission finds that the Analyst exhibited candor in addressing the complaint allegations both in his written response and in Commission interviews. The Analyst has attempted to make changes to ensure future compliance. Specifically, the Analyst has been retrained on the laboratory quality assurance program and training modules regarding ethics, professionalism, and bias. He has attended training to learn about the QI/quality action plan workflow and has taken a

---

<sup>49</sup> *Id.* at § 651.216(c)(1)(A)-(E) (2024).

<sup>50</sup> *Id.* at § 651.216(c)(2)(A)-(F) (2024).

<sup>51</sup> *Id.* at § 651.216(c)(3) (2024).

written examination prepared by the laboratory's quality assurance personnel. The Analyst has undergone mock court examinations and has had roundtable discussions with his supervisor, laboratory manager, quality assurance manager, and members from a local prosecutor's office. He has also reviewed the Commission's curriculum on ethics, *Brady*, and the Michael Morton Act.

Due to the seriousness of the professional responsibility lapses outlined in this report, the appropriate disciplinary action is an official reprimand for the Analyst's unprofessional demeanor and testimony regarding "hiding" of information and appearing biased in the *Soape* trial. The Commission recommends the Analyst receive additional training and monitoring in the following areas:

- Testimony monitoring and transcript reviews of future testimony.
- Interpretive toxicology concepts focusing on volatiles other than ethanol, explanations of area counts, absolute versus relative peak areas, and the basis of the quantitative measurement.
- Training designed to mitigate the risk of overlooking switched samples or labeling.
- Cognitive bias training.
- Training on the roles of the parties (defense vs. State vs. laboratory personnel).
- Training on impartiality and objectivity in courtroom demeanor while under stress.
- Training on legal disclosure compliance.

To the extent any of these subjects have already been incorporated in DPS training, the Commission will review the training materials to determine whether additional work is needed.<sup>52</sup>

## **X. PROCESS FOR APPEAL OF DISCIPLINARY ACTION**

Any finding by the Commission that includes disciplinary action against a license holder (revocation, suspension, probation, reprimand, etc.) may be appealed to the Judicial Branch

---

<sup>52</sup> Upon publication of this report, the Commission will request a documented plan from DPS regarding the subject matter that has been or will be covered including the estimated number of training hours spent in each area.

Certification Commission (JBCC).<sup>53</sup> A written request for a hearing before the JBCC must be received by the Commission or by the JBCC within twenty (20) days after the date the notice of the disciplinary action is received, or the Commission's decision becomes final and is not subject to further review by the JBCC or the Commission.<sup>54</sup>

## **XI. RECOMMENDATIONS AND ACCREDITATION CHECKLIST ITEM**

### **A. Recommendation Specific to DPS**

DPS should revisit and update the blood alcohol training program as needed to ensure analysts are able to convey accurately and clearly the technical concepts discussed in this report around area counts, baseline drift and volatile substances.

### **B. Recommendations for all Laboratories Subject to Commission Jurisdiction**

The following item will be added to the Texas accreditation checklists for accreditation assessments performed by ANAB and A2LA:

**Accreditation Checklist Item:** All laboratories must have and follow a written forensic disclosure compliance policy for the purposes of facilitating the laboratory's compliance with Texas Code of Criminal Procedure (Michael Morton Act) Article 39.14.

The policy should contain clear instructions for identifying and disclosing any potentially exculpatory, impeachment, or mitigating document, item of information in the possession, custody, or control of the laboratory.<sup>55</sup>

The policy should explicitly address how to inform potentially affected recipients of any non-conformities or breaches of law or ethical standards that may adversely affect either a current case or a previously issued report or testimony.<sup>56</sup>

The policy should include a statement addressing how and when the existence of pending QIs will be communicated to stakeholders.

---

<sup>53</sup> *Id.* at § 651.402(c) (2024).

<sup>54</sup> *Id.*

<sup>55</sup> As previously stated, the Commission acknowledges that the ultimate determination of what constitutes exculpatory, impeachment or mitigation information may only be made by a court with jurisdiction. The purpose of a disclosure compliance policy is to provide a framework for helping to facilitate the communication of information to stakeholders.

<sup>56</sup> *Id.* at 651.219 (c)(7) and (8) (2020).

The Commission will seek input from the Texas Association of Forensic Quality Assurance Managers (TAFQAM), ANAB and A2LA on what specifically will constitute evidence of conformance and work with these bodies to identify a reasonable date for implementation. The Commission will provide notice to laboratories regarding evidence of conformance and a deadline for compliance once they are established.

In addition to the universally applicable accreditation checklist item, the Commission makes the following recommendations:

- Laboratories should evaluate their existing disclosure compliance policies to consider how pending QIs might be consistently flagged and communicated to end-users in the criminal justice system in a way that mitigates risk of failure to comply with statutory and constitutional requirements.<sup>57</sup>
- If not already implemented, laboratory management and quality assurance personnel should take the Commission's *Brady*, Michael Morton Act, and Professional Responsibility training, even if they are not licensed as forensic analysts.<sup>58</sup>

---

<sup>57</sup> CLR Connect (the forensic discovery portal currently under development pursuant to SB 991) may provide a technology-based solution for facilitating communication of the existence of pending QIs.

<sup>58</sup> DPS management and quality assurance personnel already take these trainings biannually.



## EXHIBIT A

### Summary of the Complaint:

An employee of the Texas DPS Houston Regional Crime Lab, Zachary Augustyn (hereinafter Augustyn; ZA), has committed professional misconduct and professional negligence in his duties as a forensic analyst, violating several provisions of 37 Tex. Admin. Code Chapter 651.219 – Code of Professional Responsibility. Augustyn knowingly and intentionally acted to withhold information from the defense, is biased against defense and defense experts in favor of the prosecution, engages in trial tactics/strategies with the prosecution, testifies beyond his scope of expertise, relies on data despite having concerns, is untruthful and/or left false impressions with the court and jury, and testifies beyond his area of expertise.

### Definitions

*Professional misconduct*--means the forensic analyst or crime laboratory, through a material act or omission, deliberately failed to follow a standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the deliberate act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was deliberate if the forensic analyst or crime laboratory was aware of and consciously disregarded an accepted standard of practice.

*Professional negligence*--means the forensic analyst or crime laboratory, through a material act or omission, negligently failed to follow the standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the negligent act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was negligent if the forensic analyst or crime laboratory should have been but was not aware of an accepted standard of practice.

### Background/Context to understand the complaint

On August 27, 2024, the case of State v. Momin (Cause # 22-CCR-230111) convened in Ft. Bend County Court At Law #2. Mr. Collin Evans was defense counsel, and Augustyn was the State's expert.

On September 16, 2024, the case of State v. Monroy (Cause # 22-365798) convened in Montgomery County Court At Law #4. Mr. Morgan Bourque was defense counsel, Amanda Culbertson was an independent expert called by the defense, and Augustyn was the State's expert.

On October 21, 2024, the case of State v. Soape (Cause # 23-378698) convened in Montgomery County Court At Law #5. Mr. Morgan Bourque was defense counsel, Amanda Culbertson was an independent expert called by the defense, and Augustyn was the State's expert.

In 2024, Augustyn made mistakes that led to the generation of 2 Quality Incidents (QIs). These QIs did not, to the best of my knowledge, involve the above-named cases. However, as the commission knows, QIs can serve as impeachment material. One QI involved failure to reseal evidence in Dec 2023 (discovered in Jan 2024; the "Jan incident"). This QI was finalized Oct 11. The other QI involved 2 separate incidents

where Augustyn failed to notice swapped defendant information on/within blood kits (the February incident involved 2 cases from DFW/Lancaster and the May incident involved 2 cases from Montgomery County). As of this writing, there is no indication this QI has been finalized or if it has been elevated to a Quality Action Plan (QAP).

**Zachary Augustyn acted knowingly and intentionally to hide information from defense, consciously disregarding an accepted standard of practice**

In preparation for the Monroy trial, assistant district attorney (ADA) Madison Shrock emailed Augustyn on Friday, September 13, 2024 at 11:10 am. In her email she asked, "And are there any bad facts you know of that we need to address before Bourque hits them on cross-examination"?

Augustyn responded at 12:20 pm, "As far as bad questions...He [Morgan Bourque] will address QI's that I have under my name . . . I also have other QI's that are currently being processed that occurred in the beginning of 2024, **he should not be aware of these as they are not complete and finalized yet, so they shouldn't be brought up yet** . . . Again, these QI's are not finalized **so they shouldn't have record of them yet**, but its wise for you to be aware of them". [emphasis added]

At 12:50 pm, ADA Schrock responds, "Ok, Thanks for letting me know! I will write up a motion for that those not be brought up." At 3:10 pm, a Brady notice for Augustyn's QIs were issued by the state. On Monday, September 16 at 9:41 am, ADA Schrock emails Augustyn stating, "We did have to disclose your QIs to defense under 39.14."

It was only through the (very vague) Brady notice that the defense became aware of the pending QIs. The court, after much legal arguing, did allow some inquiry into the QIs. The Monroy trial proceeded, and the jury came back hung. At least one of the jurors in the Monroy trial had questions "about the credibility of the blood test + the witness/lab".

The aforementioned email exchange was discovered **only** after defense counsel served a subpoena duces tecum for the DPS Houston Custodian of Records to produce, among other things, communications with the ADAs involving the QIs. This subpoena duces tecum was served on Oct 14, as part of the defense's preparation for the Soape trial (therefore, the email exchange was unknown for the Monroy trial). On Oct 21, Augustyn did produce some (but not all) of the subpoenaed records.

However, instead of providing the records directly to defense counsel as directed in the subpoena, he turned them over to the prosecutor. Although the prosecution tried to withhold this information, the court forced them to turn over the records. The records were turned over to the defense on Oct 21, and the email exchange was then discovered.

On Oct 23, during the Soape trial, Augustyn was asked about the email exchange:

*DC: So you also talked about, in an e-mail, that there are some things that exist, but I might not know about them so you might not need to tell me about them. Do you remember that?*  
*(bench conference, on the record)*

*ZA: The things that I was **hiding** I believe were the two quality incidents that I had disclosed to the prosecutor -- [emphasis added]*

It is clear from his emails, testimony, the fact he turned the subpoenaed records over only to the prosecution, instead of defense who issued the subpoena, and did not turn over all the subpoenaed documents, his intent was to keep defense counsel from knowing this information.

Unlike Monroy and Soape, the Momin trial did not have the benefit of knowing about the QIs. Momin was convicted. Weeks after his conviction, Mr. Evans learned of the QIs from Ms. Culbertson, prompting him to file a motion for a new trial. The first part of that hearing took place on Oct 25 and is continued to Nov 7.

Augustyn originally became licensed in 2020 and has now gone through 2 renewal cycles, the most recent being in October 2024. This means that he has taken the TFSC *Mandatory Legal and Professional Responsibility Course* at least twice, with one of those times being recently.

As the commission is aware, this course teaches, in part, by example. Several of the examples parallel Augustyn's actions/inactions. Specifically, "Analyst has a Pending Investigation", "Corrective Actions From Unrelated Cases", "Full and Honest Communication" as well as several of the in-course questions.

Augustyn knew he had to turn over the QIs and the emails discussing the QIs. There should have been no question as to whether or not he had to turn over these documents, even without the defense requesting them. The fact that the QIs were not finalized is of no import. In fact, if finalization of a QI is a bar to disclosure, as Augustyn seems to imply, why did he disclose to the prosecutor? A bar to disclosure would be a bar to disclosure to anyone, not just defense.

**Augustyn is biased against the defense, including defense experts, in favor of the prosecution and engages in trial tactics/strategies with/for the prosecution.**

In addition to the above example, Augustyn has demonstrated his bias and dereliction of his professional responsibilities in other ways. In his email to ADA Schrock he stated, "I will be sending you another email with more information for Amanda as well as those science articles I had mentioned earlier".

When asked about this portion of the email during cross-examination:

*DC: Do you remember telling the State that you will be sending an e-mail about information about Ms. Culbertson?*

*ZA: Yes.*

*DC: Did you send an e-mail with information about Ms. Culbertson?*

ZA: *I believe so.*

DC: *Will you send me that e-mail?*

ADA: *Objection, relevance, argumentative*

Court: *Overruled*

DC: *You can answer*

ZA: *It didn't have any relevance to this case or the subpoena that you had issued me.*

DC: *Did you hear my question?*

ZA: *Yes*

DC: *Okay. So will you?*

ZA: *No*

...

DC: *So you are taking it upon yourself to advocate for the State against another witness, another scientist. Would you agree with that statement?*

ZA: *It would appear that way.*

DC: *It would appear what way, that you are not -- that **you are not unbiased**, correct?*

ZA: **Yes**

Further into his testimony:

DC: *It is in no way your job to help the Prosecution with their **strategy**, is it?*

ZA: *Correct.*

DC: *But you are doing it anyway, correct?*

ZA: *Correct.*

And:

DC: *What were you trying to achieve by sending e-mails to the prosecutor with more information about Ms. Culbertson?*

ZA: *Mainly **tips** about her area counts and the graph that she generates* [emphasis added]

Despite substantial training in ethics and professional responsibility, it is clear Augustyn cannot translate his training into practice. Either that, or his bias is so profound, that he cannot help himself. He appears to see himself as a prosecutor in a lab coat.

**Augustyn made inconsistent statements under oath, and both Augustyn and his superiors, failed to notify defense counsel when he discovered mistakes in his testimony**

During the Soape trial, Augustyn testified in a manner that was inconsistent with his testimony in Monroy. Defense counsel, aided by his expert, discovered this during the Soape trial.

From Monroy trial, Sept 17 (hearing outside the presence of the jury):

ZA: A similar instance occurred in May of this year involving -- **if I do remember correctly**, it was **Montgomery County Sheriff's Office** where two submissions forms were swapped between blood kits. And a similar scenario occurred where I did not catch the swap and one of the cases was analyzed.

ADA: Okay. And so, how did you remedy that particular instance?

ZA: **A peer-reviewer at the lab had caught** that one of the names did not correspond to the blood kit because he had the other case in his possession. And I went to my supervisor as the same sort of scenario, like what happened with the Garland cases, and a plan of action happened after that.

From the Monroy trial, Sept 18 (in front of the jury)

DC: **Then in May**, three months later, the same type of incident happened where two blood -- two blood samples got mixed up with the wrong people, correct?

...

DC: **And somebody else caught it, correct?**

ZA: Correct

DC: **You did not catch it, correct?**

ZA: Correct.

...

DC: Three incidents not caught by me, me being you; and if not caught, the wrong results would have been issued. Do you agree with that statement?

ZA: I would agree with that statement.

From Soape trial, under direct examination:

ADA: And has there ever been a time that you had an issue with that?

ZA: There have been two instances where I have had an issue with that in the past.

ADA: And tell the jury a little bit about that

...

ZA: The other instance involved **Magnolia PD**, which is here in Montgomery County.

And under cross-examination:

DC: Okay. Now, you have testified yesterday -- and I want to make sure that I got this right -- that in the May incident -- so we got a January, a February, and a May incident that we know about only because somebody else has caught these other problems. But in May, **yesterday you testified that it had not gotten to the peer review process, correct?**

ZA: Correct.

DC: Okay. Meaning it had not been technically reviewed or administrative reviewed?

ZA: Yes.

DC: Okay. **And then you testified that -- that the problem in May was caught by you, correct?**

ZA: Yes.

DC: Have you ever made a statement to the contrary?

ZA: *I was not -- I didn't --*

DC: *Yes or no, sir?*

ZA: *Can you repeat the --*

DC: *Have you ever --*

ZA: *-- question?*

DC: *Have you ever made a statement to the contrary?*

ZA: ***I don't believe I have.***

...

DC: *Okay. You were under oath on -- let me make sure I got the date right -- in Cause Number 22-365798, Israel Monroy, in Montgomery County, Texas, County Court at Law Number 4, correct?*

ZA: *Correct.*

DC: *And the dates that you testified there was September 17th and September 18th of 2024, correct?*

ZA: *Correct.*

DC: *Fairly recently?*

ZA: *Yes.*

...

ZA: ***I do remember saying that, yes.***

At first, he does not believe he made a statement to the contrary, but once he becomes aware that a transcript of the Monroy trial exists, suddenly remembers making contrary statements. This obviously raises concerns about his credibility. In addition, sometime after the Monroy trial (but prior to the Soape trial) Augustyn (allegedly) realized he made this mistake in his testimony. However, neither Augustyn nor any of his superiors, notified defense counsel of the mistake.

From Soape trial:

DC: *Why did you insert that if it was not the truth?*

ZA: ***I did not remember the second instance correctly. But after reviewing the quality incident for the second incidents and reviewing the two cases that were involved, I backtracked and found that it was me who had caught it during the unboxing process during the second case.***

DC: *Did you -- upon realizing that you had misled a jury or spoken untruth under oath, did you ever contact anybody at the DA's Office to tell them you need to correct your misstatement?*

ZA: *I did not.*

...

DC: *Did you contact the lawyer who represented the defendant to tell him that you were not truthful under oath?*

ZA: ***I did not.***

Augustyn was responsible for ensuring, "through the proper management channels", that the defense and prosecution was aware of his incorrect testimony. The example from the Mandatory Legal and Professional Responsibility course for provision 17, is exactly on par with this issue. Augustyn has taken this course and has read the code. He has also read the National Code of Ethics and Professional

Responsibility for the Forensic Sciences, which has a similar provision. Therefore, he was aware of and consciously disregarded these provisions, which are an accepted standard of practice.

**Augustyn did not adequately prepare for the Monroy hearing and trial, which led to his impeachment in the Soape trial**

Augustyn knew there was going to be a hearing regarding the admissibility of his QIs in the Monroy trial. In her Sept 16 email, ADA Schrock stated, “Of course they want to bring those in and so there will likely be a hearing tomorrow morning regarding admissibility and you’ll have to be here for that. I’ll get you more details as I get them”. And then later that day, she sent an email stating, “No hearing tomorrow morning but probably afternoon. I’ll keep you updated”.

Knowing he would be asked about his QIs, he should have refreshed his memory on the underlying facts that resulted in the QIs. The entire purpose of this hearing was to determine the admissibility of the QIs; therefore, he should have known the details that led to these mistakes. He was asked about his QIs on Sept 17 in the hearing outside the presence of the jury. The trial was continued to Sept 18, a fact Augustyn was aware of:

*The Court: Absolutely. Although, I am going to put him back on the stand in the morning in case there's anything else. Sorry. I'm going to have to bring you back tomorrow and you know that.*

*ZA: Yeah.*

*ADA: He is our next witness.*

*The Court: I know.*

This means Augustyn had not one, but two opportunities to refresh his memory of the events that led to the QIs – before the trial started, and prior to the trial resuming on Sept 18. It is obvious from his testimony that he did not do this. Not only was he wrong about which agency was involved in the swapping of defendant information, he was also wrong about who discovered the mistake and where in the testing process the mistake was discovered.

As this commission stated in the “Final Report on Houston Forensic Science Center Self-Disclosure No 22.18, Forensic Biology/DNA; Trial testimony of Stephen Adam Vinson” published November 15, 2022:

*To ensure there is no ambiguity regarding expectations for trial preparation in Texas laboratories going forward, the Commission provides a specific recommendation regarding this issue in Section IX below.*

*The following recommendations have universal applicability:*

*5. All analysts should prepare adequately for testimony. Preparation should include, at a minimum, review of relevant case records including analytical data and bench notes associated with the analyses. Expectations regarding other items for pre-trial review should be set in clear terms by laboratory policy.*



The facts that underlie the generation of the QIs would, admittedly, be outside the “relevant case records” in the Monroy and Soape trials. However, Augustyn knew the QIs would be discussed, the prosecutor told him as much. There is no way he did not know that the facts relating to the QIs would not be brought up, at least in front of the court, and quite possibly, in front of the jury.

**Augustyn does not remember or feigns ignorance of his duties of professional responsibility despite recently renewing his TFSC license**

Soape trial, direct:

*ZA: I was originally licensed in October of 2020. I was re-licensed in October of 2022. And I will be re-licensed again in October of -- or at the end of October of 2024.*

Soape trial, cross-examination:

*DC: As part of your training, you also read the Code of Professional Responsibility for Forensic Analysts and Crime Laboratory Management Subject to the Jurisdiction of the Texas -- Texas Forensic Science Commission, correct?*

*ZA: Maybe.*

*DC: All of three of these documents you read as part of your DPS training contained in this section regarding how you are to communicate honestly and fully with all parties, including defense attorneys, correct?*

*ZA: I do not remember*

*DC: Do you feel like you communicate fully with defense attorneys?*

*ZA: I have before.*

As mentioned earlier, as part of renewing his license, Augustyn would have had to recently go through the “Mandatory Legal and Professional Responsibility” course (in addition to going through it in his previous renewal). And yet he cannot remember his professional responsibilities? Or is he trying to avoid being questioned further as to why he has not communicated honestly and fully with defense?

**Relies on data despite having concerns about said data**

The batch in which Soape sample was analyzed had baseline drift throughout its entirety. From the DPS SOP:

*7. Examine the chromatograms for all standards to ensure that the baseline is steady and all expected peaks are present.*

*8. Examine the chromatograms for all blanks to ensure that the baseline is steady and there are no unexpected peaks present.*

*Sample Chromatograms*

*1. Examine to ensure that the baseline remains steady*

When asked about drifting baselines during direct:

*ADA: And did you run the calibration and controls in this case when you were testing the batch that this case was tested with?*

*ZA: I did.*

*ADA: Were there any concerns during any of that process?*

*ZA: The only **real concern** that I had with some of the quality control data was with the chromatogram -- sorry, not chromatogram, the second detector for that second column. . . The second column has a little bit of baseline drift. . . this second race is mainly for qualitative purposes. . . So, again, it's not the prettiest data, but it is data nonetheless [emphasis added]*

*ADA: And were you able to review the BA reports in this case for that concern specifically?*

*ZA: Yes.*

*ADA: And after reviewing all of that, did you have any concerns about the results of this case?*

*ZA: For the results, no*

And then on cross-examination:

*DC: And you testified yesterday that the baseline, it's a problem. You found one problem, right?*

*ZA: I testified that --*

*DC: Yes or no, sir? That's your testimony. You did find one problem?*

*ZA: It is not a problem.*

*DC: Okay. Yesterday you testified that you did find one problem.*

*ZA: I don't think I labeled it as a problem.*

*DC: Okay. Sorry. A concern. You called it a concern.*

*ZA: I might have.*

I understand that during direct Augustyn is distinguishing his concern for the data, specifically baseline drift, from concerns from the final result. However, having a valid result is contingent upon having sound, valid, scientific data. It is nonsensical that someone purporting to be a scientist could admit to having a real concern about the data and turn around and say there is no concern with the result. But it is clear from his testimony that any data, regardless of quality, is good enough for him.

In addition, during cross-examination, Augustyn states "I might have" after playing a little game of semantics with the defense. There are numerous examples, in this transcript and others, of Augustyn being equivocal in his answers, especially when the answer could subject him to more scrutiny or harm the prosecution's case.

**Augustyn was seemingly untruthful on the stand, leaving false impressions with the court and jury, and otherwise, testified beyond his area of expertise**

From the Soape trial, direct:

ADA: Was acetone detected in this case?

ZA: It was, yes.

ADA: And what does that mean?

ZA: So aside from ethanol and N-Propanol, the substance that we add to the mixture ourselves, acetone, is probably the next most common volatile that we see in casework. . . If someone has not eaten in a while, acetone will **show up**. It will **show up** in large concentrations in people who are diabetic. It can also **come from** drugs ingested. It can **come from** congeners in alcoholic drinks . . .[emphasis added]

However, on cross-examination:

DC: And you said that acetone can be in your blood through certain drugs?

ZA: It's possible.

DC: What drugs?

ZA: *I can't name any off the top of my head.* But as I stated yesterday in my testimony, it's a very simple compound and it can **originate from a lot of things**. [emphasis added]

It is obvious that when he volunteered the statement about acetone coming from ingested drugs, he did not know of any drug that would produce acetone as a metabolite or have acetone as a contaminant. Whether or not acetone can come from ingested drugs is not relevant. It was his knowledge at the time he made the statement that is important. He did not know any drug that could contain/metabolize to, acetone. In other words, he was being untruthful.

Beyond some limited training specific to ethanol, Augustyn does not have documented training in toxicology or pharmacology. Augustyn clearly does not have the requisite knowledge to make such assertions. However, that did not stop him from leaving the false impression, with the court and jury, that the accused in this case could have been on some sort of “drug.”

Even if one were to disagree that his initial statement on direct was untruthful, the fact that he does not correct himself when given the opportunity on cross, surely constitutes an untruthful statement in totality. And if nothing else, he has testified well beyond his expertise which could cause substantial harm if he continues to testify in this manner (or, if he has testified this way in the past).

And to point out for any TFSC investigation on this issue, Augustyn is making a clear distinction between endogenous production (“show up”) and exogenous acetone through consumption (“come from” “can originate from a lot of things”); the latter clearly not referencing metabolic induction.

There are other things stated by Augustyn that show his lack of knowledge in his purported field of expertise, such as not knowing the difference between pharmacokinetics and pharmacodynamics (“we mainly learned about the pharmacokinetics or in a more simpler term, how a drug travels through and **affects a person's body**”). While concerning for someone holding himself out as an expert in toxicology,

this is probably less harmful to a defendant than other statements. Still, he has had training regarding testifying within his area of expertise; training which he consciously disregards.

### Summary

In summary, Augustyn has deliberately and negligently failed to follow a standard of practice that an ordinary forensic analyst would follow. I have very serious concerns about this analyst testing and testifying in future cases, as should the commission and DPS. He either cannot remember his training beyond taking an exam, or rather, has a bias that runs so deep, he consciously, and repeatedly, disregards accepted standards of practice. Either way, it is quite troubling. He testified he hid information from the defense and appears to have instructed a prosecutor not to disclose the information. And this is what we know about. He has been working for DPS for 4 years – what other information has he intentionally kept from defense counsel?

But withholding information is only part of the problem. His testimony is also quite concerning. Augustyn made inconsistent, untruthful, and misleading statements in front of a very experienced independent expert, called by the defense. It makes one wonder how he testifies when he is not monitored by another expert. And to be clear, he has testified appropriately 17 times now. This was not a case of first trial jitters. And even if this were his first trial, that would not make it acceptable to make inconsistent, untruthful, and misleading statements under oath.

Augustyn has demonstrated his potential to seriously jeopardize the rights of the accused. It is my hope in filing this complaint that the Texas Forensic Science Commission will thoroughly investigate this matter.

Sincerely,

Mark R. Thiessen  
733 E 12<sup>th</sup> 1/2 St  
Houston, TX 77008  
713-864-9000

## EXIBIT B

## ❖ Introduction

My name is Zachary Augustyn and I am currently employed as a forensic scientist at the Texas Department of Public Safety Crime Lab in Houston, Texas. I have been employed in this capacity since September of 2020. This document serves as a response to the complaint submitted to the Texas Forensic Science Commission on 11/6/2024.

## ❖ Timeline

- 7-11-2023 – *State v. Momin* Discovery Order issued and received. All completed discipline/analyst-related quality incidents (QIs) were included at the time of discovery was provided. 45 QIs were provided in the discovery order as well as a link to the DPS public facing website to access all completed QIs.
- 8-26-2024 - Traveled to Stafford P.D in Ft. Bend County with Defense Counsel Evans, and ADA Fesmire to examine blood evidence for *State v. Momin*. I answered defense attorney and prosecutor's questions.
- 8-29-2024 - Testified in *State v. Momin* trial. No one asked me any questions regarding QI's.
- 9-13-2024 - Email sent to Montgomery County ("MC") ADA Madison Shrock disclosing pending Qis in preparation for *State v. Monroy*. MC ADA issues Notice of Potential Favorable evidence which lists the information on the pending QI's that I emailed to them.
- 9-17-2024 - Court hearing outside the jury's presence during *State v. Monroy* regarding pending QI's.
- 9-18-2024 - Testified in *State v. Monroy*. The judge initially ruled that QI's were not admissible but later reversed course. Discovery order was submitted by defense counsel Bourque, and was sent May 10, 2023, via FedEx to DA's office. 49 QIs were provided for this discovery along with the previously stated public facing website link.
- 9-25-2024 - Defense Counsel in *State v. Monroy* issued an affidavit regarding trial outcome and *Brady notice*.
- 9-26-2024 - Defense Counsel Evans files for motion for new trial in *State v. Momin*.
- 10-16-2024 - Testified in Comal County in *State v. Cameron*. Both pending QIs were disclosed to the prosecution and defense. A hearing was conducted outside the jury's presence. The judge ruled the QIs inadmissible. The defendant was acquitted.
- 10-22/23-2024-Testified in *State v. Soape* in MC. A Discovery Order submitted by defense counsel Bourque, and was uploaded on Jan 25, 2024, to the Montgomery County discovery database. 49 QIs were provided for this discovery along with the

previously stated public facing website link. A subpoena duces tecum was received by the lab on 10/15/24 requesting personnel records, documents related to the QIs, and communications between the DA's office and the laboratory. This information was provided to defense counsel Bourque, the day of testimony 10/23.

10-25-2024 - A motion for new trial hearing was held in *State v. Momin*.

11-07-2024 - After the motion for new trial's hearing completion, the judge granted the motion in *State v. Momin*. The State is currently appealing.

11-21-2024 - Complaint submitted by Defense Counsel Thiessen to TFSC sent via email to me and DPS Management.

❖ **Complaint Response**

1. "Zachary Augustyn acted knowingly and intentionally to hide information from defense, consciously disregarding an accepted standard of practice".

Full discovery was provided in all 3 trials including all completed discipline/analyst-related QIs. QIs that are in progress are not routinely provided in discovery. If a QI that is in progress is related to the case or a disclosure event, then it will be prioritized for completion and discussed with prosecution in pretrial. Defense counsel posed questions during trial using the word "hiding". In my response to those questions, I used the same verbiage. It was a very poor choice of words. I should have clarified that I was not trying to hide information.

*Mr. Bourque: "It's relevant to his bias. He's been trained on Brady. He knows what Brady is. If he's hiding stuff from me in another case, how do we know if he's not hiding stuff from us in this case?" I clarify what I had meant by "hiding" when I say, "I believe this is what the defense is referring to".*

Mr. Bourque's above referenced quotation relates to the following email excerpt I sent the prosecution before *State v. Monroy*.

*"I also have other QIs that are currently being processed that occurred in the beginning of 2024, he should not be aware of these as they are not complete and finalized yet, so they should not be brought up yet. Again, these QIs are not finalized so they should not have record of them yet, but it's wise to be aware of them".*

Using, "he should not be aware of them" in my email was a poor choice of words, I should have clarified the QIs are still pending review so neither the state nor the defense would be aware of them until finalized. I can see how my word choice could lead to a misunderstanding. I would not intentionally withhold information from either party. Going forward I will be clearer.

2. "Augustyn is biased against the defense, including defense experts, in favor of the prosecution and engages in trial tactics/strategies with/for the prosecution."

The below excerpt is from my *State v. Soape* cross examination:

*Q. So you are taking it upon yourself to advocate for the State against another witness, another scientist. Would you agree with that statement?*

**A. It would appear that way.**

*Q. It would appear that way, that you are not – that you are not unbiased, correct?*

**A. Yes. ...**

*Q. It is in no way your job to help the Prosecution with their strategy, is it?*

**A. Correct.**

*Q. But you are doing it anyway, correct?*

**A. Correct.**

I did not answer these questions properly. I misspoke. While I was not helping the prosecution with their strategy, it is encouraged to have pre-trial meetings prior to testimony to provide and understand information better within my scope, limitations and expertise, as well as disclosure requirements. I was not aware of any strategies that the prosecutor would implement in trial. In another instance, for a different case (*State v. Momin*), I met with both defense and prosecution for *State v. Momin* to inspect the blood and answered any questions that were asked by both parties as an example.

Expert Witness Testimony Guidance (11) regarding the Code of Professional Responsibility (Texas Admin Code Rule 651.219 (b)) states "*As necessary to fulfill these ethical obligations, forensic analysts may recommend, draft, and amend questions to be asked of the analyst during testimony, if requested to do so by a prosecutor or defense attorney*" (p. 82-83 of the Crime Laboratory Division Manual)

Some topics that usually arise during pre-trial meetings include case relevant information, usual scope of my testimony, experiences with defense counsel, experiences with defense experts, etc. It should be noted that I usually am subpoenaed by the state as an expert witness.

It's common to have both state and defense expert witnesses observe testimony and provide counsel feedback. From my previous trial experiences, I was aware the defense expert in *State v. Soape*. I worked with the prosecutor to prepare for this defense expert. I sent an email to ADA Delano regarding the defense expert in order to prepare for *State v. Soape*.

I realize that the above *State v. Soape* excerpt had left a poor impression with the jury. I had gotten mixed up and inadvertently admitted to being biased even though I followed



normal practice regarding pre-trial conferences and preparing for court. If the defense had requested a pre-trial conference prior to trial, I would have afforded defense the same opportunities.

I understand that I am there to explain my testing and results. Having a pre-trial meeting with either the prosecution or the defense will not change my findings in any way. Part of my retraining will be to read, review, and discuss transcripts and to participate in additional mock trials to improve my trial communication.

3. "Augustyn made inconsistent statements under oath, and both Augustyn and his superiors, failed to notify defense counsel when he discovered mistakes in his testimony. Augustyn did not adequately prepare for the Monroy hearing and trial, which led to his impeachment in the Soape trial."

I believe I made every attempt in following Crime Laboratory Division policy with respect to trial preparation in an effort to prepare for both trials. I reviewed information from both of the QIs that were in progress, because they were not yet finalized, I relied on memory when testifying. I was not aware of my misstatement, nor were my superiors aware, in *State v. Monroy* until it was brought to my attention during my testimony in *State v. Soape*.

I acknowledge that using phrases like "*I don't remember exactly*" and "*If I remember correctly*" in an attempt to not misspeak can lead to confusion. I should have said "*I don't know*" and that "*I don't remember*". This line of questioning will also be used in the mock trials to improve my trial communication.

4. "Augustyn does not remember or feigns ignorance of his duties of professional responsibility despite recently renewing his TFSC license."

The documents that defense counsel could be referring to are the *National Code of Ethics and Professional Responsibility for Forensic Science*, *ANAB Guiding Principles of Professional Responsibility for Forensic Services*, and the *Texas Code of Professional Responsibility for Analysts and Lab Management from the Texas Forensic Science Commission*. I am aware of my professional duties and responsibilities. I read the listed documents every year. However, at the time of testimony, I did not remember the exact names of the trainings.

5. "Relies on data despite having concerns about said data."

In my *State v. Soape* response, I believe I made it clear that the data is reliable.

Q. *"Were there any concerns during any of that process?"*

**A. *The only real concern that I had with some of the quality control data was with the chromatogram—sorry, not chromatogram, the second detector for the second column. We run cases in duplicate, and with each run there is two columns. There is two races that occur. The second column has a little bit of baseline drift. It's not pretty, but it doesn't***

***mean that the quantification of ethanol is any different. This column or this – second race is mainly for qualitative purposes. It's a way of identifying and detecting volatiles that are seen in the quantitative column. So again, it's not the prettiest data, but it is data nonetheless.***

In anticipating a challenge from the defense on baseline drift, I wanted to testify to the validity of my result while acknowledging that it is not picture-perfect data but still reliable and valid. In retrospect, I acknowledge the poor word choice. I should have incorporated that all policies and procedures were followed, all controls passed, and that my data was technically and administratively reviewed by another authorized analyst in this discipline. Again, testifying in this capacity will be covered in my retraining and mock trials.

#### ❖ **Summary**

I acknowledge that I have difficulties in my testimony as well as in my knowledge on the quality incident process. I did not intend to appear biased, to mislead a jury, not be forthcoming, or engage in pro-prosecution tactics. I am committed to improving my trial communication and better understanding of quality incident processes.

I will receive training in key topics from General Lab Training, including “Ethics, Professionalism, and Bias” and “Quality Assurance”. Once this retraining has been completed, I will be required to take a written exam to test my knowledge on the lab’s quality assurance program and quality incident process. I will also participate in two rigorous mock courts to evaluate further my ability to testify appropriately and accurately on the topics in question and to be able to convey to the jury in a confident and poised manner the results of my forensic findings.

I am committed to the retraining process, and I hope you will consider these points as you review the complaint.

## EXHIBIT C



TEXAS DEPARTMENT OF PUBLIC SAFETY  
CRIME LABORATORY

Quality Incident Report

LAB-510 Rev.01 (04/2023) p.1 Issued by: SQM

Tracking ID

QI-HOU-2024-0104-BA

Lab	Houston	Discipline	BA	Date Discovered	01/04/2024	Page 1 of 2
Date of Incident	01/04/2024		End Date of Incident (if applicable)		02/13/2024	
Related Policy/Procedure/Specification	CLD 43.6.A, CLD 45.2.B, BA-02-01 3.2.E					
Related Work # (case/batch/instrument#)	HOU-2311-14068; HOU-2311-14069; HOU-2311-14070; HOU-2311-14071; HOU-2311-14072; HOU-2311-14073; HOU-2311-14082; HOU-2311-14083; HOU-2311-14084; HOU-2311-14085; HOU-2311-14087; HOU-2311-14088; HOU-2311-14089; HOU-2311-14090; HOU-2311-14091; HOU-2311-14092; HOU-2311-14093; HOU-2311-14096; HOU-2311-14098; HOU-2311-14099; HOU-2311-14100; HOU-2311-14101; HOU-2311-14104; HOU-2311-14107; HOU-2311-14109; HOU-2311-14144; HOU-2311-14154					
<b>Incident Description:</b> <p>On 12-19-2023, all 30 blood kits from Batch ZJA 112823 were boxed up and placed into the TO BE FILED Fridge in locations, TO BE FILED DAV FRIDGE and TO BE FILED DAV AUSTIN FRIDGE. All 30 blood kits from this batch did not have proper seals applied to the outside of the blood kits. 27 of the blood kits were either returned back to the submitting agency or forwarded to Austin for further drug toxicology analysis. The other three were still here in the Houston laboratory. On 01-04-2024, Sugarland PD sent an email to Houston Evidence Coordination, advising them that the 5 blood kits with the markings "ZJA 11/28/23" that were returned to them were not sealed. This email was then forwarded to the Evidence Coordination Supervisor, the Toxicology (Alcohol/Volatiles) (BA) Supervisor, and the Quality Manager for the DPS Houston Crime Lab. The BA analyst who worked the cases checked the locations for all 30 blood kits associated with this batch. Three cases from the batch were still in the laboratory's possession and were corrected onsite by applying a proper seal consisting of evidence tape with the analyst's initials and date. Fifteen (15) of the cases had been returned to the original submitting agencies. Those agencies were contacted to let them know that these cases had been returned without seals and were asked to inventory the contents of the bloods kits to determine if anything was missing. The Austin Toxicology section and Austin Evidence Coordination were notified that 7 blood kits were forwarded to the Austin lab without proper seals applied and were asked to inventory the contents of the bloods kits to determine if anything was missing. All blood kits were inventoried, and all items were accounted for.</p>						
<b>Cause Analysis:</b> <p>Evidence for cases that have been reviewed and released are not allowed to be in the analyst's possession for longer than 14 days. In a haste, to ensure that this didn't happen before the analyst went out of town during the holidays, the analyst overlooked sealing the blood kits. Due to the nature of how the blood kits are closed, Evidence Coordination didn't recognize that a proper seal wasn't applied.</p>						
<b>Risk Assessment:</b> <p>Severity is moderate since the BA kits were not sealed, there was a potential risk that the kits could have opened while in transit and potentially spilling the contents of the kits. While the tubes are commonly contained in a plastic outer container, there is still a risk that the blood tubes inside can still break. The likelihood of occurrence is uncommon. This is the first known instance where BA kits were returned without a proper seal on the BA kits. Overall, the risk is low.</p>						
<b>Risk Level:</b> Low						
<b>Correction(s) to the Original Work (Indicate if not performed at this time):</b>						<b>Corrected Report?</b> NA
Representatives from the various agencies in this batch were notified via email to check the evidence that was returned to them from this batch to ensure that a proper seal was applied to the returned blood kits. If a proper seal was missing, the agencies were asked to inventory the blood kits and ensure that no evidence was missing from the kits themselves. All agencies eventually responded and ensured that all evidence was accounted for and that proper seals were applied to the affected blood kits. As for the 3 remaining blood kits at the lab, they were scanned back into the analyst's possession and proper seals were applied.						
<b>Customer Notification (Indicate if not performed at this time or not applicable):</b> <p>Agency Representatives from: Conroe PD Victoria PD Austin DPS Toxicology Sugarland PD</p>						
<b>Corrective Action Necessary?</b> No		<b>Significant Disclosure?</b> No		<b>Inclusion on Disclosure Form?</b> NA		
<b>Approval</b>						
Collaborator(s) <u>Augustyn, Zachary (awareness only)</u>						



TEXAS DEPARTMENT OF PUBLIC SAFETY  
CRIME LABORATORY  
**Quality Incident Report**  
LAB-510 Rev.01 (04/2023) p.1 Issued by: SQM

Tracking ID
QI-HOU-2024-0104-BA

Lab	Houston	Discipline	BA	Date Discovered	01/04/2024	Page 2 of 2
Subject Matter Expert(s)	<u>Parker, Tifani (electronically signed)</u>					
Lab QA	<u>Zalekian, Somiyeh (electronically signed)</u>					
Management	<u>Gardiner, Andrew, Parker, Tifani (electronically signed)</u>					
System QA	<u>Mraz, Jamie (electronically signed)</u>					
Date of Final Approval	<u>10/11/2024</u>					

## EXHIBIT D



TEXAS DEPARTMENT OF PUBLIC SAFETY  
CRIME LABORATORY

Quality Incident Report

LAB-510 Rev.01 (04/2023) p.1 Issued by: SQM

Tracking ID

QI-SYS-2024-0210-BA

Lab	System	Discipline	BA	Date Discovered	02/15/2024	Page 1 of 2
Date of Incident	02/10/2024		End Date of Incident (if applicable)		05/16/2024	
Related Policy/Procedure/Specification	BA-01-08 3.1 C;					
Related Work # (case/batch/instrument#)	GAR-2401-01457; GAR-2401-01459, HOU-2404-05416, HOU-2404-05411					
<b>Incident Description:</b> <p>On 2/10/2024, two 30 batches of blood alcohol cases were sampled and analyzed. GAR-2401-01457, belonging to the second batch, at the time of analysis, corresponded to Subject A. The information listed on the blood kit for GAR-2401-01457 matched the information that was provided on the submission form. However, the information on the blood tubes did not match the information on the blood kit or the submission form. This was not noted on the worksheet and a blood tube was selected for analysis. The case was sampled and analyzed on 02/10/2024. On 02/15/2024, an analyst from the Garland lab was assigned the case GAR-2401-01459. That analyst noticed that the information on the blood tubes did not match the information that was provided on the submission form or what was written on the blood kit. The analyst noticed that the name on the blood tubes match the name in JTrax for GAR-2401-01457. The Garland analyst reached out to the analyst in Houston that worked GAR-2401-01457 to let that analyst know that the two cases appeared to be switched. The agency was contacted to determine which agency case number went with each subject. The agency confirmed that their agency case number 24-000281 went with Subject A and 24-000283 went with Subject B. It was determined that the blood tubes had been switched prior to submitting to the lab. The Garland laboratory boxed up GAR-2401-01459 and sent the blood kit to the Houston Laboratory for analysis. After further discussion with the agency, it was decided what would be done to correct this switch. The blood tubes will remain in the original blood kit that they were submitted in. The information that was listed on those blood kits by the agency will be crossed out and corrected by the lab. Information such as: agency case #, and suspect's name. In a separate incident involving the same analyst, HOU-2404-05416 was unboxed and prepared for sampling on 5/14/2024. It was noted during the unboxing process that the name of the suspect on the tubes for HOU-2404-05416 did not match the name of the suspect for the corresponding submission form. The suspect's name that was written on the blood tubes was later searched that day on 05/13/2024 in the LIMS Database to determine if submission forms were possibly switched. The name on the blood tubes matched the name in LIMS for HOU-2404-05411. HOU-2404-05411 had already been sampled and analyzed by the same analyst on 05/09/2024. The analyst checked the blood tubes for HOU-2404-05411 and confirmed that the name on the blood tubes for HOU-2404-05411 matched that submission form for HOU-2404-05416, and vice versa.</p>						
<b>Cause Analysis:</b> <p>Incident occurred on a Saturday, 2/10/24. Analyst was working on overtime hours. Two 30 batches were sampled and analyzed in and on the same day. GAR-2401-01457 belonged to the second batch that was unboxed. Case information on exterior of GAR-2401-01457 matched case information corresponding to information on submission form. Main ceiling lights were off in lab with just the bench light on during unboxing process as well as sunlight from the window. Cases affected originated from Garland lab evidence coordination. Analyst has had less problems working with Garland cases compared to Houston cases as a result the analyst was not as diligent as he should have been. GAR-2401-01459 was not in the workflow on this day, which could have triggered a response to the analyst seeing that information between 2 cases was switched as the analyst has had experience with this such scenario in the past with other agencies. Incident Occurred between 05/09/2024 - 05/13/2024 HOU-2404-05411 was unboxed towards the end of the batch on 5/9/24, analyst could have possibly been not as diligent compared to unboxing at other points of time in the batch. HOU-2404-05411 and HOU-2404-05416 were a part of two different batches, HOU-2404-05416 was not in the workflow on 05/09/2024, this could have triggered a response to the analyst seeing that information between 2 cases was switched</p>						
<b>Risk Assessment:</b> <p>Severity is major, the likelihood of occurrence is uncommon, and the risk level is medium. In both instances, the analyst was able to make appropriate corrections in LIMS as well as on the items of evidence, if necessary. The analyst has, in the past, caught mistakes like this and has made corrections prior to analysis. The laboratory does recognize the elevated risk and impact that an error like this would have a more negative impact had the reports been released prior to resolving the issue. All BA analysts in the Houston lab have been reminded to ensure due diligence when checking the information on the blood tubes, BA kits, and submission forms. If a discrepancy is noted prior to analysis, the evidence will not be processed until the agency is notified and the discrepancy is corrected.</p>						
<b>Risk Level:</b> Medium						
<b>Correction(s) to the Original Work (Indicate if not performed at this time):</b>					<b>Corrected Report?</b> NA	



TEXAS DEPARTMENT OF PUBLIC SAFETY  
CRIME LABORATORY

Quality Incident Report

LAB-510 Rev.01 (04/2023) p.1 Issued by: SQM

Tracking ID

QI-SYS-2024-0210-BA

Lab	System	Discipline	BA	Date Discovered	02/15/2024	Page 2 of 2
-----	--------	------------	----	-----------------	------------	-------------

The blood kits for GAR-2401-01457 and GAR-2401-01459 were corrected by the analyst to reflect the correct agency case number and subject name. A new submission form was provided for both cases and new sticker labels were placed on them and scanned into the case files. The information that was originally put into JTrax was also corrected. GAR-2401-01459 was sampled and analyzed by the Houston laboratory on 02/20/2024. HOU-2404-05411 was taken out of Draft Complete, the submitting agency, Magnolia PD was contacted on 05/13/2024 and notified that a possible switch of submission forms between two of their cases had occurred at some point from when the agency had possession of the blood kits to when the evidence was dropped off at the Houston DPS crime lab, where the case information was entered into the LIMS database. Two new submission forms were requested, and later scanned into the LIMS database corresponding to the correct subjects.

**Customer Notification (Indicate if not performed at this time or not applicable):**

Lancaster PD was notified via email and phone call in regard to the incident involving the blood evidence that was submitted to the Garland Lab on 02/15/2024 that a switch had occurred prior to evidence being brought to the Garland Lab. Magnolia PD was notified via email, asking for clarification of case information between the two cases, and new submission forms for the two affected cases. Agency was contacted on 05/13/2024

Corrective Action Necessary? No      Significant Disclosure? No      Inclusion on Disclosure Form? NA

**Approval**

Collaborator(s) Augustyn, Zachary, Parker, Tifani (awareness only)

Subject Matter Expert(s) Parker, Tifani (electronically signed)

Lab QA Zalekian, Somiyeh (electronically signed)

Management Parker, Tifani, Gardiner, Andrew (electronically signed)

System QA Bishop, Carly (electronically signed)

Date of Final Approval 11/07/2024



## EXHIBIT E PART I

## 1 REPORTER'S RECORD

2 VOLUME 8 OF 11 VOLUMES

3 TRIAL COURT CAUSE NO. 22-CCR-230111

4 COURT OF APPEALS CAUSE NO. 14-25-00020-CR

5 THE STATE OF TEXAS ) IN THE COUNTY COURT

6 )

7 )

8 )

9 VS. ) AT LAW NO. 2

10 )

11 )

12 )

13 JAWED SADRUDDIN MOMIN ) FORT BEND COUNTY, TEXAS

## 14 MOTION FOR NEW TRIAL

15 -----  
16  
17  
18  
19 On October 25, 2024, the following proceedings came  
20 on to be heard in the above-entitled and numbered cause  
21 before the Honorable Tyra J. McCollum, Judge presiding,  
22 held in Fort Bend County, Texas;

23 Proceedings reported by Certified Shorthand  
24 Reporter and machine shorthand/computer-aided  
25 transcription.

## A P P E A R A N C E S

FOR THE STATE:

Denver Fesmire  
SBOT NO. 24132182  
Gavin O'Brien  
SBOT NO. 24124053  
Baldwin Chin  
SBOT NO. 00783823  
Assistant District Attorneys  
1422 Eugene Heimann Circle  
Richmond, Texas 77469  
281-341-4460

FOR THE DEFENDANT:

Collin Evans  
SBOT NO. 24074189  
Jonathan Landers  
SBOT 24070101  
Attorneys at Law  
917 Franklin Street, Suite 300  
Houston, Texas 77002

# CHRONOLOGICAL INDEX

October 25, 2024 Vol. 8

Preliminary matters 4

	Direct	Cross	Voir Dire
ZACHARY AUGUSTYN		23	
Court Reporter's Certification			64

## EXHIBIT INDEX STATE'S EXHIBITS

NO.	DESCRIPTION	OFFERED	ADMITTED	Vol.
1	DISK	20	22	8
2	TOXICOLOGY WORKSHEET	20	21	8
3	DISCLOSURE FORM	20	21	8
4	LABORATORY INFORMATION SHEET	20	21	8
5	LABORATORY INFORMATION SHEET	20	21	8
6	DISCOVERY ORDER	20	21	8
7	STIPULATION	19	19	8

## DEFENDANT'S EXHIBITS

NO.	DESCRIPTION	OFFERED	ADMITTED	Vol.
1	NOTICE OF POTENTIAL FAVORABLE EVIDENCE	7	--	8
2	EMAILS	9	11	8
3	AFFIDAVIT	11	--	8
4	CHAIN OF CUSTODY	13	13	8
5	LABORATORY REPORT	14	14	8
6	QUALITY INCIDENT REPORT	14	14	8
7	JUROR NOTES	15	--	8
8	QUALITY INCIDENT REPORT	17	17	8

P R O C E E D I N G S

October 25, 2024

THE COURT: All right. We're on the record in Cause No. 22-CCR-230111, the State of Texas versus Jawed Sadruddin Momin. We are here on the Defendant's motion for new trial after jury trial in which the jury returned a verdict of guilty on August 30, 2024.

With that said, I'll call for announcements on behalf of the State.

MR. FESMIRE: Denver Fesmire for the State. That's D-e-n-v-e-r, F-e-s-m-i-r-e.

MR. O'BRIEN: And Gavin O'Brien for the State as well, G-a-v-i-n, O--B-r-i-e-n.

THE COURT: Thank you. And on behalf of Defense?

MR. LANDERS: Jonathan Landers here for Mr. Momin. Do I need to spell that for you?

THE REPORTER: No.

MR. EVANS: Collin Evans for the Defense.

THE COURT: Okay. Thank you very much. All right. We're here on Defendant's motion. I'll ask if you-all are ready to proceed?

MR. LANDERS: We are, yes.

THE COURT: Okay. Thank you very much. You may be seated.

1                   MR. LANDERS: Could we take care of some  
2 housekeeping matters?

3                   THE COURT: Yes.

4                   MR. LANDERS: Do you need a copy of the  
5 motion?

6                   THE COURT: I have it.

7                   MR. LANDERS: Okay. Thank you, Judge.  
8 Briefly I would just -- I'm not going to do any argument  
9 now. I'm just pointing out the three claims, one is the  
10 Texas Rules of Appellate Procedure 21.3, specifically  
11 Subsection E which requires the granting of a motion for  
12 new trial when evidence tending to establish the  
13 defendant's innocence has been intentionally destroyed  
14 or withheld, thus preventing its production at trial.

15                   I'll be upfront with the Judge. I've not  
16 found a case on that section. It is -- it's a "shall,"  
17 though. I want to point that out to the Court.

18                   THE COURT: I'm sorry. It's a what?

19                   MR. LANDERS: It's a "shall." That's one  
20 of the mandatory -- if it's proven, a motion for new  
21 trial must be granted. This is from the statute,  
22 though, Judge. I haven't found a case on it.

23                   The second is what we commonly refer to as  
24 a Brady claim. I'm sure you're well aware that there's  
25 three prongs of those claims, favorable evidence was not

1 disclosed, essentially the first two prongs. I don't  
2 think there's going to be a dispute about that. This  
3 will possibly come down to materiality, and we've given  
4 the Court briefing on the standard for materiality. We  
5 can argue later about that if you would like to hear  
6 argument on it; and then third, we've asked for a motion  
7 for new trial in the interest of justice.

8           A number of years ago, and we pointed this  
9 out in our briefing, the Court of Criminal Appeals  
10 essentially held that grounds of relief is still  
11 available. There must be an underlying reason for it.  
12 You can't just say "interest of justice," but if the  
13 Court wanted to make -- not make a specific finding on  
14 one of the other claims and wanted to grant in the  
15 interest of justice, you could do that as well as long  
16 as we have proven some underlying ground for the motion.

17           With that being said, I'd like to attempt  
18 to at least pre-admit some evidence for the hearing. I  
19 think most of them are not going to be objected to, if  
20 that's all right with Your Honor.

21           THE COURT: Yes.

22           MR. LANDERS: Okay. I've brought courtesy  
23 copies for you, Judge, and the State as well.

24           THE COURT: Have you previously provided  
25 those to the State?

1 MR. LANDERS: I did, Judge.

2 THE COURT: Thank you.

3 MR. LANDERS: And those don't have  
4 Defendant's exhibit stickers because I didn't want to  
5 mix them up with the actual exhibits, but I did write  
6 the exhibit number on the bottom just so that you can  
7 follow along.

8 The first exhibit is Defendant's Exhibit  
9 No. 1, and I've noted "MNT" for motion for new trial on  
10 our exhibit stickers. This is a Notice Of Potential  
11 Favorable Evidence that came in a case entitled State  
12 versus Monroy and this is a case out of Montgomery  
13 County. This is also included as an appendix to our  
14 motion, and it basically points out three incidents that  
15 were turned over, a separate trial related to the same  
16 analyst, and it's really the basis of the reason we're  
17 here today.

18 THE COURT: And that being Zachary  
19 Austin -- Augustyn?

20 MR. LANDERS: Augustyn, correct.

21 THE COURT: Thank you.

22 MR. O'BRIEN: And the State has no  
23 objection to the admittance of that exhibit, Judge.

24 THE COURT: All right. When I look at that  
25 Exhibit 1, it looks like it's actually comprised, so



1 that the record is clear, of three documents; one is  
2 entitled Notice Of Potential Favorable Evidence; the  
3 second one, which appears to be an email dated  
4 Wednesday, September --

5 MR. LANDERS: So that's actually a separate  
6 exhibit there, Judge. I should have written "2" on  
7 there. I might have screwed that up.

8 THE COURT: Thank you. All right. So No.  
9 1 is solely the document that's entitled Notice Of  
10 Potential Favorable Evidence?

11 MR. LANDERS: Yes, it's two pages.

12 THE COURT: Okay. Thank you.

13 MR. CHIN: Excuse me, Judge. I apologize.  
14 Can you give me a few seconds with the prosecutor?

15 THE COURT: Okay.

16 MR. LANDERS: And for the record, ADA  
17 Baldwin Chin is conferring with the prosecution.

18 (Discussion off the record.)

19 MR. CHIN: I'm so sorry, Judge. This is  
20 Baldwin Chin, Fort Bend County District Attorney's  
21 Appellate Division, talking to your prosecutor. I  
22 apologize for interrupting.

23 THE COURT: That's okay. Thank you very  
24 much.

25 MR. O'BRIEN: Judge, if I may amend --

1 apologies -- from my conference with ADA Chin. The  
2 State would actually not agree to the preadmission of  
3 State's (sic) Exhibit 1.

4 THE COURT: All right. So you just want to  
5 wait until the process of the hearing?

6 MR. O'BRIEN: Yes, Judge.

7 THE COURT: All right. I'll sustain that  
8 objection.

9 MR. LANDERS: Just for the record, you  
10 already know this, Judge, but for record purposes, you  
11 can accept evidence by affidavit or other means, and so  
12 we point that out. I'll re-urge it during testimony,  
13 though.

14 THE COURT: Thank you. I appreciate that.

15 MR. LANDERS: All right. Defendant's  
16 Exhibit No. 2 is emails directly related to this case.  
17 It's dealing with the two prosecutors that are here and  
18 Mr. Augustyn. We've been told there was no objection to  
19 this. I assume that the State would want this in the  
20 record. It does show -- and I'll point out for the  
21 Court -- we don't believe these prosecutors knew about  
22 this suppressed evidence. It does show they did not  
23 know about the suppressed evidence. It gives a little  
24 bit of background about how this all happened, and we  
25 would ask that Defendant's Exhibit No. 2 be admitted

1 into the record.

2 THE COURT: And I want to make sure that I  
3 am clear based upon the Defense motion as well as your  
4 representations at this time which is that you are not  
5 alleging prosecutorial misconduct in any way or fashion?

6 MR. LANDERS: That's correct. We're saying  
7 that the analyst is part of the State for the purposes  
8 of the Brady case. We agree -- I think there will  
9 actually be a stipulation that these two prosecutors had  
10 no idea about this evidence that will be the basis of  
11 today's hearing prior to trial.

12 THE COURT: And I think I want to make a --  
13 an ask, if that is an extension, too, because while I  
14 appreciate the fact that you're not making any  
15 allegation of prosecutorial misconduct as to these two  
16 particular ADAs, I won't presume that they were the only  
17 two ADAs that ever touched this case.

18 So my inquiry is whether or not, while you  
19 are not making allegations of prosecutorial misconduct  
20 as to these two, are you making or alluding to  
21 prosecutorial misconduct as to any -- anybody  
22 potentially that touched -- from the DA's office -- that  
23 touched this cause?

24 MR. LANDERS: I can tell you that we don't  
25 have any reason to believe that anybody from the DA's

1 office was aware of these quality incidents prior to  
2 trial.

3 THE COURT: Okay. Thank you very much.

4 MR. LANDERS: And we only know about these  
5 two prosecutors. We're not making any allegation  
6 against the DA's office.

7 THE COURT: Okay. Thank you. With that  
8 understanding, Mr. O'Brien, what is the State's position  
9 on the proffered Defendant's Exhibit 2?

10 MR. O'BRIEN: No objection, Your Honor.

11 THE COURT: All right. Then the Court will  
12 consider preadmitted Defendant's Exhibit No. 2.

13 (Defendant's Exhibit No. 2 was offered and  
14 admitted into evidence.)

15 MR. LANDERS: Next is Defendant's Exhibit  
16 No. 3. This is the affidavit of Mr. Bourque, the  
17 criminal defense lawyer in the other case, the Monroy  
18 case that Defendant's Exhibit No. 1 related to. I think  
19 there will be an objection to this. We would note this  
20 rule -- I think it's 21.3 of the Rules of Appellate  
21 Procedure specifically allow you to take evidence by  
22 affidavit.

23 We would ask -- and this is also the case  
24 that we discovered this underlying quality incidents  
25 from. This is where it was first discovered by anybody

1 as far as we know. We ask that this be introduced into  
2 evidence as well.

3 THE COURT: Thank you. What's the State's  
4 position?

5 MR. O'BRIEN: Yes, Judge. While the State  
6 recognizes that there are rules that allow for  
7 pre-authentication of particular affidavits --

8 THE COURT: Preadmission.

9 MR. O'BRIEN: Yes, preadmission for  
10 affidavits. The State would object on the basis of  
11 relevance as there is some content pertaining to the  
12 content of the Quality Incident Reports that is relevant  
13 for the proceedings here today, but we believe they will  
14 be introduced through, you know, more officialized  
15 reports.

16 Regarding the other information about the  
17 proceedings of the case in Montgomery County against an  
18 Israel Lee Monroy, those are not relevant at all to the  
19 proceedings here today.

20 THE COURT: All right. The State is going  
21 to -- the Court is going to sustain that objection for  
22 now. You can re-urge it so that I'll have an  
23 opportunity to determine relevance at a later time.

24 MR. LANDERS: That was 3. Defendant's  
25 Exhibit No. 4, this was actually --

1 THE COURT: I don't think I have that one  
2 in front of me. I just have 5, 6, and 8 in front of me.

3 (Discussion off the record.)

4 MR. LANDERS: I'll describe it for --

5 THE COURT: Thank you.

6 MR. LANDERS: So for the record, these are  
7 already in evidence from the trial, but for the purposes  
8 of the hearing, we thought it would be easier so we  
9 don't mix and match everything.

10 THE COURT: Thank you.

11 MR. LANDERS: This is a Stafford Police  
12 Department chain of custody form. You might recall it.  
13 It came up during trial, whether or not it should be  
14 admissible, and it was part of whether or not the blood  
15 itself should be admissible, and then separately, the  
16 Texas Department of Public Safety Crime Laboratory  
17 submission form and chain of custody report. It's three  
18 pages from evidence which was already in evidence at the  
19 trial, Defendant's Exhibit No. 4.

20 MR. O'BRIEN: No objection.

21 THE COURT: All right. Defendant's  
22 Exhibit 4 will be admitted.

23 (Defendant's Exhibit No. 4 was offered and  
24 admitted into evidence.)

25 THE COURT: Is this a copy or --

1 MR. LANDERS: It's your copy, Judge.

2 THE COURT: Thank you.

3 MR. LANDERS: And I believe you said you  
4 have Exhibit 5, a copy of 5, Judge.

5 THE COURT: I do.

6 MR. LANDERS: Okay. This is Defendant's  
7 Exhibit No. 5, also already in evidence. This is the  
8 laboratory report from Mr. Momin's case.

9 MR. O'BRIEN: Similarly, the State's  
10 understanding is this was already been admitted during  
11 the trial. The State has no objection, Judge.

12 THE COURT: Defendant's Exhibit No. 5 is  
13 admitted.

14 (Defendant's Exhibit No. 5 was offered and  
15 admitted into evidence.)

16 MR. LANDERS: Do you have 6?

17 THE COURT: I do.

18 MR. LANDERS: Defendant's Exhibit No. 6 is  
19 one of the Quality Incident Reports related to  
20 Mr. Augustyn that was not previously turned over, and it  
21 has now been turned over pursuant to our subpoena in  
22 this case.

23 MR. O'BRIEN: No objection, Your Honor.

24 THE COURT: Defendant's Exhibit No. 6 will  
25 be admitted.

1                   (Defendant's Exhibit No. 6 was offered and  
2 admitted into evidence.)

3                   MR. LANDERS: I believe there is an  
4 objection to No. 7. Your Honor, do you have 7?

5                   THE COURT: I don't have 7. I've already  
6 ruled on 7, right?

7                   MR. LANDERS: That was 6, Your Honor.

8                   THE COURT: That would have been 6?

9                   MR. LANDERS: That's 4, Judge.

10                  THE COURT: Thank you. Now you're showing  
11 me 7?

12                  MR. LANDERS: Yes, Your Honor. Do you have  
13 a copy of that?

14                  THE COURT: I don't.

15                  MR. LANDERS: I'll show you what they are.  
16 These are file-stamped documents from Montgomery County  
17 in the same case we -- actually -- yes, in the same  
18 case, the first case in Montgomery County where this  
19 issue came up. They are juror notes requesting  
20 Augustyn's testimony and also showing that there was a  
21 hung jury as a result of that trial in Montgomery  
22 County.

23                  THE COURT: All right. Let me pause for a  
24 second, Mr. Landers, because I do think you sort of  
25 mixed up -- either you have or I have. I'm showing that



1 this chain of custody was marked as 4.

2 MR. LANDERS: That's right.

3 THE COURT: Did y'all give me the same  
4 document twice? Is that what that is?

5 MR. LANDERS: I think we brought you an  
6 extra copy of that because we thought you didn't have  
7 that copy.

8 THE COURT: I'll give you that one back so  
9 I don't have two up here.

10 Okay. Go ahead with 7.

11 MR. LANDERS: So 7 are jury notes from the  
12 same case out of Montgomery County that we were  
13 previously discussing showing that the jury wanted to  
14 hear this specific type of evidence and also that there  
15 was a mistrial in that case.

16 MR. O'BRIEN: Judge, the State would object  
17 to this exhibit under 606. It's prohibited testimony of  
18 a juror.

19 MR. LANDERS: Would you like me to respond,  
20 Judge?

21 THE COURT: Not yet.

22 MR. O'BRIEN: And further, Your Honor, it  
23 is irrelevant. Again, similarly, this pertains to a  
24 different case, not the matter here before us today.

25 THE COURT: You don't have to respond at

1 this time. I'm going to take it up when I hear  
2 testimony.

3 MR. LANDERS: Okay.

4 THE COURT: So I'll sustain that objection.

5 MR. LANDERS: 8 -- and I hope I'm not  
6 messing this up for you again, Judge -- this is  
7 Defendant's Exhibit No. 8. It is another Quality  
8 Incident Report from an incident on December 19 of 2023  
9 that was not provided prior to trial that has since been  
10 provided with our subpoena to the State in this case,  
11 the DPS records.

12 THE COURT: Thank you.

13 MR. O'BRIEN: No objection, Your Honor.

14 THE COURT: All right. Defendant's Exhibit  
15 No. 8 is admitted.

16 (Defendant's Exhibit No. 8 was offered and  
17 admitted into evidence.)

18 MR. LANDERS: For preadmission, that's it  
19 for the Defense here.

20 MR. O'BRIEN: Judge, I believe the State  
21 plans to pre-admit some exhibits of our own.

22 THE COURT: All right. Let me walk through  
23 our status on these so that I'm not unclear.

24 Defendant's Exhibit No. 1 is not admitted  
25 at this time. The Court will reserve ruling.

1 Defendant's Exhibit No. 2 is admitted. Has there been a  
2 proffer of 3?

3 MR. LANDERS: It was offered, I believe,  
4 Judge, and not admitted at this time.

5 THE COURT: Tell me what that document was  
6 again because I don't see it.

7 MR. LANDERS: That was the affidavit from  
8 attorney Morgan Bourque.

9 THE COURT: Okay. So that I'm not  
10 confused, I'm going to give these back to you, Mr.  
11 Landers.

12 All right. Defendant's Exhibit No. 4 was  
13 admitted, Defendant's Exhibit No. 5 was admitted,  
14 Defendant's Exhibit No. 6 was admitted, Defendant's  
15 Exhibit No. 7, that one was not admitted.

16 MR. LANDERS: Correct, Judge.

17 THE COURT: I'll give that one back to you,  
18 and Defendant's Exhibit No. 8 was admitted. Is that my  
19 understanding?

20 MR. O'BRIEN: That is our understanding,  
21 Your Honor.

22 THE COURT: Okay. Thank you. Mr. O'Brien,  
23 are you indicating that you want to offer some exhibits  
24 for preadmission?

25 MR. O'BRIEN: Yes. I'll hand it over to my

1 court partner, Mr. Fesmire.

2 THE COURT: Thank you, Mr. Fesmire.

3 MR. FESMIRE: Yes, Your Honor. First, Your  
4 Honor, if I may approach. We do have a stipulation that  
5 has been previously sent to the Defense counsel to offer  
6 to the Court which is signed by both I, ADA Fesmire, and  
7 ADA Gavin O'Brien --

8 THE COURT: All right. Do you want to  
9 identify it?

10 MR. FESMIRE: Yes, Your Honor. May I  
11 approach?

12 THE COURT: Yes. Are you going to mark it  
13 as something?

14 MR. FESMIRE: If you would like, Your  
15 Honor, I can put an exhibit --

16 THE COURT: Yeah, that way we can keep  
17 track of it. So what number do you want to mark it as?

18 MR. FESMIRE: I will mark it as -- if I may  
19 check my list briefly, Your Honor. I apologize. I'll  
20 mark this as State's Exhibit No. 7.

21 THE COURT: Does Defense have any objection  
22 to that?

23 MR. LANDERS: No objections, Judge.

24 THE COURT: All right. State's Exhibit No.  
25 7 will be admitted.

1                   (State's Exhibit No. 7 was offered and  
2 admitted into evidence.)

3                   MR. FESMIRE: Just one moment, Your Honor.  
4 I apologize.

5                               (Brief pause.)

6                   MR. FESMIRE: This is copies of what have  
7 been marked State's Exhibits 2 through 6, Your Honor.  
8 State's Exhibit No. 1 is a disk, so I do not have an  
9 extra copy of that for the Court.

10                   THE COURT: Okay.

11                   THE REPORTER: Counsel, are you putting  
12 "MNT" on your exhibits because 7 does not have "MNT" on  
13 it.

14                   MR. FESMIRE: Yes. And, Your Honor, all  
15 exhibit stickers are marked "State's Exhibit MNT,"  
16 motion for new trial, 1 through 6.

17                   I will now mark State's Exhibit No. 7  
18 "State's Exhibit No. 7 MNT".

19                   THE COURT: Counsel, what do you have to  
20 say about the proposed Exhibits 2 through 6 --

21                   MR. FESMIRE: And I'll go through them,  
22 Your Honor.

23                   THE COURT: I just need to ask him have you  
24 seen them?

25                   MR. LANDERS: I think so. I don't think we

1 have any objection. Can I see them real briefly?

2 THE COURT: Yeah, just to make sure -- the  
3 ones I have aren't marked.

4 MR. LANDERS: Okay. We'll have no  
5 objections for the record to 2, 3, 4, 5, 6, Judge.

6 THE COURT: All right. State's Exhibit  
7 Nos. 2, 3, 4, 5, and 6 will be admitted.

8 (State's Exhibit Nos. 2 through 6 were  
9 offered and admitted into evidence.)

10 THE COURT: And, Mr. Fesmire --

11 MR. FESMIRE: Your Honor, we do have  
12 State's --

13 THE COURT: Hold on a second. If you'll  
14 let me -- because you gave me these courtesy copies, but  
15 they're not marked, so I won't know what you're  
16 referencing.

17 MR. FESMIRE: Yes, Your Honor. It should  
18 be an accurate reflection of the markings.

19 THE COURT: All right. Those are all  
20 admitted. Anything else, Mr. Fesmire?

21 MR. FESMIRE: Yes, Your Honor. State's  
22 exhibit marked MNT 1 --

23 MR. LANDERS: No objection to State's  
24 Exhibit No. 1.

25 THE COURT: And that's the DVD?

1 MR. FESMIRE: Correct, Your Honor.

2 THE COURT: All right. State's Exhibit  
3 No. 1 will be admitted.

4 (State's Exhibit No. 1 was offered and  
5 admitted into evidence.)

6 MR. FESMIRE: Nothing further at this time,  
7 Your Honor.

8 THE COURT: Thank you.

9 All right. Mr. Landers, are you ready to  
10 proceed? Do you need opening arguments?

11 MR. LANDERS: No, Your Honor. We'd also  
12 ask you to take judicial notice of the underlying  
13 proceedings for the record.

14 THE COURT: You're referencing the trial  
15 that began on August 27, 2024, with a rendering of  
16 verdict on August 30, 2024?

17 MR. LANDERS: Correct.

18 THE COURT: Okay. Judicial notice is taken  
19 of that.

20 MR. LANDERS: Thank you, Judge.

21 THE COURT: Anything else?

22 MR. LANDERS: That's it.

23 THE COURT: All right. Would you like to  
24 call your first witness?

25 MR. LANDERS: We would. We will call DPS

1 analyst Mr. Augustyn.

2 THE COURT: Thank you. Mr. Augustyn, if  
3 you'll please approach. Mr. Augustyn, would you raise  
4 your right hand?

5 (Witness sworn.)

6 THE COURT: Okay. Thank you. You can make  
7 yourself comfortable up there.

8 All right. Mr. Landers, you can proceed  
9 when you're ready.

10 MR. LANDERS: Thank you, Judge. May I sit  
11 down while I'm asking questions?

12 THE COURT: Absolutely.

13 MR. LANDERS: Okay. Thank you.

14 ZACHARY AUGUSTYN,  
15 having been duly sworn, testified as follows:

16 CROSS-EXAMINATION

17

18 BY MR. LANDERS:

19 Q. Would you please introduce yourself for the  
20 record?

21 A. My name is Zachary Augustyn.

22 Q. And you're the same Mr. Augustyn who testified  
23 in the trial of this case, correct?

24 A. I am.

25 Q. Okay. If you don't understand any of my



1 questions, just please let me know, okay?

2 A. Will do.

3 Q. What is your current job?

4 A. I am a forensic scientist.

5 Q. For who?

6 A. For the Texas Department of Public Safety.

7 Q. Okay. And what was your job when you testified  
8 in this case?

9 A. A forensic scientist.

10 Q. Okay. And you were the analyst who performed  
11 the blood analysis in Mr. Momin's case; is that correct?

12 A. Correct.

13 Q. Okay. And clearly your job then was also an  
14 analyst for DPS?

15 A. Correct.

16 Q. Okay. I want to talk briefly about your job as  
17 an analyst for DPS. Who do you perform testing for?

18 A. Could you rephrase your question?

19 Q. Is all of the testing that you perform for the  
20 State of Texas?

21 A. The testing that we perform is mainly for law  
22 enforcement agencies. Is that what you're asking?

23 Q. That's what I'm asking, correct.

24 And as an expert -- you often testify as an  
25 expert, correct?

1 A. Correct.

2 Q. Okay. And as an expert working for DPS, are  
3 you even allowed to testify for defendants as a  
4 defendant's expert?

5 A. Yes.

6 Q. You can testify as a defendant's expert?

7 A. I'm sorry. Can you say that again?

8 Q. Can a defendant hire you to testify in their  
9 case?

10 A. I don't see why not.

11 Q. Okay. Have you ever testified as an expert for  
12 the Defense?

13 A. I have not, but I have been given the  
14 opportunity to.

15 Q. Okay. Do you -- in your cases do you work  
16 closely with the prosecutors on the case?

17 A. I do.

18 Q. Okay. And specifically in this case who were  
19 you performing the blood testing for?

20 A. Stafford PD.

21 Q. Okay. And was that testing to be used in the  
22 trial of Mr. Momin's case?

23 A. Yes.

24 Q. Okay. Do you receive training as part of your  
25 job?

1           A.    I do.

2           Q.    Is that often provided by the State of Texas?

3           A.    Yes.

4           Q.    And in Mr. Momin's case, do you agree that you  
5 were part of the investigation team for the case?

6           A.    Yes.

7           Q.    Okay. How many hours of training do you think  
8 you received while working at DPS?

9           A.    For training --

10          Q.    And I'm not going to hold you to a number. I  
11 mean, are we talking dozens of hours? Hundreds of  
12 hours?

13          A.    Hundreds.

14          Q.    Okay. And oftentimes your training will  
15 include questions of ethics?

16          A.    Yes.

17          Q.    Okay. Are you aware personally of a duty you  
18 have to reveal favorable evidence -- evidence that's  
19 favorable to a defendant?

20          A.    Yes.

21          Q.    Okay. You've been trained on that before,  
22 correct?

23          A.    Correct.

24          Q.    Okay. And are you aware that that duty applies  
25 to you specifically as a member of the prosecution team?

1           A.    Yes.

2           Q.    Okay.  Related to this, Mr. Momin's case, you  
3 discussed this case with the prosecutor prior to  
4 testifying in the trial, correct?

5           A.    Correct.

6           Q.    Okay.  Did you also have any writings or emails  
7 with them?

8           A.    I believe so, yes.

9           Q.    Prior -- after that trial -- after the  
10 conviction and before today, have you had conversations  
11 with the prosecutors again?

12          A.    Yes.

13          Q.    Okay.  How many times?

14          A.    Three to five maybe.

15          Q.    Okay.  What is the format of those  
16 conversations?

17          A.    One was a Zoom call, I think maybe two were  
18 emails, and then the other two were phone calls.

19          Q.    Okay.

20                   MR. LANDERS:  Your Honor, at this time we  
21 would request any copies of the emails if we don't  
22 already have them.  We could take that -- we could look  
23 at them later, but I just want to request that for the  
24 record at this time.

25                   THE COURT:  Do you have them?

1                   MR. LANDERS: I don't think we have those  
2 emails.

3                   MR. FESMIRE: I just want to clarify. Are  
4 you requesting all emails throughout the trial and after  
5 the trial?

6                   MR. LANDERS: I'm requesting the two emails  
7 in between trial and now.

8                   MR. FESMIRE: May I take a moment to  
9 confirm?

10                  THE COURT: You may.

11                  MR. LANDERS: Can I continue with  
12 questioning?

13                  THE COURT: You can -- well, wait. Let me  
14 just give him a second.

15                  MR. LANDERS: Okay.

16                  THE COURT: Do you need those in front of  
17 you for purposes of --

18                  MR. LANDERS: I don't but I would just like  
19 to review them at some point before he is released.

20                  THE COURT: All right. We'll have a break  
21 here at some point, and you'll have an opportunity to  
22 retrieve those.

23                  MR. LANDERS: Okay.

24                  THE COURT: You can continue.

25                  MR. LANDERS: Thank you, Judge.

1 THE COURT: Thank you.

2 Q. (BY MR. LANDERS) Prior to the trial, did you  
3 ever disclose any quality incidents to the prosecutors  
4 in this case?

5 A. I might have disclosed the broken blood tube.  
6 I don't remember, but I do know that I did not disclose  
7 the QIs that are -- that were currently pending at the  
8 time.

9 Q. Okay.

10 THE COURT: Hang on one second.

11 I'm sorry. Mr. Augustyn, you said those  
12 were pending at the time of the trial?

13 THE WITNESS: Yes.

14 Q. (BY MR. LANDERS) At the time of the trial --  
15 and let's just talk -- what is a quality incident?

16 A. A quality incident is an incident at the lab  
17 where SOP is broken sort of --

18 THE REPORTER: I'm sorry. Would you repeat  
19 that?

20 A. A quality incident is an incident at the lab  
21 where SOP is either broken or violated.

22 Q. (BY MR. LANDERS) What is SOP?

23 A. Standard operating procedures.

24 Q. And we agree that as a scientist it's important  
25 to follow all standard operating procedures, right?

1           A.    Yes.

2           Q.    You said you don't recall if you had disclosed  
3 a prior SOP. Do you dispute that you did not?

4           A.    A prior SOP or QI?

5           Q.    QI.

6           A.    Can you repeat your question again?

7           Q.    Okay. It's been represented that the  
8 prosecutors were never told about this. Do you dispute  
9 that fact and just not remember it?

10          A.    I don't know.

11          Q.    Okay. So you --

12                   THE REPORTER: Your answer was "I don't  
13 know"?

14                   THE WITNESS: Yes.

15                   MR. LANDERS: Judge, can I grab our  
16 evidence off the bench here?

17          Q.    (BY MR. LANDERS) I'm going to show you  
18 Defendant's Exhibit No. 5 for the hearing. What is  
19 this? It's already preadmitted. Just tell us what that  
20 is.

21          A.    It's a toxicology final report.

22          Q.    Okay. And on these reports, is there a section  
23 that essentially discloses Brady information?

24          A.    I wouldn't say Brady information, but there is  
25 a section in this final report that's called a

1 disclosure form, and that form is specifically for  
2 anything that needs to be disclosed.

3 Q. Okay. And specifically would need to be  
4 disclosed because it might be favorable to the defense?

5 A. Yes.

6 Q. Okay. And would you look at I think the last  
7 page here on the report. So that would be the third  
8 page of that document. Do you agree?

9 A. Yes.

10 Q. Okay. Is that the page you're talking about  
11 there?

12 A. Yes.

13 Q. Okay. Are there any disclosures at all on this  
14 page?

15 A. No.

16 Q. Okay. And then I'm just curious at this point  
17 in time, like, today, have you been removed from  
18 casework?

19 A. No.

20 Q. Okay. I want to discuss the September 22,  
21 2022, quality incident.

22 A. Yeah.

23 Q. You're probably familiar with what I'm talking  
24 about?

25 A. The broken blood tube one.



1           Q.    Correct.  So tell the Court just generally what  
2 that was all about.

3           A.    So a batch had to be resampled and reanalyzed,  
4 and as I was placing the blood tubes for this case onto  
5 the test tube rocker, I noticed that blood was leaking  
6 from one of the blood tubes.  I picked it up and I had  
7 noticed that the blood tube was broken.  So for that  
8 case when it came to resampling and reanalyzing, I had  
9 to sample from the second blood tube for that case.

10          Q.    Okay.  Do you remember the date of that  
11 incident off the top of your head?

12          A.    Not off the top of my head.

13          Q.    I'm going to show you Defendant's Exhibit No.  
14 6.  Do you recognize that exhibit as the Quality  
15 Incident Report for this incident we're talking about?

16          A.    I do.

17          Q.    Okay.  Does it tell us the date of the  
18 incident?

19          A.    September 8, 2022.

20          Q.    Okay.  And if you need to see this at all, let  
21 me know, okay?

22          A.    Will do.

23          Q.    Was that date, September 8, 2022, before or  
24 after your testing in Mr. Momin's case?

25          A.    I hope you don't mind, but I'm going to review

1 my notes.

2 Q. Sure. And just so you know, you still have  
3 the --

4 A. Perfect. Thanks. The date of analysis for  
5 this case was November 9, 2022.

6 Q. Okay. So it was after the incident with the  
7 broken blood vial?

8 A. Sorry. Say that again.

9 Q. Mr. Momin's test was after the incident with  
10 the broken blood vial?

11 A. Yes.

12 Q. And I left that report up there for you in case  
13 you need it.

14 The report discussed that this was a retest  
15 of the samples in September of 2022. I'm talking about  
16 the broken blood vial.

17 Do you know why it was being retested --  
18 the blood in that case was being retested?

19 A. Off the top of my head, I don't remember.

20 Q. Okay. And the report that you have from  
21 September -- I think it's the September 8, 2022,  
22 incident, it lists the possible causes for the broken  
23 blood vial, correct?

24 A. Yes.

25 Q. And it lists, like, a severity range. It says

1 moderate severity. Do you agree with that?

2 A. Yes.

3 Q. Was that incident, not the Quality Incident  
4 Report, but the incident from September 8, 2022, was  
5 that disclosed to the prosecution for that case?

6 A. This case, I don't know. I never went to trial  
7 for it.

8 Q. I'm going to direct you to, I think, to the  
9 bottom of Page 1.

10 THE COURT: Can you tell me what you're  
11 referencing?

12 MR. LANDERS: This is Defendant's Exhibit  
13 No. 6, Judge.

14 THE COURT: Thank you.

15 Q. (BY MR. LANDERS) Read that -- the last full  
16 sentence to yourself.

17 A. (Witness complies.)

18 Q. Does that refresh your memory that the  
19 September of 2022 incident was disclosed to the Brazoria  
20 County District Attorney's Office?

21 A. It says -- it just says that they were notified  
22 when the report was released on September 23, 2022. A  
23 result note was added to the report stating that the  
24 tube had been broken during reanalysis.

25 Q. So in -- does it say -- is there an easy way to

1 reference this date? The September incident, is that a  
2 good way?

3 A. Fine by me.

4 Q. In the case -- there's a defendant involved in  
5 that case, right, the September incident?

6 A. Yes.

7 Q. That information would have been disclosed in  
8 the report for that defendant?

9 A. For that report -- the final report like this?

10 Q. Correct.

11 A. I don't think it would. The way that it is  
12 disclosed there's like a folder of QIs that's public  
13 accessed. It would not show up on this disclosure form  
14 right here, if that's what you're asking.

15 Q. So the defendant in that case, if they were to  
16 have gotten discovery -- you're aware of what the  
17 standard blood testing discovery is, correct?

18 A. Yes.

19 Q. Okay. They would not have known about this  
20 incident?

21 A. Depending on when they filed for discovery,  
22 they would know.

23 Q. Okay. Explain that.

24 A. So, for example, it takes time for QIs to be  
25 written and finalized, which is exactly what happened in

1 the Montgomery incident. Depending on when the  
2 defendant and the defendant's attorney had filed for  
3 discovery, the QI could have been completed and that is  
4 when they would have -- that's when it would have been  
5 disclosed.

6 Q. Okay. The QIs once they're completed should be  
7 given to defense counsel, correct?

8 A. Can you repeat your question?

9 Q. A defense counsel should have notice of a  
10 quality incident on their client's case. Do you agree  
11 with that?

12 A. Yeah, I would agree with that.

13 Q. Okay. But if they happen to get discovery  
14 before the report is finalized, they don't necessarily  
15 get notice?

16 MR. FESMIRE: Objection. That lacks  
17 personal knowledge.

18 THE COURT: I'm going to overrule that  
19 objection.

20 A. Can you repeat your question?

21 Q. (BY MR. LANDERS) If a defense attorney obtains  
22 discovery prior to the QI being finalized, they don't  
23 necessarily get notice?

24 A. So if something like that does happen and  
25 there's a QI on that case, I would -- I have disclosed

1 QIs before to the prosecution, like, hey, this case has  
2 a QI on it, and then I would say what the QIs is and  
3 then...

4 Q. So you would have given that information to the  
5 prosecution, correct?

6 A. Correct.

7 Q. Who then should probably turn it over to  
8 defense. Do you agree?

9 A. Yes.

10 Q. Okay. And just so I'm clear, I'm talking about  
11 the September incident again which relates to  
12 Defendant's Exhibit No. 6, right?

13 A. Yes.

14 Q. Okay. In this case the Brazoria County DA's  
15 office was notified when the report was released,  
16 correct?

17 A. Uh-huh.

18 Q. Okay. That's what we're talking about there.

19 A. Okay.

20 Q. Now, you would agree that they have received  
21 notice of this report?

22 A. Yes.

23 Q. Okay. I want to talk about more recent  
24 incidents now from the end of December 2023 and the  
25 beginning of this year.

1           A.    Okay.

2           Q.    You're familiar with what I'm talking about,  
3 correct?

4           A.    Yes.

5           Q.    At this point I believe you testified in two  
6 cases about these incidents; is that correct?

7           A.    Correct.

8           Q.    Okay. Both in Montgomery County?

9           A.    Correct.

10          Q.    Okay. And in one of those incidents you  
11 brought -- in one of those cases -- do you remember the  
12 Monroy case?

13          A.    I do, yes.

14          Q.    It took place after Mr. Momin's case, correct?

15          A.    Correct.

16                   THE COURT: What's the name of the case  
17 again?

18                   MR. LANDERS: Monroy, M-o-n-r-o-y.

19                   THE COURT: Okay.

20          Q.    (BY MR. LANDERS) And that's one of the two  
21 cases you've testified about these more recent  
22 incidents, correct?

23          A.    Correct.

24          Q.    In that case you did give notice to the  
25 prosecutors about some quality incidents, correct?

1           A.    Correct.

2                   MR. FESMIRE:  Objection, Your Honor, to  
3  relevance.

4                   THE COURT:  Overruled.

5           Q.    (BY MR. LANDERS)  And are you aware that the  
6  prosecutors let the defense attorney know about those  
7  quality incidents?

8           A.    Yes.

9           Q.    Okay.  I'm going to show you what's been marked  
10 as Defendant's Exhibit No. 1.  It's entitled Notice of  
11 Potential Favorable Evidence in the Monroy case.  Would  
12 you review that?  Have you seen this before?

13          A.    I have, yes.

14          Q.    Okay.

15          A.    At least I think I have.

16          Q.    Okay.  Is that -- is Defendant's Exhibit No. 1  
17 the notice that was given to defense counsel related to  
18 these newer incidents?

19                   MR. FESMIRE:  Your Honor, I'm going to  
20 object to relevance again.  The exhibit hasn't been  
21 admitted.  There's no relevance in what happened in this  
22 case to the case that's currently before the Court.

23                   THE COURT:  I disagree.  Overruled.

24                   Have you offered it?

25                   MR. LANDERS:  I'm about to offer it, Judge.



1           Q.    (BY MR. LANDERS)  Okay.  So I think the last  
2 question was:  Does Defendant's Exhibit No. 1 that you  
3 have up there, is it discussing these three incidents  
4 that took place more recently?

5           A.    Yes.

6           Q.    Okay.  And it's giving notice to the defense in  
7 that Monroy case about those incidents, correct?

8           A.    Correct.

9           Q.    Okay.  And you've seen that before you're  
10 pretty sure, right?

11          A.    Yes.

12          Q.    Okay.

13                   MR. LANDERS:  Your Honor, at this point, we  
14 would introduce Defendant's Exhibit No. 1 into evidence.

15                   MR. FESMIRE:  We renew our objection to  
16 relevance, Your Honor.

17                   THE COURT:  Overruled.

18                   MR. FESMIRE:  At this time we'd request a  
19 running objection to relevance --

20                   THE COURT:  Okay.  And the record will  
21 note --

22                   MR. FESMIRE:  -- to this case.

23                   THE COURT:  And the record will note.  
24 Defendant's Exhibit No. 1 is admitted.

25

1                   (Defendant's Exhibit No. 1 was offered and  
2 admitted into evidence.)

3                   MR. LANDERS: Thank you, Judge.

4           Q.    (BY MR. LANDERS) Do you need -- if you need to  
5 see this again, Defendant's Exhibit No. 1, will you just  
6 let me know?

7           A.    Yes.

8           Q.    Okay. It lists three incidents, correct?

9           A.    Correct.

10          Q.    But it really relates to two Quality Incident  
11 Reports?

12          A.    Yes.

13          Q.    And that's because two of the incidents --  
14 we're going to get into them. Two of them are kind of  
15 related; is that correct?

16          A.    Correct.

17          Q.    Okay. I'm going to talk about the two related  
18 ones first, all right?

19          A.    Okay.

20          Q.    And just for the record, this would be related  
21 to No. 1 and No. 2 listed in Defendant's Exhibit No. 1?

22          A.    Yes.

23          Q.    Okay. Both of these relate to cases where you  
24 failed to catch either missed label or -- well, you  
25 failed to catch problems with the blood test kits,

1 correct?

2 A. Yes.

3 Q. Okay. There was one that involved the Garland  
4 lab, right?

5 A. Yes.

6 Q. And as part of -- Garland has a DPS lab?

7 A. Yes.

8 Q. And why were you testing things from the  
9 Garland lab?

10 A. We were helping the Garland lab, working cases  
11 from their backlog.

12 Q. And is this the February 10, 2024, incident?

13 A. Yes.

14 Q. Okay. I'm going to refer to that as the  
15 February incident.

16 A. Okay.

17 Q. What was the problem in that case?

18 A. The problem with that case involved two blood  
19 tubes -- I'm sorry -- two pairs of blood tubes from two  
20 different cases had been swapped prior to submission to  
21 the Garland lab; one case was sent over to the Houston  
22 lab. I worked that case; I failed to catch that the  
23 name on the blood tubes did not match the name on the  
24 blood kit as well as the name on the submission form for  
25 that corresponding evidence.

1 Q. So --

2 THE COURT: I'm sorry. That was February  
3 of 2022?

4 MR. LANDERS: 2024.

5 THE COURT: '24. I'm sorry.

6 Q. (BY MR. LANDERS) And that happened prior to  
7 your testimony in Mr. Momin's case, correct?

8 A. Yes.

9 Q. Is there a Quality Incident Report for this  
10 incident?

11 A. I believe it's still pending.

12 Q. Okay. Does one exist, though?

13 A. Yes.

14 Q. Okay. And you guys -- you guys, meaning DPS,  
15 you just don't turn them over until they're finalized?

16 A. Yeah.

17 Q. Okay. Is that in your policy?

18 MR. FESMIRE: Objection. Lacks personal  
19 knowledge.

20 THE COURT: Overruled. He can answer the  
21 question if he knows the answer.

22 A. I don't know.

23 Q. (BY MR. LANDERS) Okay. You're the custodian  
24 of records for DPS as well, right?

25 A. Yes.

1           Q.    Okay.  But you're unaware of the policy of  
2 when, I'm going to call it QIs, QIs are turned over, you  
3 don't know?

4                   MR. FESMIRE:  Same objection.

5                   THE COURT:  Overruled.

6           A.    No.

7           Q.    (BY MR. LANDERS)  But there is a Quality  
8 Incident Report for this, just not finalized, correct?

9           A.    Yes.

10          Q.    Okay.  Were you involved in the subpoena that  
11 we recently issued in this case, Mr. Momin's case, for  
12 this hearing?

13          A.    I believe so, yes.

14          Q.    Was the Quality Incident Report for the  
15 February incident turned over to us as part of that  
16 subpoena?

17          A.    I don't think it's been finalized yet.

18          Q.    So, no, you don't believe it's been turned  
19 over?

20          A.    I don't think so.

21          Q.    Okay.  And just to clarify, the problem in this  
22 case from February 10th, the blood vials in the box --  
23 blood vials come to you in a box, right?

24          A.    Yes.

25          Q.    Okay.  And the box has a name and information,

1 correct?

2 A. So the box -- it really depends on the agency  
3 that submits it. Sometimes they write the agency case  
4 number on it. Sometimes they write the suspect's name  
5 on it. Sometimes they write the officer's name on it.  
6 It really depends on who submits the box.

7 Q. Okay. To make sure I'm clear, though, the  
8 blood tubes inside of the box were not for the correct  
9 case?

10 A. Correct.

11 Q. They were from some other case?

12 A. Yes.

13 Q. And you did not catch that mistake?

14 A. Correct.

15 Q. You would agree that that's a violation of lab  
16 protocol, correct?

17 A. Yes.

18 Q. Okay. This was actually discovered when an  
19 analyst in Garland opened another box, correct?

20 A. Yes.

21 Q. For another case?

22 A. Yes.

23 Q. And in that box there was also the wrong blood  
24 tubes, correct?

25 A. Correct.

1 Q. And he noticed those blood tubes corresponded  
2 to the box that you had tested?

3 A. Correct.

4 Q. And you actually tested the blood in that case?

5 A. Yes.

6 Q. All right. And if the analyst in Garland had  
7 not caught that mistake, you would agree an incorrect  
8 result would have been issued?

9 A. Yes.

10 Q. Specifically the blood testing wouldn't have  
11 been for the case everyone thought it was for?

12 A. Yes.

13 Q. Was that disclosed in the underlying criminal  
14 case for the box that you had in your possession?

15 A. Repeat that question again.

16 Q. Was that disclosed to the defendant, the proper  
17 defendants in the February 10th incident?

18 A. So as far as disclosure for that case and the  
19 case affected as well?

20 Q. Correct.

21 A. The cases have a QI number associated with it,  
22 so when those cases ever do go to trial, they will be  
23 disclosed. Does that make sense?

24 Q. Yes. But has anyone disclosed to the  
25 prosecutors in those cases now that there was a problem?

1           A.    I don't know.

2           Q.    Okay. Did you do that?

3           A.    Do what?

4           Q.    Contact the prosecutors in that case and let  
5 them know the problem?

6           A.    No prosecutors have reached out to me for those  
7 cases yet.

8           Q.    Have you ever reached out to them, is the  
9 question?

10          A.    No.

11          Q.    Okay. Do you know if any -- I'm asking if you  
12 know. Do you know if anyone from your lab has reached  
13 out to them?

14          A.    I don't know.

15          Q.    How did you fix that problem?

16          A.    The analyst from the Garland lab had contacted  
17 me to let me know that he had the other blood tubes for  
18 my case and vice versa, contacted the agency that  
19 submitted the blood tubes to let them know, like, there  
20 is a switch that occurred under your possession, and if  
21 they had any suggestions or any options that they wanted  
22 to go through as far as remedying the problem.

23                    It was decided that the blood kit that was  
24 still in the Garland lab be sent over to the Houston lab  
25 to be tested by me since it was my problem.



1                   The case information was switched between  
2 the two cases, new laboratory case numbers were placed  
3 onto the blood kits, the blood tubes did stay with the  
4 correct blood kits to maintain a chain of custody for  
5 those pieces of evidence. As I had stated, the case  
6 information was switched so that the correct results  
7 were with the correct suspect.

8           Q.    So I want to ask you about that chain of  
9 custody issue, okay?

10                   This protocol failure in that February  
11 incident, it created a chain of custody problem, right?

12                   MR. FESMIRE:  Objection as to counsel  
13 testifying as to chain of custody issue.

14                   THE COURT:  I think it was a question.  
15 Overruled.

16           A.    Repeat your question, please.

17           Q.    (BY MR. LANDERS)  The issue in February of this  
18 year caused a chain of custody problem; is that correct?

19           A.    I would consider it a chain of custody problem  
20 for the submitting agency.

21           Q.    You agree the chain of custody goes from the  
22 agency to DPS, it goes all the way through the case?

23           A.    Yes.

24           Q.    And the fix was to simply make new labels for  
25 the boxes, right?

1           A.    New laboratory case numbers.

2           Q.    Okay.

3           A.    That was one of the ways that we remedied it.

4           Q.    Did y'all also print out new labels and make  
5   sure the box had all the correct information on it?

6           A.    Yes.

7           Q.    Okay. Was the fix disclosed in those  
8   underlying cases?

9           A.    When it comes to disclosure, as I have stated,  
10   it hasn't been finalized yet for these cases. A QI  
11   number is associated with the cases, but I do not know  
12   if that has been disclosed yet.

13          Q.    Okay. You haven't disclosed it yourself,  
14   right?

15          A.    Correct.

16          Q.    And I just want to be clear, the mistake in the  
17   February incident was not caught as part of the standard  
18   review process. Would you agree with that?

19          A.    Not from the standard review process, no.

20          Q.    It was caught because another analyst, another  
21   lab figured out he had the wrong blood in his case?

22          A.    Yes.

23          Q.    Okay. And you've previously testified about  
24   this incident, right?

25          A.    I have, yes.

1 Q. In different cases, correct?

2 A. Yes.

3 Q. And did you give a reason for your mistake in  
4 that case?

5 A. For why it happened?

6 Q. Correct.

7 A. The incident occurred on a Saturday, so I was  
8 working overtime in hours. I was also doing two batches  
9 in one day, and I was probably tired and exhausted, and  
10 it occurred in the second batch as well.

11 Q. Okay.

12 A. Yeah.

13 Q. So overworked and exhausted is probably the  
14 reason for that mistake. Would you agree?

15 A. I would agree, yeah.

16 Q. Okay. And are there more analysts in your lab  
17 in 2024, so now, than there were in 2022?

18 A. For -- for the BA section?

19 Q. Correct.

20 A. Same number.

21 Q. So you would agree that in 2022 when Mr.  
22 Momin's case took place, you had a lot of volume you  
23 were dealing with as far as testing as well?

24 A. We weren't insourcing for the Garland lab at  
25 that time. I think we were only insourcing for the

1 Austin lab.

2 Q. Okay. But would you agree that you have a high  
3 volume of cases you're expected to work on each month?

4 A. Yes.

5 Q. Okay. And that started -- that was true in  
6 2022 as well, correct?

7 A. I do not remember the specifics of 2022.

8 Q. Okay. Do you think there's been a huge  
9 increase in the volume of cases that you're required to  
10 work on since 2022?

11 A. Yes, I would agree with that.

12 Q. You think there has been?

13 A. I personally think there has been, yeah.

14 Q. I think I've asked this but I'm not sure. If  
15 Garland would not have caught that mistake, a wrong  
16 result would issue; is that correct?

17 A. Correct.

18 Q. Okay. I think the second notice on that  
19 Defendant's Exhibit No. -- help me out.

20 A. 1.

21 Q. -- No. 1 relates to a May of 2024 incident; is  
22 that correct?

23 A. Yes.

24 Q. And that was a similar-type problem. Do you  
25 agree?

1           A.    Similar, yes.

2           Q.    What was the problem in that case?

3           A.    So the problem with this case was that two  
4 submission forms between two blood kits were swapped at  
5 some point between possession from the submitting agency  
6 to when the submission forms were scanned into our  
7 Laboratory Information Management System, LIMS for  
8 short.

9           Q.    And LIMS is basically how you keep up with  
10 evidence in your case, right?

11          A.    Yes.

12          Q.    What exactly is the -- I want to make sure I  
13 understand the mistake. The mistake was the submission  
14 form was wrong?

15          A.    Yes.

16          Q.    Okay. What does that mean exactly?

17          A.    So the submission form has all the case  
18 information on a printed document, suspect, offense,  
19 submitting agency, date and time of collection, the  
20 nurse -- you know, the specimen collector, stuff like  
21 that.

22          Q.    Now, I'm going to show you the submission form  
23 for Mr. Momin's case. I just want to make sure we're  
24 talking about the same kind of thing, okay?

25                   MR. LANDERS: I'm showing the witness

1 Defendant's Exhibit No. 4, the second page.

2 Q. (BY MR. LANDERS) Is that the same type of form  
3 you're talking about?

4 A. Yes.

5 Q. Okay. These are important for the chain of  
6 custody, correct?

7 A. They can be, yes.

8 Q. It's one of your tools to make sure that your  
9 lab is tracking where blood is going throughout the  
10 process; is that correct?

11 A. I wouldn't say it's a tool for that. It's a  
12 tool to maintain information. When it comes to chain of  
13 custody, that isn't as important.

14 Q. It is part of the chain of custody, you would  
15 agree, correct?

16 A. It's part of the case file. I don't know if I  
17 would consider it a part of the chain of custody,  
18 though.

19 MR. LANDERS: Could I have just one second,  
20 Judge?

21 THE COURT: Uh-huh.

22 Q. (BY MR. LANDERS) So the submission form you're  
23 talking about, it's the actual document that the  
24 submitting agency gives to DPS; is that correct?

25 A. Yes.

1           Q.    So it kind of starts the chain of custody for  
2   DPS?

3           A.    In a sense.

4           Q.    Okay.  You would agree that this was caught  
5   during peer review because another analyst had the other  
6   submission in his possession?

7           A.    Are we talking about the second bullet point?

8           Q.    Yes.

9           A.    So when it came to this instance, when I had  
10  originally testified for that Montgomery case, I  
11  misremembered the second incident because --

12                   MR. FESMIRE:  Objection, Your Honor.  This  
13  is a specific incident of bad conduct that counsel is  
14  looking to get into.  It's inadmissible; it's not any  
15  opinion or any type of credibility analysis.  It's just  
16  being used to show that he acted -- it's still a  
17  specific instance of bad conduct that shouldn't be  
18  entered into the record in this hearing, Your Honor.  It  
19  has no relevance.

20                   THE COURT:  Do you have a response?

21                   MR. LANDERS:  I do, Judge.  We're trying to  
22  show that there's other incidents that were not given to  
23  us prior to trial that questions this analyst's work.

24                   THE COURT:  As in a -- I'm trying to  
25  understand -- as in a pattern?

1 MR. LANDERS: It's a pattern and it started  
2 before this test and it's continued after this test and  
3 this analyst was not catching his own mistakes.

4 MR. FESMIRE: Your Honor, may I be heard?

5 THE COURT: I'm thinking.

6 Go ahead.

7 MR. FESMIRE: This is improper impeachment  
8 as well, Your Honor. The defendant (sic) does not have  
9 the record in front of him; therefore, he can't be  
10 refreshed with his previous statement.

11 THE COURT: Overruled.

12 MR. LANDERS: Can I say something just so  
13 everyone knows?

14 Q. (BY MR. LANDERS) I've got your prior  
15 testimony. If you want it, let me know, but I think you  
16 were already explaining why you might have had a  
17 different prior testimony; is that correct?

18 A. Yes.

19 Q. Okay. So my initial question was that you  
20 didn't catch this error from the May 2024 incident?

21 A. So --

22 Q. So answer that question first.

23 A. Yes. The May incident I did catch. I was the  
24 analyst who had caught it.

25 Q. Now, you would agree with me that on



1 September 17 of this year in the Monroy case you  
2 testified differently, correct?

3 MR. O'BRIEN: Objection, Your Honor. If I  
4 may, it's improper impeachment. He's -- under 608 he's  
5 improperly eliciting specific instances of conduct as  
6 opposed to reputation or character evidence. Pursuant  
7 to 613, if he is going to use a prior inconsistent  
8 statement, he needs to give him the opportunity to  
9 review those statements to be able to clarify and  
10 explain. At this point --

11 THE COURT: All right. He just said he had  
12 it.

13 MR. LANDERS: I'm let him review it, Judge.

14 Q. (BY MR. LANDERS) I'll show you -- first off,  
15 you're familiar with the statement that I'm talking  
16 about, right?

17 A. I am familiar, yes.

18 Q. Okay. Because you just had another trial where  
19 this all came up recently?

20 A. Yes.

21 THE COURT: Excuse me. I can't -- I  
22 can't hear. We can take a break if y'all want. We can  
23 take a break because I just can't --

24 MS. BENNETT: I'm sorry, Judge. I didn't  
25 realize I was --

1                   THE COURT: No, that's okay because the  
2 court reporter can't hear it either. We can take a  
3 break. Do you want to take a break for a minute?

4                   MS. BENNETT: I understand that the Court  
5 is going to take a break --

6                   THE COURT: Well, I'm checking to see if we  
7 need to. We can go until, you know, we need to stop,  
8 but we can take a break if y'all want an opportunity to  
9 chat because I just want to make sure that the court  
10 reporter can hear also, but I don't mind pausing so that  
11 y'all can chat for a minute.

12                  MR. LANDERS: Permission to use the  
13 restroom while they're conferring, Judge?

14                  THE COURT: Yes, absolutely.

15                               (Short recess.)

16                  MR. O'BRIEN: Your Honor, the State objects  
17 to this line of questioning in regards to utilizing  
18 specific instances of conduct to attack the credibility  
19 of Mr. Augustyn. Under 608 the proper form or method  
20 for attacking his credibility would be reputation or  
21 opinion testimony.

22                               If he's trying to elicit impeachment under  
23 prior inconsistent statements, there's been no statement  
24 that he can inflate or utilize prior testimony for in  
25 this instance. So as such, he's just using an improper

1 means or method of proving character for  
2 untrustworthiness in this instance.

3 MR. LANDERS: Do you want me to respond  
4 briefly, Judge?

5 THE COURT: Give me just a second. Please  
6 respond.

7 MR. LANDERS: I'm not attacking this  
8 witness' character for truthfulness or untruthfulness  
9 with an opinion here. I'm asking -- first off, there  
10 has been a statement, let me say that, so 608 doesn't  
11 apply. I've asked the witness if he's the one that  
12 caught the mistake in this May incident, and he just  
13 said he was, and now I've let him review his testimony  
14 from a previous case where it was the opposite. He said  
15 he did not catch it, he's familiar with it, and I want  
16 to impeach him with his prior inconsistent statement.  
17 It's a different rule. It's Rule 613, Judge.

18 THE COURT: I see that. All right. Are  
19 you presenting the witness with the opportunity to  
20 refresh his recollection?

21 MR. LANDERS: I've already done that,  
22 Judge.

23 THE COURT: And he has that in front of  
24 him?

25 MR. LANDERS: I brought it back.

1 Q. (BY MR. LANDERS) Do you need it again, sir?

2 A. No.

3 THE COURT: All right. The objection is  
4 overruled.

5 MR. O'BRIEN: Yes, Judge.

6 Q. (BY MR. LANDERS) So did you previously testify  
7 that you were not the one that caught this mistake?

8 A. Correct.

9 Q. Okay. Do you agree that if this mistake had  
10 not been caught, once again, a wrong result could have  
11 issued?

12 A. Yes.

13 THE COURT: Wait. I'm sorry. Ask that  
14 question again.

15 Q. (BY MR. LANDERS) Had this mistake not been  
16 caught, a wrong result could have issued?

17 A. Yes.

18 Q. Okay. So we've just discussed the two similar  
19 incidents that are going on, one the QI?

20 A. Correct.

21 Q. And QI is a Quality Incident Report?

22 A. Yes.

23 Q. To your knowledge, has that Quality Incident  
24 Report issued yet?

25 A. For the two incidents?

1 Q. Correct.

2 A. I don't think so.

3 Q. Okay. Will one issue?

4 A. Eventually, yes.

5 Q. And once they issue, those QIs will be  
6 disclosed to future defense counsel?

7 A. When they are asked about, yes. They will be  
8 put into that portal that I had mentioned earlier. The  
9 cases do have QI numbers associated with them.

10 Q. So any defense counsel could look it up?

11 A. Yes.

12 Q. But that's not the case right now?

13 A. Correct.

14 Q. Okay. The prosecutor could also look that up,  
15 correct?

16 A. Yes.

17 Q. (BY MR. LANDERS) Okay. And if asked by a  
18 prosecutor if you had any QIs, you would disclose that,  
19 correct?

20 A. Yes.

21 Q. Okay. Were you asked by the prosecutors in  
22 this case if there were any QIs they should know about?

23 A. I do not remember.

24 Q. Okay. How was the problem fixed in the  
25 May 2024 incident?

1           A.    So with the May 2024 incident, I was unboxing  
2 another batch, and I had noticed that the name did not  
3 match the submission form or any information on the  
4 blood kit.

5                       With the nature of the incident from  
6 February, it was still fresh in my mind, and I went and  
7 looked into the LIMS database to see if the name on the  
8 submission form or on the blood tubes was already in our  
9 system and it was, and I had seen that I was the one who  
10 had worked the case, the first case, contacted the  
11 agency to let them know, hey, at some point there was a  
12 swap of submission forms either in your possession or  
13 when the submission forms got scanned into the database.

14                      Blood tubes stayed with the blood kits and  
15 case information had to be switched to make sure that  
16 the correct results were with the correct suspect, new  
17 submission forms were requested from the submitting  
18 agency, and that is how that incident got remedied.

19                      THE COURT:   And when was this that you were  
20 doing these?

21                      THE WITNESS:   The first one was in  
22 February.

23                      THE COURT:   Right.

24                      THE WITNESS:   And the second one was in  
25 May.

1           Q.    (BY MR. LANDERS)  So those submission forms are  
2 scanned in the system?

3           A.    Yes.

4           Q.    So basically y'all did a similar fix, which is,  
5 take the previously scanned forms and get them to the  
6 correct box?

7           A.    Yes.

8           Q.    Is there a notation made in the chain of  
9 custody system, the LIMS system, about this switch?

10          A.    The chain of custody wasn't affected because  
11 the blood tube stayed with the blood kits.  There was no  
12 moving around of evidence.  All pieces of evidence were  
13 under my possession.  The chain of custody for this  
14 incident did not need to be changed, from what I  
15 remember.

16          Q.    Okay.  So there was no change notation made in  
17 the LIMS system about this?

18          A.    When it comes to the chain of custody?

19          Q.    Right.

20          A.    Yes.

21          Q.    There's no notation.  There's no notation made;  
22 is that correct?

23          A.    So there's documentation that there was a QI  
24 associated with this.  There's documentation that new  
25 submission forms were required.  There's documentation

1 for what the name was originally before case information  
2 had to be switched. There is documentation for that  
3 but --

4 Q. Let me stop you there.

5 THE COURT: Actually, let me stop  
6 everybody, which is, we need to take a break for a  
7 couple of reasons. I don't think -- the court reporter  
8 has not had lunch and we've got some other things that  
9 are going on. I want to -- let me stand us in recess,  
10 and so we're off the record just so, Sherri -- we're  
11 just going to do some housekeeping, so you can head out.

12 (Discussion off the record.)

13 THE COURT: Raise your right hands, please.

14 (Witnesses sworn.)

15 THE COURT: You will return to court as  
16 ordered on November 7, 2024, at 9:00 a.m. Thank you so  
17 much. We'll see you then. If you'll give your names to  
18 the court reporter.

19 (Proceedings recessed to November 7, 2024.)  
20  
21  
22  
23  
24  
25



## 1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS )  
3 COUNTY OF FORT BEND )

4 I, Sherri Johnson, Official Court Reporter in and  
5 for County Court at Law No. 2 of Fort Bend County,  
6 Texas, do hereby certify that the foregoing contains a  
7 true and correct transcription of all portions of  
8 evidence and other proceedings requested in writing by  
9 counsel for the parties to be included in this volume of  
10 the Reporter's Record, in the above-styled and numbered  
11 cause, all of which occurred in open court or in  
12 chambers and were reported by me.

13 I further certify that this Reporter's Record of  
14 the proceedings truly and correctly reflects the  
15 exhibits, if any, tendered in an offer of proof or  
16 offered into evidence.

17 I further certify that the total cost for the  
18 preparation of this Reporter's Record is \$5,609.00 and  
19 was paid by Fort Bend County District Attorney's Office.

20 WITNESS MY OFFICIAL HAND this the 28th of  
21 February, 2025.

22  
23 /s/ Sherri Johnson  
24 Sherri Johnson, Texas CSR 2938  
25 Expiration Date: 1/31/2026  
Official Court Reporter  
County Court at Law No. 2  
301 Jackson  
Richmond, Texas 77469

	50:17, 51:21, 55:20, 60:25, 61:1, 63:16, 63:19	<b>7</b>	18:15, 18:18, 19:25, 20:2, 21:7, 21:9, 21:20, 22:3, 22:5, 39:21, 40:24, 41:2	10:14
<b>'24</b> [1] - 43:5	<b>21</b> [5] - 3:8, 3:9, 3:9, 3:10, 3:11	<b>7</b> [19] - 3:12, 3:14, 3:18, 15:4, 15:5, 15:6, 15:11, 16:10, 16:11, 18:15, 19:20, 19:25, 20:1, 20:12, 20:17, 20:18, 63:16, 63:19	<b>affected</b> [2] - 46:19, 62:10	<b>approach</b> [3] - 19:4, 19:11, 23:3
<b>/</b>	<b>21.3</b> [2] - 5:10, 11:20	<b>77002</b> [1] - 2:14	<b>AFFIDAVIT</b> [1] - 3:16	<b>argue</b> [1] - 6:5
<b>/s</b> [1] - 64:22	<b>22-CCR-230111</b> [2] - 1:3, 4:4	<b>77469</b> [2] - 2:7, 64:25	<b>affidavit</b> [4] - 9:11, 11:16, 11:22, 18:7	<b>argument</b> [2] - 5:8, 6:6
<b>0</b>	<b>23</b> [2] - 3:5, 34:22		<b>affidavits</b> [2] - 12:7, 12:10	<b>arguments</b> [1] - 22:10
<b>00783823</b> [1] - 2:6	<b>24070101</b> [1] - 2:12	<b>8</b>	<b>agencies</b> [1] - 24:22	<b>Assistant</b> [1] - 2:6
<b>1</b>	<b>24074189</b> [1] - 2:11	<b>8</b> [12] - 1:2, 3:18, 13:2, 17:5, 17:7, 17:15, 17:16, 18:18, 32:19, 32:23, 33:21, 34:4	<b>agency</b> [10] - 45:2, 45:3, 47:18, 48:20, 48:22, 52:5, 52:19, 53:24, 61:11, 61:18	<b>associated</b> [4] - 46:21, 49:11, 60:9, 62:24
<b>1</b> [42] - 3:2, 3:8, 3:8, 3:9, 3:9, 3:10, 3:11, 3:12, 3:14, 3:15, 3:16, 3:16, 3:17, 3:17, 3:18, 3:18, 7:9, 7:25, 8:9, 9:3, 11:18, 17:24, 20:8, 20:16, 21:22, 21:24, 22:3, 22:4, 34:9, 39:10, 39:16, 40:2, 40:14, 40:24, 41:1, 41:5, 41:21, 51:20, 51:21	<b>24124053</b> [1] - 2:5	<b>9</b>	<b>ago</b> [1] - 6:8	<b>assume</b> [1] - 9:19
<b>1/31/2026</b> [1] - 64:23	<b>24132182</b> [1] - 2:4	<b>9</b> [2] - 3:15, 33:5	<b>agree</b> [24] - 9:2, 10:8, 26:4, 29:24, 31:8, 34:1, 36:10, 36:12, 37:8, 37:20, 45:15, 46:7, 48:21, 49:18, 50:14, 50:15, 50:21, 51:2, 51:11, 51:25, 53:15, 54:4, 55:25, 59:9	<b>AT</b> [1] - 1:7
<b>10</b> [1] - 42:12	<b>25</b> [3] - 1:19, 3:2, 4:2	<b>9:00</b> [1] - 63:16	<b>ahead</b> [2] - 16:10, 55:6	<b>attack</b> [1] - 57:18
<b>10th</b> [2] - 44:22, 46:17	<b>27</b> [1] - 22:15	<b>A</b>	<b>aided</b> [1] - 1:24	<b>attacking</b> [2] - 57:20, 58:7
<b>11</b> [2] - 3:15, 3:16	<b>281-341-4460</b> [1] - 2:8	<b>a.m</b> [1] - 63:16	<b>allegation</b> [2] - 10:15, 11:5	<b>attempt</b> [1] - 6:17
<b>13</b> [2] - 3:16	<b>2938</b> [1] - 64:23	<b>able</b> [1] - 56:9	<b>allegations</b> [1] - 10:19	<b>attorney</b> [4] - 18:8, 36:2, 36:21, 39:6
<b>14</b> [4] - 3:17, 3:17	<b>3</b>	<b>above-entitled</b> [1] - 1:20	<b>alleging</b> [1] - 10:5	<b>Attorney's</b> [2] - 8:20, 34:20
<b>1422</b> [1] - 2:7	<b>3</b> [7] - 3:9, 3:16, 11:16, 12:24, 18:2, 21:5, 21:7	<b>above-styled</b> [1] - 64:10	<b>allow</b> [2] - 11:21, 12:6	<b>Attorneys</b> [2] - 2:6, 2:13
<b>15</b> [1] - 3:18	<b>30</b> [2] - 4:7, 22:16	<b>absolutely</b> [2] - 23:12, 57:14	<b>allowed</b> [1] - 25:3	<b>August</b> [3] - 4:7, 22:15, 22:16
<b>17</b> [3] - 3:18, 56:1	<b>300</b> [1] - 2:13	<b>accept</b> [1] - 9:11	<b>alluding</b> [1] - 10:20	<b>Augustyn</b> [11] - 7:19, 7:20, 9:18, 14:20, 23:1, 23:2, 23:3, 23:21, 23:22, 29:11, 57:19
<b>19</b> [3] - 3:12, 17:8	<b>301</b> [1] - 64:25	<b>accessed</b> [1] - 35:13	<b>amend</b> [1] - 8:25	<b>AUGUSTYN</b> [2] - 3:5, 23:14
<b>2</b>	<b>4</b>	<b>accurate</b> [1] - 21:18	<b>analysis</b> [3] - 24:11, 33:4, 54:15	<b>Augustyn's</b> [1] - 15:20
<b>2</b> [18] - 1:7, 3:8, 3:15, 8:6, 9:16, 9:25, 11:9, 11:12, 11:13, 18:1, 20:7, 20:20, 21:5, 21:7, 21:8, 41:21, 64:5, 64:24	<b>4</b> [13] - 3:3, 3:9, 3:16, 12:25, 13:19, 13:22, 13:23, 15:9, 16:1, 18:12, 21:5, 21:7, 53:1	<b>acted</b> [1] - 54:16	<b>analyst</b> [13] - 7:16, 10:7, 23:1, 24:10, 24:14, 24:17, 45:19, 46:6, 47:16, 49:20, 54:5, 55:3, 55:24	<b>Austin</b> [2] - 7:19, 51:1
<b>20</b> [6] - 3:8, 3:8, 3:9, 3:9, 3:10, 3:11	<b>5</b>	<b>actual</b> [2] - 7:5, 53:23	<b>analyst's</b> [1] - 54:23	<b>authentication</b> [1] - 12:7
<b>2022</b> [15] - 31:21, 32:19, 32:23, 33:5, 33:15, 33:21, 34:4, 34:19, 34:22, 43:3, 50:17, 50:21, 51:6, 51:7, 51:10	<b>5</b> [13] - 1:2, 3:10, 3:17, 13:2, 14:4, 14:7, 14:12, 14:14, 18:13, 21:5, 21:7, 30:18	<b>ADA</b> [4] - 8:16, 9:1, 19:6, 19:7	<b>analysts</b> [1] - 50:16	<b>available</b> [1] - 6:11
<b>2023</b> [2] - 17:8, 37:24	<b>6</b>	<b>ADAs</b> [2] - 10:16, 10:17	<b>announcements</b> [1] - 4:8	<b>aware</b> [6] - 5:24, 11:1, 26:17, 26:24, 35:16, 39:5
<b>2024</b> [15] - 1:19, 3:2, 4:2, 4:7, 22:15, 22:16, 42:12, 43:4,	<b>6</b> [19] - 3:11, 3:17, 13:2, 14:16, 14:18, 14:24, 15:1, 15:7, 15:8, 18:14, 20:7, 20:16, 20:20, 21:5, 21:7, 21:8, 32:14, 34:13, 37:12	<b>added</b> [1] - 34:23	<b>answer</b> [4] - 30:12, 43:20, 43:21, 55:22	
	<b>606</b> [1] - 16:17	<b>admissible</b> [2] - 13:14, 13:15	<b>apologies</b> [1] - 9:1	<b>B</b>
	<b>608</b> [3] - 56:4, 57:19, 58:10	<b>admit</b> [2] - 6:18, 17:21	<b>apologize</b> [4] - 8:13, 8:22, 19:19, 20:4	<b>BA</b> [1] - 50:18
	<b>613</b> [2] - 56:7, 58:17	<b>admittance</b> [1] - 7:23	<b>APPEALS</b> [1] - 1:4	<b>background</b> [1] - 9:24
	<b>64</b> [1] - 3:5	<b>ADMITTED</b> [2] - 3:7, 3:14	<b>Appeals</b> [1] - 6:9	<b>backlog</b> [1] - 42:11
		<b>admitted</b> [29] - 9:25, 11:14, 13:22, 13:24, 14:10, 14:13, 14:15, 14:25, 15:2, 17:15, 17:17, 17:24, 18:1, 18:4, 18:13, 18:14,	<b>Appellate</b> [3] - 5:10, 8:21, 11:20	<b>bad</b> [2] - 54:13, 54:17
			<b>appendix</b> [1] - 7:13	<b>Baldwin</b> [3] - 2:5, 8:17, 8:20
			<b>applies</b> [1] - 26:24	<b>based</b> [1] - 10:3
			<b>apply</b> [1] - 58:11	<b>basis</b> [3] - 7:16, 10:10, 12:10
			<b>appreciate</b> [2] - 9:14,	<b>batch</b> [3] - 32:3, 50:10, 61:2
				<b>batches</b> [1] - 50:8
				<b>began</b> [1] - 22:15
				<b>beginning</b> [1] - 37:25
				<b>behalf</b> [2] - 4:9, 4:14
				<b>bench</b> [1] - 30:16
				<b>BEND</b> [2] - 1:9, 64:2

<p><b>Bend</b> [3] - 1:22, 8:20, 64:5</p> <p><b>BENNETT</b> [2] - 56:24, 57:4</p> <p><b>between</b> [4] - 28:7, 48:1, 52:4, 52:5</p> <p><b>bit</b> [1] - 9:24</p> <p><b>blood</b> [43] - 13:14, 24:11, 25:19, 29:5, 31:25, 32:4, 32:5, 32:6, 32:7, 32:9, 33:7, 33:10, 33:16, 33:18, 33:23, 35:17, 41:25, 42:18, 42:19, 42:23, 42:24, 44:22, 44:23, 45:8, 45:23, 46:1, 46:4, 46:10, 47:17, 47:19, 47:23, 48:3, 48:4, 49:21, 52:4, 53:9, 61:4, 61:8, 61:14, 62:11</p> <p><b>bottom</b> [2] - 7:6, 34:9</p> <p><b>Bourque</b> [2] - 11:16, 18:8</p> <p><b>box</b> [12] - 44:22, 44:23, 44:25, 45:2, 45:6, 45:8, 45:19, 45:23, 46:2, 46:14, 49:5, 62:6</p> <p><b>boxes</b> [1] - 48:25</p> <p><b>Brady</b> [4] - 5:24, 10:8, 30:23, 30:24</p> <p><b>Brazoria</b> [2] - 34:19, 37:14</p> <p><b>break</b> [8] - 28:20, 56:22, 56:23, 57:3, 57:5, 57:8, 63:6</p> <p><b>Brief</b> [1] - 20:5</p> <p><b>briefing</b> [2] - 6:4, 6:9</p> <p><b>briefly</b> [5] - 5:8, 19:19, 21:1, 24:16, 58:4</p> <p><b>broken</b> [10] - 29:5, 29:17, 29:21, 31:25, 32:7, 33:7, 33:10, 33:16, 33:22, 34:24</p> <p><b>brought</b> [4] - 6:22, 16:5, 38:11, 58:25</p> <p><b>bullet</b> [1] - 54:7</p> <p><b>BY</b> [24] - 23:18, 29:2, 29:14, 29:22, 30:17, 34:15, 36:21, 38:20, 39:5, 40:1, 41:4, 43:6, 43:23, 44:7, 48:17, 53:2, 53:22, 55:14, 56:14, 59:1, 59:6, 59:15, 60:17, 62:1</p>	<p style="text-align: center;"><b>C</b></p> <p><b>care</b> [1] - 5:1</p> <p><b>case</b> [99] - 5:16, 5:22, 7:11, 7:12, 9:16, 10:8, 10:17, 11:17, 11:18, 11:23, 12:17, 14:8, 14:22, 15:17, 15:18, 16:12, 16:15, 16:24, 17:10, 23:23, 24:8, 24:11, 25:9, 25:16, 25:18, 25:22, 26:4, 26:5, 27:2, 27:3, 29:4, 32:4, 32:8, 32:9, 32:24, 33:5, 33:12, 33:18, 34:5, 34:6, 35:4, 35:5, 35:15, 36:10, 36:25, 37:1, 37:14, 38:12, 38:14, 38:16, 38:24, 39:11, 39:22, 40:7, 40:22, 42:17, 42:18, 42:21, 42:22, 43:7, 44:11, 44:22, 45:3, 45:9, 45:11, 45:21, 46:4, 46:11, 46:14, 46:18, 46:19, 47:4, 47:18, 48:1, 48:2, 48:5, 48:22, 49:1, 49:21, 50:4, 50:22, 52:2, 52:3, 52:10, 52:17, 52:23, 53:16, 54:10, 56:1, 58:14, 60:12, 60:22, 61:10, 61:15, 63:1</p> <p><b>cases</b> [19] - 25:15, 38:6, 38:11, 38:21, 41:23, 42:10, 42:20, 46:21, 46:22, 46:25, 47:7, 48:2, 49:8, 49:10, 49:11, 50:1, 51:3, 51:9, 60:9</p> <p><b>casework</b> [1] - 31:18</p> <p><b>catch</b> [7] - 41:24, 41:25, 42:22, 45:13, 55:20, 55:23, 58:15</p> <p><b>catching</b> [1] - 55:3</p> <p><b>caught</b> [10] - 46:7, 49:17, 49:20, 51:15, 54:4, 55:24, 58:12, 59:7, 59:10, 59:16</p> <p><b>CAUSE</b> [2] - 1:3, 1:4</p> <p><b>caused</b> [1] - 48:18</p> <p><b>causes</b> [1] - 33:22</p> <p><b>CERTIFICATE</b> [1] - 64:1</p> <p><b>Certification</b> [1] - 3:5</p> <p><b>Certified</b> [1] - 1:23</p> <p><b>certify</b> [3] - 64:6,</p>	<p>64:13, 64:17</p> <p><b>chain</b> [19] - 13:12, 13:17, 16:1, 48:4, 48:8, 48:11, 48:13, 48:18, 48:19, 48:21, 53:5, 53:12, 53:14, 53:17, 54:1, 62:8, 62:10, 62:13, 62:18</p> <p><b>CHAIN</b> [1] - 3:16</p> <p><b>chambers</b> [1] - 64:12</p> <p><b>change</b> [1] - 62:16</p> <p><b>changed</b> [1] - 62:14</p> <p><b>character</b> [3] - 56:6, 58:1, 58:8</p> <p><b>chat</b> [2] - 57:9, 57:11</p> <p><b>check</b> [1] - 19:19</p> <p><b>checking</b> [1] - 57:6</p> <p><b>Chin</b> [4] - 2:5, 8:17, 8:20, 9:1</p> <p><b>CHIN</b> [2] - 8:13, 8:19</p> <p><b>CHRONOLOGICAL</b> [1] - 3:1</p> <p><b>Circle</b> [1] - 2:7</p> <p><b>claim</b> [1] - 5:24</p> <p><b>claims</b> [3] - 5:9, 5:25, 6:14</p> <p><b>clarify</b> [3] - 28:3, 44:21, 56:9</p> <p><b>clear</b> [5] - 8:1, 10:3, 37:10, 45:7, 49:16</p> <p><b>clearly</b> [1] - 24:13</p> <p><b>client's</b> [1] - 36:10</p> <p><b>closely</b> [1] - 25:16</p> <p><b>collection</b> [1] - 52:19</p> <p><b>collector</b> [1] - 52:20</p> <p><b>Collin</b> [2] - 2:11, 4:19</p> <p><b>comfortable</b> [1] - 23:7</p> <p><b>commonly</b> [1] - 5:23</p> <p><b>completed</b> [2] - 36:3, 36:6</p> <p><b>complies</b> [1] - 34:17</p> <p><b>comprised</b> [1] - 7:25</p> <p><b>conduct</b> [4] - 54:13, 54:17, 56:5, 57:18</p> <p><b>conference</b> [1] - 9:1</p> <p><b>conferring</b> [2] - 8:17, 57:13</p> <p><b>confirm</b> [1] - 28:9</p> <p><b>confused</b> [1] - 18:10</p> <p><b>consider</b> [3] - 11:12, 48:19, 53:17</p> <p><b>contact</b> [1] - 47:4</p> <p><b>contacted</b> [3] - 47:16, 47:18, 61:10</p> <p><b>contains</b> [1] - 64:6</p> <p><b>content</b> [2] - 12:11, 12:12</p> <p><b>continue</b> [2] - 28:11, 28:24</p> <p><b>continued</b> [1] - 55:2</p>	<p><b>conversations</b> [2] - 27:10, 27:16</p> <p><b>conviction</b> [1] - 27:10</p> <p><b>copies</b> [4] - 6:23, 20:6, 21:14, 27:21</p> <p><b>copy</b> [8] - 5:4, 13:25, 14:1, 14:4, 15:13, 16:6, 16:7, 20:9</p> <p><b>correct</b> [83] - 7:20, 10:6, 18:16, 22:1, 22:17, 23:23, 24:11, 24:12, 24:15, 24:23, 24:25, 25:1, 26:22, 26:23, 27:4, 27:5, 32:1, 33:23, 35:10, 35:17, 36:7, 37:5, 37:6, 37:16, 38:3, 38:6, 38:7, 38:9, 38:14, 38:15, 38:22, 38:23, 38:25, 39:1, 40:7, 40:8, 41:8, 41:9, 41:15, 41:16, 42:1, 43:7, 44:8, 45:1, 45:8, 45:10, 45:14, 45:16, 45:19, 45:24, 45:25, 46:3, 46:20, 48:4, 48:6, 48:7, 48:18, 49:5, 49:15, 50:1, 50:6, 50:19, 51:6, 51:16, 51:17, 51:22, 53:6, 53:10, 53:15, 53:24, 55:17, 56:2, 59:8, 59:20, 60:1, 60:13, 60:15, 60:19, 61:16, 62:6, 62:22, 64:7</p> <p><b>correctly</b> [1] - 64:14</p> <p><b>corresponded</b> [1] - 46:1</p> <p><b>corresponding</b> [1] - 42:25</p> <p><b>cost</b> [1] - 64:17</p> <p><b>counsel</b> [9] - 19:5, 36:7, 36:9, 39:17, 48:12, 54:13, 60:6, 60:10, 64:9</p> <p><b>Counsel</b> [2] - 20:11, 20:19</p> <p><b>COUNTY</b> [3] - 1:5, 1:9, 64:2</p> <p><b>County</b> [14] - 1:22, 7:13, 8:20, 12:17, 15:16, 15:18, 15:22, 16:12, 34:20, 37:14, 38:8, 64:5, 64:24</p> <p><b>couple</b> [1] - 63:7</p> <p><b>Court</b> [18] - 3:5, 5:17, 6:4, 6:9, 6:13, 9:21, 11:11, 12:21, 17:25, 19:6, 20:9, 32:1,</p>	<p>39:22, 57:4, 64:4, 64:5, 64:24, 64:24</p> <p><b>court</b> [7] - 19:1, 57:2, 57:9, 63:7, 63:15, 63:18, 64:11</p> <p><b>COURT</b> [125] - 1:3, 1:4, 1:5, 4:3, 4:14, 4:20, 4:24, 5:3, 5:6, 5:18, 6:21, 6:24, 7:2, 7:18, 7:21, 7:24, 8:8, 8:12, 8:15, 8:23, 9:4, 9:7, 9:14, 10:2, 10:12, 11:3, 11:7, 11:11, 12:3, 12:8, 12:20, 13:1, 13:5, 13:10, 13:21, 13:25, 14:2, 14:5, 14:12, 14:17, 14:24, 15:5, 15:8, 15:10, 15:14, 15:23, 16:3, 16:8, 16:21, 16:25, 17:4, 17:12, 17:14, 17:22, 18:5, 18:9, 18:17, 18:22, 19:2, 19:8, 19:12, 19:16, 19:21, 19:24, 20:10, 20:19, 20:23, 21:2, 21:6, 21:10, 21:13, 21:19, 21:25, 22:2, 22:8, 22:14, 22:18, 22:21, 22:23, 23:2, 23:6, 23:12, 27:25, 28:10, 28:13, 28:16, 28:20, 28:24, 29:1, 29:10, 34:10, 34:14, 36:18, 38:16, 38:19, 39:4, 39:23, 40:17, 40:20, 40:23, 43:2, 43:5, 43:20, 44:5, 48:14, 53:21, 54:20, 54:24, 55:5, 55:11, 56:11, 56:21, 57:1, 57:6, 57:14, 58:5, 58:18, 58:23, 59:3, 59:13, 61:19, 61:23, 63:5, 63:13, 63:15</p> <p><b>courtesy</b> [2] - 6:22, 21:14</p> <p><b>created</b> [1] - 48:11</p> <p><b>credibility</b> [3] - 54:15, 57:18, 57:20</p> <p><b>Crime</b> [1] - 13:16</p> <p><b>criminal</b> [2] - 11:17, 46:13</p> <p><b>Criminal</b> [1] - 6:9</p> <p><b>Cross</b> [1] - 3:4</p> <p><b>CROSS</b> [1] - 23:16</p> <p><b>CROSS-EXAMINATION</b> [1] - 23:16</p>
--	---	--	---	--

<p><b>CSR</b> <sup>[1]</sup> - 64:23  <b>curious</b> <sup>[1]</sup> - 31:16  <b>current</b> <sup>[1]</sup> - 24:3  <b>custodian</b> <sup>[1]</sup> - 43:23  <b>CUSTODY</b> <sup>[1]</sup> - 3:16  <b>custody</b> <sup>[19]</sup> - 13:12, 13:17, 16:1, 48:4, 48:9, 48:11, 48:13, 48:18, 48:19, 48:21, 53:6, 53:13, 53:14, 53:17, 54:1, 62:9, 62:10, 62:13, 62:18</p>	<p>36:21, 37:8, 39:6, 39:17, 40:6, 60:6, 60:10  <b>Defense</b> <sup>[7]</sup> - 4:15, 4:19, 10:3, 17:19, 19:5, 19:21, 25:12  <b>Denver</b> <sup>[2]</sup> - 2:3, 4:10  <b>DENVER</b> <sup>[1]</sup> - 4:11  <b>Department</b> <sup>[3]</sup> - 13:12, 13:16, 24:6  <b>describe</b> <sup>[1]</sup> - 13:4  <b>DESCRIPTION</b> <sup>[2]</sup> - 3:7, 3:14  <b>destroyed</b> <sup>[1]</sup> - 5:13  <b>determine</b> <sup>[1]</sup> - 12:23  <b>different</b> <sup>[5]</sup> - 16:24, 42:20, 50:1, 55:17, 58:17  <b>differently</b> <sup>[1]</sup> - 56:2  <b>Dire</b> <sup>[1]</sup> - 3:4  <b>direct</b> <sup>[1]</sup> - 34:8  <b>Direct</b> <sup>[1]</sup> - 3:4  <b>directly</b> <sup>[1]</sup> - 9:16  <b>disagree</b> <sup>[1]</sup> - 39:23  <b>disclose</b> <sup>[3]</sup> - 29:3, 29:6, 60:18  <b>disclosed</b> <sup>[19]</sup> - 6:1, 29:5, 30:2, 31:2, 31:4, 34:5, 34:19, 35:7, 35:12, 36:5, 36:25, 46:13, 46:16, 46:23, 46:24, 49:7, 49:12, 49:13, 60:6  <b>discloses</b> <sup>[1]</sup> - 30:23  <b>DISCLOSURE</b> <sup>[1]</sup> - 3:9  <b>disclosure</b> <sup>[4]</sup> - 31:1, 35:13, 46:18, 49:9  <b>disclosures</b> <sup>[1]</sup> - 31:13  <b>discovered</b> <sup>[3]</sup> - 11:24, 11:25, 45:18  <b>DISCOVERY</b> <sup>[1]</sup> - 3:11  <b>discovery</b> <sup>[6]</sup> - 35:16, 35:17, 35:21, 36:3, 36:13, 36:22  <b>discuss</b> <sup>[1]</sup> - 31:20  <b>discussed</b> <sup>[3]</sup> - 27:3, 33:14, 59:18  <b>discussing</b> <sup>[2]</sup> - 16:13, 40:3  <b>Discussion</b> <sup>[3]</sup> - 8:18, 13:3, 63:12  <b>DISK</b> <sup>[1]</sup> - 3:8  <b>disk</b> <sup>[1]</sup> - 20:8  <b>dispute</b> <sup>[3]</sup> - 6:2, 30:3, 30:8  <b>District</b> <sup>[3]</sup> - 2:6, 8:20, 34:20  <b>Division</b> <sup>[1]</sup> - 8:21</p>	<p><b>document</b> <sup>[6]</sup> - 8:9, 16:4, 18:5, 31:8, 52:18, 53:23  <b>documentation</b> <sup>[4]</sup> - 62:23, 62:24, 62:25, 63:2  <b>documents</b> <sup>[2]</sup> - 8:1, 15:16  <b>done</b> <sup>[1]</sup> - 58:21  <b>down</b> <sup>[2]</sup> - 6:3, 23:11  <b>dozens</b> <sup>[1]</sup> - 26:11  <b>DPS</b> <sup>[12]</sup> - 17:11, 22:25, 24:14, 24:17, 25:2, 26:8, 42:6, 43:14, 43:24, 48:22, 53:24, 54:2  <b>duly</b> <sup>[1]</sup> - 23:15  <b>during</b> <sup>[5]</sup> - 9:12, 13:13, 14:10, 34:24, 54:5  <b>duty</b> <sup>[2]</sup> - 26:17, 26:24  <b>DVD</b> <sup>[1]</sup> - 21:25</p>	<p>16:14, 17:17, 20:2, 21:9, 22:5, 26:18, 30:16, 40:14, 41:2, 42:25, 48:5, 52:10, 56:6, 62:12, 64:8, 64:16  <b>Evidence</b> <sup>[4]</sup> - 7:11, 8:2, 8:10, 39:11  <b>exactly</b> <sup>[3]</sup> - 35:25, 52:12, 52:16  <b>EXAMINATION</b> <sup>[1]</sup> - 23:16  <b>example</b> <sup>[1]</sup> - 35:24  <b>excuse</b> <sup>[2]</sup> - 8:13, 56:21  <b>exhausted</b> <sup>[2]</sup> - 50:9, 50:13  <b>EXHIBIT</b> <sup>[1]</sup> - 3:6  <b>exhibit</b> <sup>[12]</sup> - 7:4, 7:6, 7:8, 7:10, 7:23, 8:6, 16:17, 19:15, 20:15, 21:22, 32:14, 39:20  <b>Exhibit</b> <sup>[57]</sup> - 7:8, 7:25, 9:3, 9:16, 9:25, 11:9, 11:12, 11:13, 11:15, 11:18, 12:25, 13:19, 13:22, 13:23, 14:4, 14:7, 14:12, 14:14, 14:18, 14:24, 15:1, 17:7, 17:14, 17:16, 17:24, 18:1, 18:12, 18:13, 18:14, 18:15, 18:18, 19:20, 19:24, 20:1, 20:8, 20:15, 20:17, 20:18, 21:6, 21:8, 21:24, 22:2, 22:4, 30:18, 32:13, 34:12, 37:12, 39:10, 39:16, 40:2, 40:14, 40:24, 41:1, 41:5, 41:21, 51:19, 53:1  <b>Exhibits</b> <sup>[2]</sup> - 20:7, 20:20  <b>exhibits</b> <sup>[5]</sup> - 7:5, 17:21, 18:23, 20:12, 64:15  <b>EXHIBITS</b> <sup>[2]</sup> - 3:7, 3:13  <b>exist</b> <sup>[1]</sup> - 43:12  <b>expected</b> <sup>[1]</sup> - 51:3  <b>expert</b> <sup>[6]</sup> - 24:24, 24:25, 25:2, 25:4, 25:6, 25:11  <b>Expiration</b> <sup>[1]</sup> - 64:23  <b>explain</b> <sup>[2]</sup> - 35:23, 56:10  <b>explaining</b> <sup>[1]</sup> - 55:16  <b>extension</b> <sup>[1]</sup> - 10:13  <b>extra</b> <sup>[2]</sup> - 16:6, 20:9</p>	<p><b>F</b></p>
<p><b>D</b></p> <p><b>DA's</b> <sup>[4]</sup> - 10:22, 10:25, 11:6, 37:14  <b>database</b> <sup>[2]</sup> - 61:7, 61:13  <b>date</b> <sup>[6]</sup> - 32:10, 32:17, 32:23, 33:4, 35:1, 52:19  <b>DATE</b> <sup>[1]</sup> - 64:21  <b>Date</b> <sup>[1]</sup> - 64:23  <b>dated</b> <sup>[1]</sup> - 8:3  <b>dealing</b> <sup>[2]</sup> - 9:17, 50:23  <b>December</b> <sup>[2]</sup> - 17:8, 37:24  <b>decided</b> <sup>[1]</sup> - 47:23  <b>DEFENDANT</b> <sup>[1]</sup> - 2:10  <b>defendant</b> <sup>[8]</sup> - 25:8, 26:19, 35:4, 35:8, 35:15, 36:2, 46:16, 55:8  <b>defendant's</b> <sup>[4]</sup> - 5:13, 25:4, 25:6, 36:2  <b>DEFENDANT'S</b> <sup>[1]</sup> - 3:13  <b>Defendant's</b> <sup>[45]</sup> - 4:5, 4:21, 7:4, 7:8, 9:15, 9:25, 11:9, 11:12, 11:13, 11:15, 11:18, 12:24, 13:19, 13:21, 13:23, 14:6, 14:12, 14:14, 14:18, 14:24, 15:1, 17:7, 17:14, 17:16, 17:24, 18:1, 18:12, 18:13, 18:14, 18:18, 30:18, 32:13, 34:12, 37:12, 39:10, 39:16, 40:2, 40:14, 40:24, 41:1, 41:5, 41:21, 51:19, 53:1  <b>defendants</b> <sup>[2]</sup> - 25:3, 46:17  <b>defense</b> <sup>[11]</sup> - 11:17, 31:4, 36:7, 36:9,</p>	<p><b>disclosure</b> <sup>[4]</sup> - 31:1, 35:13, 46:18, 49:9  <b>disclosures</b> <sup>[1]</sup> - 31:13  <b>discovered</b> <sup>[3]</sup> - 11:24, 11:25, 45:18  <b>DISCOVERY</b> <sup>[1]</sup> - 3:11  <b>discovery</b> <sup>[6]</sup> - 35:16, 35:17, 35:21, 36:3, 36:13, 36:22  <b>discuss</b> <sup>[1]</sup> - 31:20  <b>discussed</b> <sup>[3]</sup> - 27:3, 33:14, 59:18  <b>discussing</b> <sup>[2]</sup> - 16:13, 40:3  <b>Discussion</b> <sup>[3]</sup> - 8:18, 13:3, 63:12  <b>DISK</b> <sup>[1]</sup> - 3:8  <b>disk</b> <sup>[1]</sup> - 20:8  <b>dispute</b> <sup>[3]</sup> - 6:2, 30:3, 30:8  <b>District</b> <sup>[3]</sup> - 2:6, 8:20, 34:20  <b>Division</b> <sup>[1]</sup> - 8:21</p>	<p><b>E</b></p> <p><b>easier</b> <sup>[1]</sup> - 13:8  <b>easy</b> <sup>[1]</sup> - 34:25  <b>either</b> <sup>[5]</sup> - 15:25, 29:21, 41:24, 57:2, 61:12  <b>elicit</b> <sup>[1]</sup> - 57:22  <b>eliciting</b> <sup>[1]</sup> - 56:5  <b>email</b> <sup>[1]</sup> - 8:3  <b>EMAILS</b> <sup>[1]</sup> - 3:15  <b>emails</b> <sup>[7]</sup> - 9:16, 27:6, 27:18, 27:21, 28:2, 28:4, 28:6  <b>end</b> <sup>[1]</sup> - 37:24  <b>enforcement</b> <sup>[1]</sup> - 24:22  <b>entered</b> <sup>[1]</sup> - 54:18  <b>entitled</b> <sup>[5]</sup> - 1:20, 7:11, 8:2, 8:9, 39:10  <b>error</b> <sup>[1]</sup> - 55:20  <b>essentially</b> <sup>[3]</sup> - 6:1, 6:10, 30:23  <b>establish</b> <sup>[1]</sup> - 5:12  <b>ethics</b> <sup>[1]</sup> - 26:15  <b>Eugene</b> <sup>[1]</sup> - 2:7  <b>EVANS</b> <sup>[1]</sup> - 4:19  <b>Evans</b> <sup>[2]</sup> - 2:11, 4:19  <b>eventually</b> <sup>[1]</sup> - 60:4  <b>EVIDENCE</b> <sup>[1]</sup> - 3:15  <b>evidence</b> <sup>[35]</sup> - 5:12, 5:25, 6:18, 9:11, 9:22, 9:23, 10:10, 11:14, 11:21, 12:2, 13:7, 13:18, 13:24, 14:7, 14:15, 15:2,</p>	<p>16:14, 17:17, 20:2, 21:9, 22:5, 26:18, 30:16, 40:14, 41:2, 42:25, 48:5, 52:10, 56:6, 62:12, 64:8, 64:16  <b>Evidence</b> <sup>[4]</sup> - 7:11, 8:2, 8:10, 39:11  <b>exactly</b> <sup>[3]</sup> - 35:25, 52:12, 52:16  <b>EXAMINATION</b> <sup>[1]</sup> - 23:16  <b>example</b> <sup>[1]</sup> - 35:24  <b>excuse</b> <sup>[2]</sup> - 8:13, 56:21  <b>exhausted</b> <sup>[2]</sup> - 50:9, 50:13  <b>EXHIBIT</b> <sup>[1]</sup> - 3:6  <b>exhibit</b> <sup>[12]</sup> - 7:4, 7:6, 7:8, 7:10, 7:23, 8:6, 16:17, 19:15, 20:15, 21:22, 32:14, 39:20  <b>Exhibit</b> <sup>[57]</sup> - 7:8, 7:25, 9:3, 9:16, 9:25, 11:9, 11:12, 11:13, 11:15, 11:18, 12:25, 13:19, 13:22, 13:23, 14:4, 14:7, 14:12, 14:14, 14:18, 14:24, 15:1, 17:7, 17:14, 17:16, 17:24, 18:1, 18:12, 18:13, 18:14, 18:15, 18:18, 19:20, 19:24, 20:1, 20:8, 20:15, 20:17, 20:18, 21:6, 21:8, 21:24, 22:2, 22:4, 30:18, 32:13, 34:12, 37:12, 39:10, 39:16, 40:2, 40:14, 40:24, 41:1, 41:5, 41:21, 51:19, 53:1  <b>Exhibits</b> <sup>[2]</sup> - 20:7, 20:20  <b>exhibits</b> <sup>[5]</sup> - 7:5, 17:21, 18:23, 20:12, 64:15  <b>EXHIBITS</b> <sup>[2]</sup> - 3:7, 3:13  <b>exist</b> <sup>[1]</sup> - 43:12  <b>expected</b> <sup>[1]</sup> - 51:3  <b>expert</b> <sup>[6]</sup> - 24:24, 24:25, 25:2, 25:4, 25:6, 25:11  <b>Expiration</b> <sup>[1]</sup> - 64:23  <b>explain</b> <sup>[2]</sup> - 35:23, 56:10  <b>explaining</b> <sup>[1]</sup> - 55:16  <b>extension</b> <sup>[1]</sup> - 10:13  <b>extra</b> <sup>[2]</sup> - 16:6, 20:9</p>	<p><b>F-e-s-m-i-r-e</b> <sup>[1]</sup> - 4:11  <b>fact</b> <sup>[2]</sup> - 10:14, 30:9  <b>failed</b> <sup>[3]</sup> - 41:24, 41:25, 42:22  <b>failure</b> <sup>[1]</sup> - 48:10  <b>familiar</b> <sup>[5]</sup> - 31:23, 38:2, 56:15, 56:17, 58:15  <b>far</b> <sup>[4]</sup> - 12:1, 46:18, 47:22, 50:23  <b>fashion</b> <sup>[1]</sup> - 10:5  <b>favorable</b> <sup>[4]</sup> - 5:25, 26:18, 26:19, 31:4  <b>Favorable</b> <sup>[4]</sup> - 7:11, 8:2, 8:10, 39:11  <b>FAVORABLE</b> <sup>[1]</sup> - 3:15  <b>February</b> <sup>[11]</sup> - 42:12, 42:15, 43:2, 44:15, 44:22, 46:17, 48:10, 48:17, 49:17, 61:6, 61:22  <b>Fesmire</b> <sup>[7]</sup> - 2:3, 4:10, 19:1, 19:2, 19:6, 21:10, 21:20  <b>FESMIRE</b> <sup>[28]</sup> - 4:10, 19:3, 19:10, 19:14, 19:18, 20:3, 20:6, 20:14, 20:21, 21:11, 21:17, 21:21, 22:1, 22:6, 28:3, 28:8, 36:16, 39:2, 39:19, 40:15, 40:18, 40:22, 43:18, 44:4, 48:12, 54:12, 55:4, 55:7  <b>few</b> <sup>[1]</sup> - 8:14  <b>figured</b> <sup>[1]</sup> - 49:21  <b>file</b> <sup>[2]</sup> - 15:16, 53:16  <b>file-stamped</b> <sup>[1]</sup> - 15:16  <b>filed</b> <sup>[2]</sup> - 35:21, 36:2  <b>final</b> <sup>[3]</sup> - 30:21, 30:25, 35:9  <b>finalized</b> <sup>[7]</sup> - 35:25, 36:14, 36:22, 43:15, 44:8, 44:17, 49:10  <b>fine</b> <sup>[1]</sup> - 35:3  <b>first</b> <sup>[12]</sup> - 6:1, 7:8, 11:25, 15:18, 19:3, 22:24, 41:18, 55:22, 56:14, 58:9, 61:10, 61:21  <b>five</b> <sup>[1]</sup> - 27:14  <b>fix</b> <sup>[4]</sup> - 47:15, 48:24, 49:7, 62:4  <b>fixed</b> <sup>[1]</sup> - 60:24  <b>folder</b> <sup>[1]</sup> - 35:12</p>

<b>follow</b> [2] - 7:7, 29:25 <b>following</b> [1] - 1:19 <b>follows</b> [1] - 23:15 <b>FOR</b> [3] - 1:14, 2:2, 2:10 <b>foregoing</b> [1] - 64:6 <b>forensic</b> [2] - 24:4, 24:9 <b>form</b> [14] - 13:12, 13:17, 31:1, 35:13, 42:24, 52:14, 52:17, 52:22, 53:2, 53:22, 57:19, 61:3, 61:8 <b>FORM</b> [1] - 3:9 <b>format</b> [1] - 27:15 <b>forms</b> [8] - 52:4, 52:6, 61:12, 61:13, 61:17, 62:1, 62:5, 62:25 <b>FORT</b> [2] - 1:9, 64:2 <b>Fort</b> [3] - 1:22, 8:20, 64:5 <b>Franklin</b> [1] - 2:13 <b>fresh</b> [1] - 61:6 <b>front</b> [5] - 13:2, 28:16, 55:9, 58:23 <b>full</b> [1] - 34:15 <b>future</b> [1] - 60:6	32:12, 33:19, 63:11 <b>hear</b> [6] - 6:5, 16:14, 17:1, 56:22, 57:2, 57:10 <b>heard</b> [2] - 1:20, 55:4 <b>hearing</b> [7] - 6:18, 9:5, 10:11, 13:8, 30:18, 44:12, 54:18 <b>Heimann</b> [1] - 2:7 <b>held</b> [2] - 1:22, 6:10 <b>help</b> [1] - 51:19 <b>helping</b> [1] - 42:10 <b>hereby</b> [1] - 64:6 <b>high</b> [1] - 51:2 <b>hire</b> [1] - 25:8 <b>hold</b> [2] - 21:13, 26:10 <b>Honor</b> [35] - 6:20, 11:10, 14:23, 15:4, 15:7, 15:12, 16:22, 17:13, 18:21, 19:3, 19:4, 19:10, 19:15, 19:19, 20:3, 20:7, 20:14, 20:22, 21:11, 21:17, 21:21, 22:1, 22:7, 22:11, 27:20, 39:2, 39:19, 40:13, 40:16, 54:12, 54:18, 55:4, 55:8, 56:3, 57:16 <b>Honorable</b> [1] - 1:21 <b>hope</b> [2] - 17:5, 32:25 <b>hours</b> [4] - 26:7, 26:11, 26:12, 50:8 <b>housekeeping</b> [2] - 5:2, 63:11 <b>Houston</b> [3] - 2:14, 42:21, 47:24 <b>huge</b> [1] - 51:8 <b>hundreds</b> [2] - 26:11, 26:13 <b>hung</b> [1] - 15:21	31:21, 32:11, 32:15, 32:18, 33:6, 33:9, 33:22, 34:3, 34:4, 34:19, 35:1, 35:5, 35:20, 36:1, 36:10, 37:11, 42:12, 42:15, 43:10, 44:15, 46:17, 48:11, 49:17, 49:24, 50:7, 51:21, 54:11, 54:13, 55:20, 55:23, 58:12, 60:25, 61:1, 61:5, 61:18, 62:14 <b>INCIDENT</b> [2] - 3:17, 3:18 <b>Incident</b> [11] - 12:12, 14:19, 17:8, 32:15, 34:3, 41:10, 43:9, 44:8, 44:14, 59:21, 59:23 <b>incidents</b> [18] - 7:14, 11:1, 11:24, 29:3, 37:24, 38:6, 38:10, 38:22, 38:25, 39:7, 39:18, 40:3, 40:7, 41:8, 41:13, 54:22, 59:19, 59:25 <b>include</b> [1] - 26:15 <b>included</b> [2] - 7:13, 64:9 <b>inconsistent</b> [3] - 56:7, 57:23, 58:16 <b>incorrect</b> [1] - 46:7 <b>increase</b> [1] - 51:9 <b>INDEX</b> [2] - 3:1, 3:6 <b>indicating</b> [1] - 18:23 <b>inflate</b> [1] - 57:24 <b>Information</b> [1] - 52:7 <b>information</b> [14] - 12:16, 30:23, 30:24, 35:7, 37:4, 44:25, 48:1, 48:6, 49:5, 52:18, 53:12, 61:3, 61:15, 63:1 <b>INFORMATION</b> [2] - 3:9, 3:10 <b>initial</b> [1] - 55:19 <b>innocence</b> [1] - 5:13 <b>inquiry</b> [1] - 10:18 <b>INSERT</b> [1] - 64:20 <b>inside</b> [1] - 45:8 <b>insourcing</b> [2] - 50:24, 50:25 <b>instance</b> [4] - 54:9, 54:17, 57:25, 58:2 <b>instances</b> [2] - 56:5, 57:18 <b>intentionally</b> [1] - 5:13 <b>interest</b> [3] - 6:7, 6:12, 6:15 <b>interrupting</b> [1] - 8:22	<b>introduce</b> [2] - 23:19, 40:14 <b>introduced</b> [2] - 12:1, 12:14 <b>investigation</b> [1] - 26:5 <b>involved</b> [4] - 35:4, 42:3, 42:18, 44:10 <b>irrelevant</b> [1] - 16:23 <b>Israel</b> [1] - 12:18 <b>issue</b> [7] - 15:19, 48:9, 48:13, 48:17, 51:16, 60:3, 60:5 <b>issued</b> [5] - 44:11, 46:8, 59:11, 59:16, 59:24 <b>itself</b> [1] - 13:15	<b>kits</b> [6] - 41:25, 48:3, 48:4, 52:4, 61:14, 62:11 <b>knowledge</b> [3] - 36:17, 43:19, 59:23 <b>known</b> [1] - 35:19 <b>knows</b> [2] - 43:21, 55:13
<b>G</b>		<b>J</b>		<b>L</b>
<b>Garland</b> [11] - 42:3, 42:6, 42:9, 42:10, 42:21, 45:19, 46:6, 47:16, 47:24, 50:24, 51:15 <b>Gavin</b> [3] - 2:4, 4:12, 19:7 <b>GAVIN</b> [1] - 4:13 <b>generally</b> [1] - 32:1 <b>given</b> [6] - 6:3, 25:13, 36:7, 37:4, 39:17, 54:22 <b>grab</b> [1] - 30:15 <b>grant</b> [1] - 6:14 <b>granted</b> [1] - 5:21 <b>granting</b> [1] - 5:11 <b>ground</b> [1] - 6:16 <b>grounds</b> [1] - 6:10 <b>guilty</b> [1] - 4:7 <b>guys</b> [2] - 43:14	<b>idea</b> [1] - 10:10 <b>identify</b> [1] - 19:9 <b>impeach</b> [1] - 58:16 <b>impeachment</b> [3] - 55:7, 56:4, 57:22 <b>important</b> [3] - 29:24, 53:5, 53:13 <b>improper</b> [3] - 55:7, 56:4, 57:25 <b>improperly</b> [1] - 56:5 <b>IN</b> [1] - 1:5 <b>inadmissible</b> [1] - 54:14 <b>incident</b> [42] - 17:8, 29:15, 29:16, 29:20,	<b>incidents</b> [18] - 7:14, 11:1, 11:24, 29:3, 37:24, 38:6, 38:10, 38:22, 38:25, 39:7, 39:18, 40:3, 40:7, 41:8, 41:13, 54:22, 59:19, 59:25 <b>include</b> [1] - 26:15 <b>included</b> [2] - 7:13, 64:9 <b>inconsistent</b> [3] - 56:7, 57:23, 58:16 <b>incorrect</b> [1] - 46:7 <b>increase</b> [1] - 51:9 <b>INDEX</b> [2] - 3:1, 3:6 <b>indicating</b> [1] - 18:23 <b>inflate</b> [1] - 57:24 <b>Information</b> [1] - 52:7 <b>information</b> [14] - 12:16, 30:23, 30:24, 35:7, 37:4, 44:25, 48:1, 48:6, 49:5, 52:18, 53:12, 61:3, 61:15, 63:1 <b>INFORMATION</b> [2] - 3:9, 3:10 <b>initial</b> [1] - 55:19 <b>innocence</b> [1] - 5:13 <b>inquiry</b> [1] - 10:18 <b>INSERT</b> [1] - 64:20 <b>inside</b> [1] - 45:8 <b>insourcing</b> [2] - 50:24, 50:25 <b>instance</b> [4] - 54:9, 54:17, 57:25, 58:2 <b>instances</b> [2] - 56:5, 57:18 <b>intentionally</b> [1] - 5:13 <b>interest</b> [3] - 6:7, 6:12, 6:15 <b>interrupting</b> [1] - 8:22	<b>Jackson</b> [1] - 64:25 <b>Jawed</b> [1] - 4:5 <b>JAWED</b> [1] - 1:9 <b>job</b> [5] - 24:3, 24:7, 24:13, 24:16, 25:25 <b>Johnson</b> [3] - 64:4, 64:22, 64:23 <b>Jonathan</b> [2] - 2:12, 4:16 <b>Judge</b> [42] - 1:21, 5:7, 5:15, 5:22, 6:23, 7:1, 7:23, 8:6, 8:13, 8:19, 8:25, 9:6, 9:10, 12:5, 14:1, 14:4, 14:11, 15:9, 16:16, 16:20, 17:6, 17:20, 18:4, 18:16, 19:23, 21:5, 22:20, 23:10, 28:25, 30:15, 34:13, 39:25, 41:3, 53:20, 54:21, 56:13, 56:24, 57:13, 58:4, 58:17, 58:22, 59:5 <b>judicial</b> [2] - 22:12, 22:18 <b>juror</b> [2] - 15:19, 16:18 <b>JUROR</b> [1] - 3:18 <b>jury</b> [5] - 4:6, 15:21, 16:11, 16:13 <b>justice</b> [3] - 6:7, 6:12, 6:15	<b>lab</b> [18] - 29:16, 29:20, 42:4, 42:6, 42:9, 42:10, 42:21, 42:22, 45:15, 47:12, 47:16, 47:24, 49:21, 50:16, 50:24, 51:1, 53:9 <b>label</b> [1] - 41:24 <b>labels</b> [2] - 48:24, 49:4 <b>Laboratory</b> [2] - 13:16, 52:7 <b>LABORATORY</b> [3] - 3:9, 3:10, 3:17 <b>laboratory</b> [3] - 14:8, 48:2, 49:1 <b>lacks</b> [2] - 36:16, 43:18 <b>LANDERS</b> [104] - 4:16, 4:23, 5:1, 5:4, 5:7, 5:19, 6:22, 7:1, 7:3, 7:20, 8:5, 8:11, 8:16, 9:9, 9:15, 10:6, 10:24, 11:4, 11:15, 12:24, 13:4, 13:6, 13:11, 14:1, 14:3, 14:6, 14:16, 14:18, 15:3, 15:7, 15:9, 15:12, 15:15, 16:2, 16:5, 16:11, 16:19, 17:3, 17:5, 17:18, 18:3, 18:7, 18:16, 19:23, 20:25, 21:4, 21:23, 22:11, 22:17, 22:20, 22:22, 22:25, 23:10, 23:13, 23:18, 27:20, 28:1, 28:6, 28:11, 28:15, 28:18, 28:23, 28:25, 29:2, 29:14, 29:22, 30:15, 30:17, 34:12, 34:15, 36:21, 38:18, 38:20, 39:5, 39:25, 40:1, 40:13, 41:3, 41:4, 43:4, 43:6, 43:23, 44:7, 48:17, 52:25, 53:2, 53:19, 53:22, 54:21, 55:1, 55:12, 55:14, 56:13, 56:14, 57:12, 58:3, 58:7, 58:21, 58:25, 59:1,
<b>H</b>		<b>K</b>		
<b>HAND</b> [1] - 64:20 <b>hand</b> [2] - 18:25, 23:4 <b>hands</b> [1] - 63:13 <b>hang</b> [1] - 29:10 <b>head</b> [4] - 32:11,	32:12, 33:19, 63:11 <b>hear</b> [6] - 6:5, 16:14, 17:1, 56:22, 57:2, 57:10 <b>heard</b> [2] - 1:20, 55:4 <b>hearing</b> [7] - 6:18, 9:5, 10:11, 13:8, 30:18, 44:12, 54:18 <b>Heimann</b> [1] - 2:7 <b>held</b> [2] - 1:22, 6:10 <b>help</b> [1] - 51:19 <b>helping</b> [1] - 42:10 <b>hereby</b> [1] - 64:6 <b>high</b> [1] - 51:2 <b>hire</b> [1] - 25:8 <b>hold</b> [2] - 21:13, 26:10 <b>Honor</b> [35] - 6:20, 11:10, 14:23, 15:4, 15:7, 15:12, 16:22, 17:13, 18:21, 19:3, 19:4, 19:10, 19:15, 19:19, 20:3, 20:7, 20:14, 20:22, 21:11, 21:17, 21:21, 22:1, 22:7, 22:11, 27:20, 39:2, 39:19, 40:13, 40:16, 54:12, 54:18, 55:4, 55:8, 56:3, 57:16 <b>Honorable</b> [1] - 1:21 <b>hope</b> [2] - 17:5, 32:25 <b>hours</b> [4] - 26:7, 26:11, 26:12, 50:8 <b>housekeeping</b> [2] - 5:2, 63:11 <b>Houston</b> [3] - 2:14, 42:21, 47:24 <b>huge</b> [1] - 51:8 <b>hundreds</b> [2] - 26:11, 26:13 <b>hung</b> [1] - 15:21	31:21, 32:11, 32:15, 32:18, 33:6, 33:9, 33:22, 34:3, 34:4, 34:19, 35:1, 35:5, 35:20, 36:1, 36:10, 37:11, 42:12, 42:15, 43:10, 44:15, 46:17, 48:11, 49:17, 49:24, 50:7, 51:21, 54:11, 54:13, 55:20, 55:23, 58:12, 60:25, 61:1, 61:5, 61:18, 62:14 <b>INCIDENT</b> [2] - 3:17, 3:18 <b>Incident</b> [11] - 12:12, 14:19, 17:8, 32:15, 34:3, 41:10, 43:9, 44:8, 44:14, 59:21, 59:23 <b>incidents</b> [18] - 7:14, 11:1, 11:24, 29:3, 37:24, 38:6, 38:10, 38:22, 38:25, 39:7, 39:18, 40:3, 40:7, 41:8, 41:13, 54:22, 59:19, 59:25 <b>include</b> [1] - 26:15 <b>included</b> [2] - 7:13, 64:9 <b>inconsistent</b> [3] - 56:7, 57:23, 58:16 <b>incorrect</b> [1] - 46:7 <b>increase</b> [1] - 51:9 <b>INDEX</b> [2] - 3:1, 3:6 <b>indicating</b> [1] - 18:23 <b>inflate</b> [1] - 57:24 <b>Information</b> [1] - 52:7 <b>information</b> [14] - 12:16, 30:23, 30:24, 35:7, 37:4, 44:25, 48:1, 48:6, 49:5, 52:18, 53:12, 61:3, 61:15, 63:1 <b>INFORMATION</b> [2] - 3:9, 3:10 <b>initial</b> [1] - 55:19 <b>innocence</b> [1] - 5:13 <b>inquiry</b> [1] - 10:18 <b>INSERT</b> [1] - 64:20 <b>inside</b> [1] - 45:8 <b>insourcing</b> [2] - 50:24, 50:25 <b>instance</b> [4] - 54:9, 54:17, 57:25, 58:2 <b>instances</b> [2] - 56:5, 57:18 <b>intentionally</b> [1] - 5:13 <b>interest</b> [3] - 6:7, 6:12, 6:15 <b>interrupting</b> [1] - 8:22	<b>introduce</b> [2] - 23:19, 40:14 <b>introduced</b> [2] - 12:1, 12:14 <b>investigation</b> [1] - 26:5 <b>involved</b> [4] - 35:4, 42:3, 42:18, 44:10 <b>irrelevant</b> [1] - 16:23 <b>Israel</b> [1] - 12:18 <b>issue</b> [7] - 15:19, 48:9, 48:13, 48:17, 51:16, 60:3, 60:5 <b>issued</b> [5] - 44:11, 46:8, 59:11, 59:16, 59:24 <b>itself</b> [1] - 13:15	<b>kits</b> [6] - 41:25, 48:3, 48:4, 52:4, 61:14, 62:11 <b>knowledge</b> [3] - 36:17, 43:19, 59:23 <b>known</b> [1] - 35:19 <b>knows</b> [2] - 43:21, 55:13

59:6, 59:15, 60:17, 62:1 <b>Landers</b> [6] - 2:12, 4:16, 15:24, 18:11, 22:9, 23:8 <b>last</b> [3] - 31:6, 34:15, 40:1 <b>LAW</b> [1] - 1:7 <b>law</b> [1] - 24:21 <b>Law</b> [3] - 2:13, 64:5, 64:24 <b>lawyer</b> [1] - 11:17 <b>leaking</b> [1] - 32:5 <b>least</b> [2] - 6:18, 39:15 <b>Lee</b> [1] - 12:18 <b>left</b> [1] - 33:12 <b>LIMS</b> [5] - 52:7, 52:9, 61:7, 62:9, 62:17 <b>line</b> [1] - 57:17 <b>list</b> [1] - 19:19 <b>listed</b> [1] - 41:21 <b>lists</b> [3] - 33:22, 33:25, 41:8 <b>look</b> [5] - 7:24, 27:22, 31:6, 60:10, 60:14 <b>looked</b> [1] - 61:7 <b>looking</b> [1] - 54:14 <b>looks</b> [1] - 7:25 <b>lunch</b> [1] - 63:8	<b>mentioned</b> [1] - 60:8 <b>messing</b> [1] - 17:6 <b>method</b> [2] - 57:19, 58:1 <b>might</b> [5] - 8:7, 13:12, 29:5, 31:4, 55:16 <b>mind</b> [3] - 32:25, 57:10, 61:6 <b>minute</b> [2] - 57:3, 57:11 <b>misconduct</b> [4] - 10:5, 10:15, 10:19, 10:21 <b>misremembered</b> [1] - 54:11 <b>missed</b> [1] - 41:24 <b>mistake</b> [12] - 45:13, 46:7, 49:16, 50:3, 50:14, 51:15, 52:13, 58:12, 59:7, 59:9, 59:15 <b>mistakes</b> [1] - 55:3 <b>mistrial</b> [1] - 16:15 <b>mix</b> [2] - 7:5, 13:9 <b>mixed</b> [1] - 15:25 <b>MNT</b> [5] - 7:9, 20:12, 20:15, 21:22 <b>MNT"</b> [1] - 20:18 <b>moderate</b> [1] - 34:1 <b>moment</b> [2] - 20:3, 28:8 <b>Momin</b> [2] - 4:5, 4:17 <b>MOMIN</b> [1] - 1:9 <b>Momin's</b> [12] - 14:8, 24:11, 25:22, 26:4, 27:2, 32:24, 33:9, 38:14, 43:7, 44:11, 50:22, 52:23 <b>Monroy</b> [8] - 7:12, 11:17, 12:18, 38:12, 38:18, 39:11, 40:7, 56:1 <b>Montgomery</b> [9] - 7:12, 12:17, 15:16, 15:18, 15:21, 16:12, 36:1, 38:8, 54:10 <b>month</b> [1] - 51:3 <b>Morgan</b> [1] - 18:8 <b>most</b> [1] - 6:19 <b>motion</b> [11] - 4:6, 4:21, 5:5, 5:11, 5:20, 6:6, 6:16, 7:9, 7:14, 10:3, 20:16 <b>MOTION</b> [1] - 1:14 <b>moving</b> [1] - 62:12 <b>MR</b> [154] - 4:10, 4:12, 4:16, 4:19, 4:23, 5:1, 5:4, 5:7, 5:19, 6:22, 7:1, 7:3, 7:20, 7:22, 8:5, 8:11, 8:13, 8:16, 8:19, 8:25, 9:6, 9:9,	9:15, 10:6, 10:24, 11:4, 11:10, 11:15, 12:5, 12:9, 12:24, 13:4, 13:6, 13:11, 13:20, 14:1, 14:3, 14:6, 14:9, 14:16, 14:18, 14:23, 15:3, 15:7, 15:9, 15:12, 15:15, 16:2, 16:5, 16:11, 16:16, 16:19, 16:22, 17:3, 17:5, 17:13, 17:18, 17:20, 18:3, 18:7, 18:16, 18:20, 18:25, 19:3, 19:10, 19:14, 19:18, 19:23, 20:3, 20:6, 20:14, 20:21, 20:25, 21:4, 21:11, 21:17, 21:21, 21:23, 22:1, 22:6, 22:11, 22:17, 22:20, 22:22, 22:25, 23:10, 23:13, 23:18, 27:20, 28:1, 28:3, 28:6, 28:8, 28:11, 28:15, 28:18, 28:23, 28:25, 29:2, 29:14, 29:22, 30:15, 30:17, 34:12, 34:15, 36:16, 36:21, 38:18, 38:20, 39:2, 39:5, 39:19, 39:25, 40:1, 40:13, 40:15, 40:18, 40:22, 41:3, 41:4, 43:4, 43:6, 43:18, 43:23, 44:4, 44:7, 48:12, 48:17, 52:25, 53:2, 53:19, 53:22, 54:12, 54:21, 55:1, 55:4, 55:7, 55:12, 55:14, 56:3, 56:13, 56:14, 57:12, 57:16, 58:3, 58:7, 58:21, 58:25, 59:1, 59:5, 59:6, 59:15, 60:17, 62:1 <b>MS</b> [2] - 56:24, 57:4 <b>must</b> [2] - 5:21, 6:11 <b>MY</b> [1] - 64:20	31:3, 32:20, 33:13, 41:4, 57:7, 59:1, 62:14, 63:6 <b>needs</b> [2] - 31:2, 56:8 <b>never</b> [2] - 30:8, 34:6 <b>new</b> [12] - 4:6, 5:12, 5:20, 6:7, 7:9, 20:16, 48:2, 48:24, 49:1, 49:4, 61:16, 62:24 <b>NEW</b> [1] - 1:14 <b>newer</b> [1] - 39:18 <b>next</b> [1] - 11:15 <b>NO</b> [9] - 1:3, 1:4, 1:7, 2:4, 2:5, 2:6, 2:11, 3:7, 3:14 <b>Nos</b> [2] - 21:7, 21:8 <b>notation</b> [4] - 62:8, 62:16, 62:21 <b>note</b> [4] - 11:19, 34:23, 40:21, 40:23 <b>noted</b> [1] - 7:9 <b>notes</b> [3] - 15:19, 16:11, 33:1 <b>NOTES</b> [1] - 3:18 <b>nothing</b> [1] - 22:6 <b>Notice</b> [4] - 7:10, 8:2, 8:9, 39:10 <b>notice</b> [10] - 22:12, 22:18, 36:9, 36:15, 36:23, 37:21, 38:24, 39:17, 40:6, 51:18 <b>NOTICE</b> [1] - 3:14 <b>noticed</b> [4] - 32:5, 32:7, 46:1, 61:2 <b>notified</b> [2] - 34:21, 37:15 <b>November</b> [3] - 33:5, 63:16, 63:19 <b>number</b> [8] - 6:8, 7:6, 19:17, 26:10, 45:4, 46:21, 49:11, 50:20 <b>numbered</b> [2] - 1:20, 64:10 <b>numbers</b> [3] - 48:2, 49:1, 60:9 <b>nurse</b> [1] - 52:20	<b>object</b> [3] - 12:10, 16:16, 39:20 <b>objected</b> [1] - 6:19 <b>objection</b> [26] - 7:23, 9:8, 9:18, 11:10, 11:19, 12:21, 13:20, 14:11, 14:23, 15:4, 17:4, 17:13, 19:21, 21:1, 21:23, 36:16, 36:19, 39:2, 40:15, 40:19, 43:18, 44:4, 48:12, 54:12, 56:3, 59:3 <b>objections</b> [2] - 19:23, 21:5 <b>objects</b> [1] - 57:16 <b>obtains</b> [1] - 36:21 <b>occurred</b> [4] - 47:20, 50:7, 50:10, 64:11 <b>October</b> [3] - 1:19, 3:2, 4:2 <b>OF</b> [7] - 1:2, 1:4, 1:5, 3:14, 3:16, 64:2, 64:2 <b>offense</b> [1] - 52:18 <b>offer</b> [4] - 18:23, 19:5, 39:25, 64:15 <b>offered</b> [12] - 11:13, 13:23, 14:14, 15:1, 17:16, 18:3, 20:1, 21:9, 22:4, 39:24, 41:1, 64:16 <b>OFFERED</b> [2] - 3:7, 3:14 <b>office</b> [4] - 10:22, 11:1, 11:6, 37:15 <b>Office</b> [1] - 34:20 <b>officer's</b> [1] - 45:5 <b>Official</b> [2] - 64:4, 64:24 <b>OFFICIAL</b> [1] - 64:20 <b>officialized</b> [1] - 12:14 <b>often</b> [2] - 24:24, 26:2 <b>oftentimes</b> [1] - 26:14 <b>once</b> [3] - 36:6, 59:10, 60:5 <b>one</b> [32] - 5:9, 5:19, 6:14, 8:1, 8:3, 13:1, 14:19, 16:8, 18:15, 18:17, 20:3, 27:17, 29:10, 31:25, 32:6, 38:10, 38:11, 38:20, 42:3, 42:21, 43:12, 49:3, 50:9, 53:8, 53:19, 58:11, 59:7, 59:19, 60:3, 61:9, 61:21, 61:24 <b>ones</b> [2] - 21:3, 41:18 <b>open</b> [1] - 64:11 <b>opened</b> [1] - 45:19
<b>M</b>		<b>N</b>	<b>O</b>	
<b>M-o-n-r-o-y</b> [1] - 38:18 <b>machine</b> [1] - 1:24 <b>maintain</b> [2] - 48:4, 53:12 <b>Management</b> [1] - 52:7 <b>mandatory</b> [1] - 5:20 <b>mark</b> [5] - 19:12, 19:17, 19:18, 19:20, 20:17 <b>marked</b> [7] - 16:1, 20:7, 20:15, 21:3, 21:15, 21:22, 39:9 <b>markings</b> [1] - 21:18 <b>match</b> [3] - 13:9, 42:23, 61:3 <b>materiality</b> [2] - 6:3, 6:4 <b>matter</b> [1] - 16:24 <b>matters</b> [2] - 3:3, 5:2 <b>McCollum</b> [1] - 1:21 <b>mean</b> [2] - 26:11, 52:16 <b>meaning</b> [1] - 43:14 <b>means</b> [2] - 9:11, 58:1 <b>member</b> [1] - 26:25 <b>memory</b> [1] - 34:18		<b>name</b> [11] - 23:21, 38:16, 42:23, 42:24, 44:25, 45:4, 45:5, 61:2, 61:7, 63:1 <b>names</b> [1] - 63:17 <b>nature</b> [1] - 61:5 <b>necessarily</b> [2] - 36:14, 36:23 <b>need</b> [15] - 4:17, 5:4, 20:23, 22:10, 28:16,	<b>O'BRIEN</b> [19] - 4:12, 7:22, 8:25, 9:6, 11:10, 12:5, 12:9, 13:20, 14:9, 14:23, 16:16, 16:22, 17:13, 17:20, 18:20, 18:25, 56:3, 57:16, 59:5 <b>O'Brien</b> [5] - 2:4, 4:12, 11:8, 18:22, 19:7 <b>O-'B-r-i-e-n</b> [1] - 4:13	

<p><b>opening</b> <sup>[1]</sup> - 22:10</p> <p><b>operating</b> <sup>[2]</sup> - 29:23, 29:25</p> <p><b>opinion</b> <sup>[3]</sup> - 54:15, 57:21, 58:9</p> <p><b>opportunity</b> <sup>[6]</sup> - 12:23, 25:14, 28:21, 56:8, 57:8, 58:19</p> <p><b>opposed</b> <sup>[1]</sup> - 56:6</p> <p><b>opposite</b> <sup>[1]</sup> - 58:14</p> <p><b>options</b> <sup>[1]</sup> - 47:21</p> <p><b>ORDER</b> <sup>[1]</sup> - 3:11</p> <p><b>ordered</b> <sup>[1]</sup> - 63:16</p> <p><b>originally</b> <sup>[2]</sup> - 54:10, 63:1</p> <p><b>overrule</b> <sup>[1]</sup> - 36:18</p> <p><b>overruled</b> <sup>[8]</sup> - 39:4, 39:23, 40:17, 43:20, 44:5, 48:15, 55:11, 59:4</p> <p><b>overtime</b> <sup>[1]</sup> - 50:8</p> <p><b>overworked</b> <sup>[1]</sup> - 50:13</p> <p><b>own</b> <sup>[2]</sup> - 17:21, 55:3</p>	<p><b>pertaining</b> <sup>[1]</sup> - 12:11</p> <p><b>pertains</b> <sup>[1]</sup> - 16:23</p> <p><b>phone</b> <sup>[1]</sup> - 27:18</p> <p><b>picked</b> <sup>[1]</sup> - 32:6</p> <p><b>pieces</b> <sup>[2]</sup> - 48:5, 62:12</p> <p><b>place</b> <sup>[3]</sup> - 38:14, 40:4, 50:22</p> <p><b>placed</b> <sup>[1]</sup> - 48:2</p> <p><b>placing</b> <sup>[1]</sup> - 32:4</p> <p><b>plans</b> <sup>[1]</sup> - 17:21</p> <p><b>point</b> <sup>[12]</sup> - 5:17, 9:12, 9:20, 28:19, 28:21, 31:16, 38:5, 40:13, 52:5, 54:7, 56:10, 61:11</p> <p><b>pointed</b> <sup>[1]</sup> - 6:8</p> <p><b>pointing</b> <sup>[1]</sup> - 5:9</p> <p><b>points</b> <sup>[1]</sup> - 7:14</p> <p><b>Police</b> <sup>[1]</sup> - 13:11</p> <p><b>policy</b> <sup>[2]</sup> - 43:17, 44:1</p> <p><b>portal</b> <sup>[1]</sup> - 60:8</p> <p><b>portions</b> <sup>[1]</sup> - 64:7</p> <p><b>position</b> <sup>[2]</sup> - 11:8, 12:4</p> <p><b>possession</b> <sup>[6]</sup> - 46:14, 47:20, 52:5, 54:6, 61:12, 62:13</p> <p><b>possible</b> <sup>[1]</sup> - 33:22</p> <p><b>possibly</b> <sup>[1]</sup> - 6:3</p> <p><b>POTENTIAL</b> <sup>[1]</sup> - 3:14</p> <p><b>Potential</b> <sup>[4]</sup> - 7:10, 8:2, 8:10, 39:11</p> <p><b>potentially</b> <sup>[1]</sup> - 10:22</p> <p><b>pre</b> <sup>[3]</sup> - 6:18, 12:7, 17:21</p> <p><b>pre-admit</b> <sup>[2]</sup> - 6:18, 17:21</p> <p><b>pre-authentication</b> <sup>[1]</sup> - 12:7</p> <p><b>preadmission</b> <sup>[5]</sup> - 9:2, 12:8, 12:9, 17:18, 18:24</p> <p><b>preadmitted</b> <sup>[2]</sup> - 11:12, 30:19</p> <p><b>Preliminary</b> <sup>[1]</sup> - 3:3</p> <p><b>preparation</b> <sup>[1]</sup> - 64:18</p> <p><b>presenting</b> <sup>[1]</sup> - 58:19</p> <p><b>presiding</b> <sup>[1]</sup> - 1:21</p> <p><b>presume</b> <sup>[1]</sup> - 10:16</p> <p><b>pretty</b> <sup>[1]</sup> - 40:10</p> <p><b>preventing</b> <sup>[1]</sup> - 5:14</p> <p><b>previous</b> <sup>[2]</sup> - 55:10, 58:14</p> <p><b>previously</b> <sup>[7]</sup> - 6:24, 14:20, 16:13, 19:5, 49:23, 59:6, 62:5</p> <p><b>print</b> <sup>[1]</sup> - 49:4</p> <p><b>printed</b> <sup>[1]</sup> - 52:18</p>	<p><b>problem</b> <sup>[15]</sup> - 42:17, 42:18, 44:21, 46:25, 47:5, 47:15, 47:22, 47:25, 48:11, 48:18, 48:19, 51:24, 52:2, 52:3, 60:24</p> <p><b>problems</b> <sup>[1]</sup> - 41:25</p> <p><b>Procedure</b> <sup>[2]</sup> - 5:10, 11:21</p> <p><b>procedures</b> <sup>[2]</sup> - 29:23, 29:25</p> <p><b>proceed</b> <sup>[3]</sup> - 4:22, 22:10, 23:8</p> <p><b>proceedings</b> <sup>[7]</sup> - 1:19, 12:13, 12:17, 12:19, 22:13, 64:8, 64:14</p> <p><b>Proceedings</b> <sup>[2]</sup> - 1:23, 63:19</p> <p><b>process</b> <sup>[4]</sup> - 9:5, 49:18, 49:19, 53:10</p> <p><b>production</b> <sup>[1]</sup> - 5:14</p> <p><b>proffer</b> <sup>[1]</sup> - 18:2</p> <p><b>proffered</b> <sup>[1]</sup> - 11:9</p> <p><b>prohibited</b> <sup>[1]</sup> - 16:17</p> <p><b>prongs</b> <sup>[2]</sup> - 5:25, 6:1</p> <p><b>proof</b> <sup>[1]</sup> - 64:15</p> <p><b>proper</b> <sup>[2]</sup> - 46:16, 57:19</p> <p><b>proposed</b> <sup>[1]</sup> - 20:20</p> <p><b>prosecution</b> <sup>[5]</sup> - 8:17, 26:25, 34:5, 37:1, 37:5</p> <p><b>prosecutor</b> <sup>[5]</sup> - 8:14, 8:21, 27:3, 60:14, 60:18</p> <p><b>prosecutorial</b> <sup>[4]</sup> - 10:5, 10:15, 10:19, 10:21</p> <p><b>prosecutors</b> <sup>[14]</sup> - 9:17, 9:21, 10:9, 11:5, 25:16, 27:11, 29:3, 30:8, 38:25, 39:6, 46:25, 47:4, 47:6, 60:21</p> <p><b>protocol</b> <sup>[2]</sup> - 45:16, 48:10</p> <p><b>proven</b> <sup>[2]</sup> - 5:20, 6:16</p> <p><b>provided</b> <sup>[4]</sup> - 6:24, 17:9, 17:10, 26:2</p> <p><b>proving</b> <sup>[1]</sup> - 58:1</p> <p><b>public</b> <sup>[1]</sup> - 35:12</p> <p><b>Public</b> <sup>[2]</sup> - 13:16, 24:6</p> <p><b>purposes</b> <sup>[4]</sup> - 9:10, 10:7, 13:7, 28:17</p> <p><b>pursuant</b> <sup>[2]</sup> - 14:21, 56:6</p> <p><b>put</b> <sup>[2]</sup> - 19:15, 60:8</p> <p><b>putting</b> <sup>[1]</sup> - 20:11</p>	<p><b>Q</b></p> <p><b>QI</b> <sup>[12]</sup> - 30:4, 30:5, 36:3, 36:22, 36:25, 37:2, 46:21, 49:10, 59:19, 59:21, 60:9, 62:23</p> <p><b>QIs</b> <sup>[11]</sup> - 29:7, 35:12, 35:24, 36:6, 37:1, 37:2, 44:2, 60:5, 60:18, 60:22</p> <p><b>QUALITY</b> <sup>[2]</sup> - 3:17, 3:18</p> <p><b>quality</b> <sup>[10]</sup> - 11:1, 11:24, 29:3, 29:15, 29:16, 29:20, 31:21, 36:10, 38:25, 39:7</p> <p><b>Quality</b> <sup>[11]</sup> - 12:12, 14:19, 17:7, 32:14, 34:3, 41:10, 43:9, 44:7, 44:14, 59:21, 59:23</p> <p><b>questioning</b> <sup>[2]</sup> - 28:12, 57:17</p> <p><b>questions</b> <sup>[4]</sup> - 23:11, 24:1, 26:15, 54:23</p>	<p>63:9</p> <p><b>recessed</b> <sup>[1]</sup> - 63:19</p> <p><b>recognize</b> <sup>[1]</sup> - 32:14</p> <p><b>recognizes</b> <sup>[1]</sup> - 12:6</p> <p><b>recollection</b> <sup>[1]</sup> - 58:20</p> <p><b>RECORD</b> <sup>[1]</sup> - 1:1</p> <p><b>record</b> <sup>[21]</sup> - 4:3, 8:1, 8:16, 8:18, 9:9, 9:10, 9:20, 10:1, 13:3, 13:6, 21:5, 22:13, 23:20, 27:24, 40:20, 40:23, 41:20, 54:18, 55:9, 63:10, 63:12</p> <p><b>Record</b> <sup>[3]</sup> - 64:10, 64:13, 64:18</p> <p><b>records</b> <sup>[2]</sup> - 17:11, 43:24</p> <p><b>refer</b> <sup>[2]</sup> - 5:23, 42:14</p> <p><b>reference</b> <sup>[1]</sup> - 35:1</p> <p><b>referencing</b> <sup>[3]</sup> - 21:16, 22:14, 34:11</p> <p><b>reflection</b> <sup>[1]</sup> - 21:18</p> <p><b>reflects</b> <sup>[1]</sup> - 64:14</p> <p><b>refresh</b> <sup>[2]</sup> - 34:18, 58:20</p> <p><b>refreshed</b> <sup>[1]</sup> - 55:10</p> <p><b>regarding</b> <sup>[1]</sup> - 12:16</p> <p><b>regards</b> <sup>[1]</sup> - 57:17</p> <p><b>relate</b> <sup>[1]</sup> - 41:23</p> <p><b>related</b> <sup>[9]</sup> - 7:15, 9:16, 11:18, 14:19, 27:2, 39:17, 41:15, 41:17, 41:20</p> <p><b>relates</b> <sup>[3]</sup> - 37:11, 41:10, 51:21</p> <p><b>released</b> <sup>[3]</sup> - 28:19, 34:22, 37:15</p> <p><b>relevance</b> <sup>[8]</sup> - 12:11, 12:23, 39:3, 39:20, 39:21, 40:16, 40:19, 54:19</p> <p><b>relevant</b> <sup>[2]</sup> - 12:12, 12:18</p> <p><b>relief</b> <sup>[1]</sup> - 6:10</p> <p><b>remedied</b> <sup>[2]</sup> - 49:3, 61:18</p> <p><b>remedying</b> <sup>[1]</sup> - 47:22</p> <p><b>remember</b> <sup>[8]</sup> - 29:6, 30:9, 32:10, 33:19, 38:11, 51:7, 60:23, 62:15</p> <p><b>removed</b> <sup>[1]</sup> - 31:17</p> <p><b>rendering</b> <sup>[1]</sup> - 22:15</p> <p><b>renew</b> <sup>[1]</sup> - 40:15</p> <p><b>repeat</b> <sup>[6]</sup> - 29:18, 30:6, 36:8, 36:20, 46:15, 48:16</p> <p><b>rephrase</b> <sup>[1]</sup> - 24:18</p> <p><b>report</b> <sup>[16]</sup> - 13:17,</p>
<p><b>P</b></p> <p><b>page</b> <sup>[5]</sup> - 31:7, 31:8, 31:10, 31:14, 53:1</p> <p><b>Page</b> <sup>[1]</sup> - 34:9</p> <p><b>pages</b> <sup>[2]</sup> - 8:11, 13:18</p> <p><b>paid</b> <sup>[1]</sup> - 64:19</p> <p><b>pairs</b> <sup>[1]</sup> - 42:19</p> <p><b>part</b> <sup>[10]</sup> - 10:7, 13:14, 25:24, 26:5, 42:6, 44:15, 49:17, 53:14, 53:16, 53:17</p> <p><b>particular</b> <sup>[2]</sup> - 10:16, 12:7</p> <p><b>parties</b> <sup>[1]</sup> - 64:9</p> <p><b>partner</b> <sup>[1]</sup> - 19:1</p> <p><b>pattern</b> <sup>[2]</sup> - 54:25, 55:1</p> <p><b>pause</b> <sup>[2]</sup> - 15:23, 20:5</p> <p><b>pausing</b> <sup>[1]</sup> - 57:10</p> <p><b>PD</b> <sup>[1]</sup> - 25:20</p> <p><b>peer</b> <sup>[1]</sup> - 54:5</p> <p><b>pending</b> <sup>[3]</sup> - 29:7, 29:12, 43:11</p> <p><b>perfect</b> <sup>[1]</sup> - 33:4</p> <p><b>perform</b> <sup>[3]</sup> - 24:17, 24:19, 24:21</p> <p><b>performed</b> <sup>[1]</sup> - 24:10</p> <p><b>performing</b> <sup>[1]</sup> - 25:19</p> <p><b>permission</b> <sup>[1]</sup> - 57:12</p> <p><b>personal</b> <sup>[2]</sup> - 36:17, 43:18</p> <p><b>personally</b> <sup>[2]</sup> - 26:17, 51:13</p>			<p><b>R</b></p> <p><b>raise</b> <sup>[2]</sup> - 23:3, 63:13</p> <p><b>range</b> <sup>[1]</sup> - 33:25</p> <p><b>re</b> <sup>[2]</sup> - 9:12, 12:22</p> <p><b>re-urge</b> <sup>[2]</sup> - 9:12, 12:22</p> <p><b>reached</b> <sup>[3]</sup> - 47:6, 47:8, 47:12</p> <p><b>read</b> <sup>[1]</sup> - 34:15</p> <p><b>ready</b> <sup>[3]</sup> - 4:22, 22:9, 23:9</p> <p><b>real</b> <sup>[1]</sup> - 21:1</p> <p><b>realize</b> <sup>[1]</sup> - 56:25</p> <p><b>really</b> <sup>[4]</sup> - 7:16, 41:10, 45:2, 45:6</p> <p><b>reanalysis</b> <sup>[1]</sup> - 34:24</p> <p><b>reanalyzed</b> <sup>[1]</sup> - 32:3</p> <p><b>reanalyzing</b> <sup>[1]</sup> - 32:8</p> <p><b>reason</b> <sup>[5]</sup> - 6:11, 7:16, 10:25, 50:3, 50:14</p> <p><b>reasons</b> <sup>[1]</sup> - 63:7</p> <p><b>receive</b> <sup>[1]</sup> - 25:24</p> <p><b>received</b> <sup>[2]</sup> - 26:8, 37:20</p> <p><b>recent</b> <sup>[2]</sup> - 37:23, 38:21</p> <p><b>recently</b> <sup>[3]</sup> - 40:4, 44:11, 56:19</p> <p><b>recess</b> <sup>[2]</sup> - 57:15,</p>	





<p>9:7, 9:14, 10:2, 10:12, 11:3, 11:7, 11:11, 12:3, 12:8, 12:20, 13:1, 13:5, 13:10, 13:21, 13:25, 14:2, 14:5, 14:12, 14:17, 14:24, 15:5, 15:8, 15:10, 15:14, 15:23, 16:3, 16:8, 16:21, 16:25, 17:4, 17:12, 17:14, 17:22, 18:5, 18:9, 18:17, 18:22, 19:2, 19:8, 19:12, 19:16, 19:21, 19:24, 20:10, 20:11, 20:19, 20:23, 21:2, 21:6, 21:10, 21:13, 21:19, 21:25, 22:2, 22:8, 22:14, 22:18, 22:21, 22:23, 23:2, 23:6, 23:12, 27:25, 28:10, 28:13, 28:16, 28:20, 28:24, 29:1, 29:10, 29:13, 29:18, 30:12, 30:14, 34:10, 34:14, 36:18, 38:16, 38:19, 39:4, 39:23, 40:17, 40:20, 40:23, 43:2, 43:5, 43:20, 44:5, 48:14, 53:21, 54:20, 54:24, 55:5, 55:11, 56:11, 56:21, 57:1, 57:6, 57:14, 58:5, 58:18, 58:23, 59:3, 59:13, 61:19, 61:21, 61:23, 61:24, 63:5, 63:13, 63:15, 64:2</p> <p><b>then..</b> [1] - 37:3 <b>therefore</b> [1] - 55:9 <b>thinking</b> [1] - 55:5 <b>third</b> [2] - 6:6, 31:7 <b>three</b> [8] - 5:9, 5:25, 7:14, 8:1, 13:17, 27:14, 40:3, 41:8 <b>throughout</b> [2] - 28:4, 53:9 <b>tired</b> [1] - 50:9 <b>today</b> [6] - 7:17, 12:13, 12:19, 16:24, 27:10, 31:17 <b>today's</b> [1] - 10:11 <b>took</b> [3] - 38:14, 40:4, 50:22 <b>tool</b> [2] - 53:11, 53:12 <b>tools</b> [1] - 53:8 <b>top</b> [3] - 32:11, 32:12, 33:19 <b>total</b> [1] - 64:17 <b>touched</b> [3] - 10:17,</p>	<p>10:22, 10:23 <b>TOXICOLOGY</b> [1] - 3:8 <b>toxicology</b> [1] - 30:21 <b>track</b> [1] - 19:17 <b>tracking</b> [1] - 53:9 <b>trained</b> [1] - 26:21 <b>training</b> [4] - 25:24, 26:7, 26:9, 26:14 <b>transcription</b> [2] - 1:25, 64:7 <b>trial</b> [32] - 4:6, 5:12, 5:14, 5:21, 6:7, 7:9, 7:15, 10:11, 11:2, 13:7, 13:13, 13:19, 14:11, 15:21, 17:9, 20:16, 22:14, 23:23, 25:22, 27:4, 27:9, 28:4, 28:5, 28:7, 29:2, 29:12, 29:14, 34:6, 46:22, 54:23, 56:18 <b>TRIAL</b> [2] - 1:3, 1:14 <b>true</b> [2] - 51:5, 64:7 <b>truly</b> [1] - 64:14 <b>truthfulness</b> [1] - 58:8 <b>trying</b> [3] - 54:21, 54:24, 57:22 <b>tube</b> [7] - 29:5, 31:25, 32:5, 32:7, 32:9, 34:24, 62:11 <b>tubes</b> [13] - 32:4, 32:6, 42:19, 42:23, 45:8, 45:24, 46:1, 47:17, 47:19, 48:3, 61:8, 61:14 <b>turn</b> [2] - 37:7, 43:15 <b>turned</b> [6] - 7:15, 14:20, 14:21, 44:2, 44:15, 44:18 <b>twice</b> [1] - 16:4 <b>two</b> [27] - 6:1, 8:11, 9:17, 10:9, 10:15, 10:17, 10:20, 11:5, 16:9, 27:17, 27:18, 28:6, 38:5, 38:20, 41:10, 41:13, 41:14, 41:17, 42:18, 42:19, 48:2, 50:8, 52:3, 52:4, 59:18, 59:25 <b>type</b> [4] - 16:14, 51:24, 53:2, 54:15 <b>Tyra</b> [1] - 1:21</p>	<p><b>under</b> [6] - 16:17, 47:20, 56:4, 57:19, 57:22, 62:13 <b>underlying</b> [6] - 6:11, 6:16, 11:24, 22:12, 46:13, 49:8 <b>untrustworthiness</b> [1] - 58:2 <b>untruthfulness</b> [1] - 58:8 <b>up</b> [17] - 7:5, 8:7, 13:13, 15:19, 15:25, 16:9, 17:1, 17:6, 23:7, 32:6, 33:12, 35:13, 40:3, 52:9, 56:19, 60:10, 60:14 <b>upfront</b> [1] - 5:15 <b>urge</b> [2] - 9:12, 12:22 <b>utilize</b> [1] - 57:24 <b>utilizing</b> [1] - 57:17</p>	<p><b>write</b> [4] - 7:5, 45:3, 45:4, 45:5 <b>writing</b> [1] - 64:8 <b>writings</b> [1] - 27:6 <b>written</b> [2] - 8:6, 35:25</p>
			<b>Y</b>
			<p><b>y'all</b> [6] - 16:3, 49:4, 56:22, 57:8, 57:11, 62:4 <b>year</b> [3] - 37:25, 48:18, 56:1 <b>years</b> [1] - 6:8 <b>you-all</b> [1] - 4:22 <b>yourself</b> [4] - 23:7, 23:19, 34:16, 49:13</p>
			<b>Z</b>
			<p><b>ZACHARY</b> [2] - 3:5, 23:14 <b>Zachary</b> [2] - 7:18, 23:21 <b>Zoom</b> [1] - 27:17</p>
		<b>V</b>	
		<p><b>verdict</b> [2] - 4:7, 22:16 <b>versa</b> [1] - 47:18 <b>versus</b> [2] - 4:4, 7:12 <b>vial</b> [4] - 33:7, 33:10, 33:16, 33:23 <b>vials</b> [2] - 44:22, 44:23 <b>vice</b> [1] - 47:18 <b>violated</b> [1] - 29:21 <b>violation</b> [1] - 45:15 <b>Voir</b> [1] - 3:4 <b>Vol</b> [3] - 3:2, 3:7, 3:14 <b>VOLUME</b> [1] - 1:2 <b>volume</b> [4] - 50:22, 51:3, 51:9, 64:9 <b>VOLUMES</b> [1] - 1:2 <b>VS</b> [1] - 1:7</p>	
		<b>W</b>	
		<p><b>wait</b> [3] - 9:5, 28:13, 59:13 <b>walk</b> [1] - 17:22 <b>ways</b> [1] - 49:3 <b>Wednesday</b> [1] - 8:4 <b>withheld</b> [1] - 5:14 <b>witness</b> [5] - 22:24, 23:5, 52:25, 58:11, 58:19 <b>Witness</b> [1] - 34:17 <b>WITNESS</b> [5] - 29:13, 30:14, 61:21, 61:24, 64:20 <b>witness'</b> [1] - 58:8 <b>witnesses</b> [1] - 63:14 <b>WORKSHEET</b> [1] - 3:8</p>	
	<b>U</b>		
	<p><b>unaware</b> [1] - 44:1 <b>unboxing</b> [1] - 61:1 <b>unclear</b> [1] - 17:23</p>		

## EXHIBIT E PART II

## 1 REPORTER'S RECORD

2 VOLUME 9 OF 11 VOLUMES

3 TRIAL COURT CAUSE NO. 22-CCR-230111

4 COURT OF APPEALS CAUSE NO. 14-25-00020-CR

5 THE STATE OF TEXAS ) IN THE COUNTY COURT

6 )

7 )

8 )

9 VS. ) AT LAW NO. 2

10 )

11 )

12 )

13 JAWED SADRUDDIN MOMIN ) FORT BEND COUNTY, TEXAS

## 14 MOTION FOR NEW TRIAL

15 -----  
16  
17  
18  
19 On November 7, 2024, the following proceedings came  
20 on to be heard in the above-entitled and numbered cause  
21 before the Honorable Tyra J. McCollum, Judge presiding,  
22 held in Fort Bend County, Texas;

23 Proceedings reported by Certified Shorthand  
24 Reporter and machine shorthand/computer-aided  
25 transcription.

## A P P E A R A N C E S

FOR THE STATE:

Denver Fesmire  
SBOT NO. 24132182  
Gavin O'Brien  
SBOT NO. 24124053  
Assistant District Attorneys  
1422 Eugene Heimann Circle  
Richmond, Texas 77469  
281-341-4460

FOR THE DEFENDANT:

Collin Evans  
SBOT NO. 24074189  
Jonathan Landers  
SBOT NO. 24070101  
Attorneys at Law  
917 Franklin Street, Suite 300  
Houston, Texas 77002

# CHRONOLOGICAL INDEX

November 7, 2024

Vol. 9

Preliminary matters

4

	Direct	Cross	Voir Dire
ZACHARY AUGUSTYN	41	11, 67	
SOMIYEH ZALEKIAN	92	119	
TIFANI PARKER	139, 160	151, 162	

# ALPHABETICAL INDEX

	Direct	Cross	Voir Dire
AUGUSTYN, ZACHARY	41	11, 67	
PARKER, TIFANI	139, 160	151, 162	
ZALEKIAN, SOMIYEH	92	119	

# EXHIBIT INDEX STATE'S EXHIBITS

NO.	DESCRIPTION	OFFERED	ADMITTED	Vol.
8	BLOOD KIT	9	9	9
9	FORENSIC DISCLOSURE AND COMPLIANCE POLICY	113	113	9

# DEFENDANT'S EXHIBITS

NO.	DESCRIPTION	OFFERED	ADMITTED	Vol.
9	QUALITY INCIDENT REPORT	8	8	9
10	MOTION TO DISMISS	90	- -	9
11	TEXAS FORENSIC SCIENCE COMMISSION LEGAL AND PROFESSIONAL RESPONSIBILITY COURSE	126	126	9
12	LEGAL DISCLOSURE AND PROFESSIONAL RESPONSIBILITY SLIDE	153	154	9
13	QUALITY ASSURANCE NONCONFORMING WORK	137	137	9
14	QUALITY ASSURANCE RISKS, OPPORTUNITIES AND IMPROVEMENTS	137	137	9
	Closing Argument by Mr. Evans			169
	Closing Argument by Mr. O'Brian			177
	Court Reporter's Certification			198

P R O C E E D I N G S

November 7, 2024

1  
2  
3 THE COURT: We're back on the record in  
4 Cause No. 22-CCR-230111, the State of Texas versus Jawed  
5 Sadruddin Momin. We are here in the continuation of the  
6 Defense's motion for new trial, and at this time I'll  
7 call for announcements on behalf of Defense.

8 MR. LANDERS: Jonathan Landers and Collin  
9 Evans are here for Mr. Momin, and we're ready to  
10 proceed.

11 THE COURT: Thank you very much.

12 On behalf of the State?

13 MR. FESMIRE: Denver Fesmire and Gavin  
14 O'Brien for the State. We're ready to proceed, Your  
15 Honor.

16 THE COURT: Thank you. My recollection of  
17 where we are is that the witness that is on the stand  
18 was still under the examination or at least back under  
19 the examination of the Defense. Is that your  
20 recollection?

21 MR. LANDERS: That's correct, Judge.

22 THE COURT: Do you have any additional  
23 questions for this witness? Would you like to proceed?

24 MR. LANDERS: I do, Judge. Could we have  
25 just a moment for a couple of pretrial -- I guess

1 mid-trial issues briefly?

2 THE COURT: Yes, go ahead.

3 MR. LANDERS: I don't think the last time  
4 we were here there were any witnesses in the courtroom,  
5 so we did not invoke the rule. Could we invoke the rule  
6 at this time?

7 THE COURT: You can. All witnesses -- I do  
8 believe that I got their names for the benefit of just  
9 that.

10 But if there are any witnesses that are  
11 present in the courtroom, would you please come forward?

12 All right. Ma'am, would you please say  
13 your name?

14 MS. ZALEKIAN: Somiyeh Zalekian.

15 THE COURT: Ma'am?

16 MS. ZALEKIAN: Somiyeh Zalekian.

17 THE COURT: Zalekian. Thank you,  
18 Ms. Zalekian.

19 And you are?

20 MS. PARKER: Tifani Parker.

21 THE COURT: Hi, Ms. Parker. Good morning.  
22 If I can ask both of you to please raise your right  
23 hands.

24 (Witnesses sworn.)

25 THE COURT: Thank you very much. You are

1 both, in addition to having been sworn, you both now are  
2 under the rule. What that means for the purposes of  
3 this hearing is that you will be removed from the  
4 courtroom while there are other witnesses that are  
5 testifying. You are to remain either outside of the  
6 courtroom directly so that the bailiff can reach you  
7 when such time has arrived for your testimony to be  
8 elicited or you can go downstairs but it means don't  
9 take vacation off campus.

10           As you are outside and outside of the  
11 courtroom itself, you're not to have any discussion with  
12 anyone about this matter at all. What that means is  
13 that, not only do you not speak to one another, it means  
14 that you don't reach out to anyone in your offices that  
15 are remote or Satellicht, by telephone or by any other  
16 method. You may however talk to the attorneys if they  
17 so desire to have conversations with you about this, but  
18 even if at that time you engage in conversations with  
19 the attorneys in this matter, you are to do so outside  
20 of the earshot of any other witnesses who are present  
21 and intend to testify in these proceedings.

22           If you have any questions about what your  
23 expectations are from this Court, then please address  
24 them immediately or alert the bailiff so that he can  
25 alert me and we can clarify what your questions may be.



1 There's lots to talk about in the world right now, just  
2 not this matter, okay?

3 Do you have any questions about anything  
4 that I've said to you?

5 THE WITNESSES: No.

6 THE COURT: Thank you. So then the both of  
7 you may wait outside the courtroom, and we'll hear from  
8 you once you've been called by one of the attorneys.  
9 Thank you so much.

10 Any other housekeeping matters,  
11 Mr. Landers?

12 MR. LANDERS: The other matter is this  
13 morning a Quality Incident Report has been finalized by  
14 DPS, literally this morning, related to the -- I'll call  
15 it switched information incidents that we were  
16 discussing last week.

17 THE COURT: It's specifically one that was  
18 referenced in the course of this hearing.

19 MR. LANDERS: It's the last two incidents  
20 we discussed actually and so that is now issued. We'd  
21 like to introduce that Quality Incident Report as  
22 Defendant's Exhibit No. 9, and I don't think there's an  
23 objection.

24 MR. FESMIRE: No objection from the State,  
25 Your Honor.

1 THE COURT: Is that a collective  
2 introduction or --

3 MR. LANDERS: Well --

4 THE COURT: -- is it one document?

5 MR. LANDERS: It's one document. It's two  
6 pages.

7 THE COURT: All right. And do you have a  
8 courtesy copy of that as well?

9 MR. LANDERS: That I don't because we only  
10 have two copies, and I wrote on my other one.

11 MR. FESMIRE: I have a courtesy copy, Your  
12 Honor.

13 THE COURT: Thank you. I appreciate it.  
14 All right. Without objection Defendant's Exhibit No. 9  
15 will be admitted.

16 (Defendant's Exhibit No. 9 was offered and  
17 admitted into evidence.)

18 MR. FESMIRE: Defendant's 9, Your Honor?

19 THE COURT: Yes. It's entitled Quality  
20 Incident Report and dated 2-10-2024. Thank you. That's  
21 been admitted.

22 MR. LANDERS: And I don't know if the State  
23 needed to introduce -- do you need to introduce an  
24 exhibit or --

25 MR. FESMIRE: Yes. I did intend to

1 introduce an exhibit. So, Your Honor, we had a chance  
2 to speak to Defense prior to the hearing today, and they  
3 have stipulated to the admissibility of State's Exhibit  
4 No. 4 in the original trial, which is the Defendant's  
5 blood kit. This would be State's Exhibit MNT 8 for the  
6 purposes of this hearing.

7 THE COURT: What did you just say again?  
8 State's Exhibit --

9 MR. FESMIRE: MNT 8.

10 THE COURT: Does that work for your number  
11 system, Ms. Johnson?

12 THE REPORTER: Yes.

13 THE COURT: What's the Defense's position  
14 on that?

15 MR. LANDERS: No objection to this, Judge.

16 THE COURT: All right. That will be  
17 admitted.

18 (State's Exhibit No. 8 was offered and  
19 admitted into evidence.)

20 THE COURT: All right. Any other matters?

21 MR. LANDERS: No, Your Honor.

22 THE COURT: Any other matters?

23 MR. FESMIRE: Yes, if we could see the  
24 exhibits? We plan on using the exhibits for direct. Do  
25 you have them?

1                   THE COURT: I have them right here, and I'm  
2 happy to give them back to you.

3                   MR. FESMIRE: Okay. Understood. Thank  
4 you, Your Honor.

5                   THE COURT: With that, are you ready to  
6 proceed, Mr. Landers?

7                   MR. LANDERS: I am, Judge.

8                   THE COURT: Please go ahead -- I'm sorry.  
9 Hold on one second.

10                   So you recall that you remain under oath.  
11 You also heard me address the other witnesses, that  
12 previously when you were testifying the rule had not  
13 been invoked. The rule is also invoked for you as well.  
14 What that means is that those same instruction are  
15 applicable to you, and that while you may talk to the  
16 attorneys about any matter that is occurring, you're to  
17 do so outside the earshot of any other intended witness,  
18 and, likewise, you're not to engage in any conversations  
19 or discussions with anyone about any of the matters  
20 concerning this proceeding, okay?

21                   THE WITNESS: Understood.

22                   THE COURT: You understand those  
23 instructions?

24                   THE WITNESS: Yes.

25                   THE COURT: Okay. Thank you very much.

1                   You may proceed, Mr. Landers.

2                   MR. LANDERS: Thank you, Judge.

3                   ZACHARY AUGUSTYN,  
4           having been duly sworn, testified as follows:

5                   CROSS-EXAMINATION CONTINUED

6   BY MR. LANDERS:

7           Q.    Mr. Augustyn, how are you today?

8           A.    I'm doing all right.

9           Q.    I want to get us back to where we were.

10                  THE COURT: If you could utilize the  
11   microphone, Mr. Landers, that would be helpful.

12           Q.    (BY MR. LANDERS) I want to get us back to  
13   where we were. I think it was two weeks ago now.

14           A.    Yes.

15           Q.    We kind of discussed your training a little  
16   bit, correct?

17           A.    Correct.

18           Q.    And we discussed a 2022 quality incident that  
19   involved a broken blood vial?

20           A.    Yes.

21           Q.    Okay. We discussed two 2024 incidents that  
22   involved what I call switching -- switched information  
23   in blood testing kits?

24           A.    Yes.

25           Q.    Okay. And that's about where we left off.

1 Would you agree with that?

2 A. Yes.

3 Q. Okay. During our conversation a couple of  
4 Fridays ago, I'd asked you if you thought you were as  
5 busy in 2022 as you were in the beginning of 2024. Do  
6 you remember that?

7 A. I do remember that question, yes.

8 Q. And do I remember correctly that you mentioned  
9 you were doing testing for the Garland lab in 2024?

10 A. Yes.

11 Q. Okay. Now, I want to ask you about 2022, okay?

12 A. Okay.

13 Q. Are you aware that your lab was doing outside  
14 testing for the Austin lab in 2022?

15 A. Yes.

16 Q. Okay. And, full disclosure, you and I kind of  
17 reviewed your, what do they call it, your evaluations;  
18 is that correct?

19 A. Partially, yes.

20 Q. Okay. Your yearly evaluations before your  
21 testimony today?

22 A. Yes.

23 Q. All right. And those include a number of cases  
24 you review in a year; is that correct?

25 A. Yes.

1 Q. Okay. Would you agree with me that in 2022 you  
2 tested a similar number of cases as you did in 2023?

3 A. Yes.

4 Q. Okay. We have Defendant's Exhibit No. 9 which  
5 has just been introduced. It's a Quality Incident  
6 Report issued today. Are you familiar with that report?

7 A. I am, yes.

8 Q. Do you need a copy of it because I'm going to  
9 ask you questions?

10 A. No, I don't think so.

11 Q. If you do would you just let me know?

12 A. Yes.

13 Q. Okay. Where we left off a couple of Fridays  
14 ago, we discussed that in the May switched information  
15 incident, it's your belief that you caught that  
16 yourself, right?

17 A. The May incident, yes.

18 Q. Okay. That's where the submission forms were  
19 switched and did not match the blood evidence inside the  
20 blood evidence box?

21 A. Yes.

22 Q. Okay. And we'd also discussed that previously  
23 you testified otherwise?

24 A. Yes.

25 Q. All right. And in your previous testimony it

1 was that someone else had caught that error?

2 A. Yes.

3 Q. Okay. You also mentioned that you --

4 MR. FESMIRE: Your Honor, if I may? I just  
5 wanted to confirm that our running objection to  
6 relevance is still present.

7 THE COURT: All right. That's overruled.

8 MR. FESMIRE: Yes, Your Honor.

9 Q. (BY MR. LANDERS) How did you catch the mistake  
10 from the May incident?

11 A. For the May incident, the second -- I'm  
12 sorry -- the second incident, the May incident, I was  
13 unboxing another batch on 5-13-2024, and I had noticed  
14 that the blood tubes for a specific case did not match  
15 the name on the submission form, and I had checked later  
16 that day on 5-15 to see if the name was already inside  
17 our LIMS database and it was.

18 Q. Okay. And who had tested the evidence in the  
19 first case?

20 A. I did.

21 Q. Okay. You would agree you didn't catch the  
22 switch in the first case?

23 A. Correct.

24 Q. Okay. And we now know that these incidents --  
25 and when I say "these incidents," I'm talking about -- I



1 think it's February 2024 where blood vials were in the  
2 wrong box, right?

3 A. Yes.

4 Q. And also the May 2024 incident we just  
5 discussed, those are the subject of one QI?

6 A. Yes.

7 Q. Okay. That's a -- a QI is a Quality Incident  
8 Report?

9 A. Yes.

10 Q. And today a Quality Incident Report issued for  
11 both of those; is that correct?

12 A. Yes.

13 Q. What was the -- so as part of those, you're  
14 aware there's a risk assessment that's done, correct?

15 A. I believe so, yes.

16 Q. Do you know what the risk assessment said the  
17 severity of these errors were?

18 A. I didn't glance over the risk assessment, but I  
19 think I remember the severity saying "medium."

20 Q. Gotcha.

21 MR. LANDERS: Judge, can I see Defendant's  
22 Exhibit No. 9?

23 Q. (BY MR. LANDERS) And to be fair, these just  
24 issued today, correct?

25 A. I believe so.

1           Q.    Just have a look at the first sentence of the  
2 risk assessment portion.

3           A.    How far do you want me to go?

4           Q.    What is the severity listed as?

5           A.    The severity is listed as "major."

6           Q.    Okay.  As a major incident, is that something  
7 that will now be on your -- the back of all of your lab  
8 cases?

9                       MR. FESMIRE:  Objection.  Lacks personal  
10 knowledge.

11                      THE COURT:  Ask that question again,  
12 please.

13           Q.    (BY MR. LANDERS)  As this has been labeled a  
14 major incident, would that now be disclosed on your  
15 disclosure forms?

16                      MR. FESMIRE:  Same objection.

17                      THE COURT:  I'll overrule that objection.

18           A.    I do not know.

19           Q.    (BY MR. LANDERS)  Okay.  At DPS there is  
20 training about when and how Brady information should be  
21 disclosed, correct?

22           A.    Correct.

23           Q.    Who is it that is supposed to make the judgment  
24 of when disclosure is necessary?

25           A.    I think it's up to everyone involved.  So the

1 scientist and anyone involved in the case.

2 Q. Would you agree with me that the employee at  
3 issue is required to disclose any Brady information?

4 MR. FESMIRE: Objection. Leading.

5 THE COURT: Overruled.

6 A. Could you repeat the question for this case?

7 Q. (BY MR. LANDERS) Sure. Do you agree that it's  
8 the person at issue who's made the mistake who has the  
9 duty to report the Brady information?

10 A. For the specific case, yes.

11 Q. What about in cases moving forward?

12 A. Cases moving forward, it's already public  
13 access depending on when it's finalized. I think it  
14 would be wise to disclose it.

15 Q. So you'll be disclosing this new QI moving  
16 forward?

17 A. Possibly. I don't know yet.

18 Q. Okay. There's one more quality incident that  
19 we haven't discussed.

20 MR. LANDERS: Could I see Defendant's  
21 Exhibit No. 1?

22 Q. (BY MR. LANDERS) I'm going to show you  
23 Defendant's Exhibit No. 1 again. This is the Notice of  
24 Potential Favorable Evidence from a different Montgomery  
25 County case.

1                   So No. 3 on there deals with what?

2           A.   No. 3 involves failing to properly seal a batch  
3 of cases after analysis and reports were sent out.

4           Q.   And how many cases were not properly sealed?

5           A.   30.

6                   THE COURT:   How many?   I'm sorry.

7                   THE WITNESS:   30.

8           Q.   (BY MR. LANDERS)   Where were those sent?

9           A.   Some were sent back to the agencies that  
10 submitted them.   Some were still in the lab and some  
11 were sent to Austin toxicology for drug analysis.

12          Q.   And was it Austin that discovered and first  
13 notified you about boxes not being sealed?

14          A.   No.

15          Q.   Who was it?

16          A.   Sugar Land PD.

17          Q.   Okay.   So an outside agency notified DPS about  
18 the failure to seal these boxes?

19          A.   Yes.

20          Q.   Okay.   What was done about this?

21          A.   So after Sugar Land PD notified the lab, I was  
22 notified that possible evidence was not sealed properly.  
23 I went to check the work list for that batch, so all the  
24 cases in that batch, to see if any were still at the  
25 lab.   If I remember correctly, I think three were still

1 at the lab. I went to check all of the cases and  
2 determined that the other cases that were still at the  
3 lab were not sealed.

4               So at that point I determined that it's a  
5 high likelihood that all of those cases were not sealed.  
6 So after that, I went back to that work list that had  
7 all of the cases in it, made determinations of how many  
8 cases went to the Austin lab for drug tox, and all of  
9 the other cases that were sent out. I had spoken with  
10 my supervisor to determine what to do next. It was  
11 decided that --

12           Q. Let me ask you real quick. Who is that  
13 supervisor?

14           A. Tifani Parker.

15           Q. Go ahead. What happened next?

16           A. It was decided that I needed to reach out to  
17 the agencies that had received their blood evidence  
18 back, make sure that if there was a seal, and if not,  
19 make sure that all of the contents of the blood kits  
20 were accounted for.

21           Q. Did you make sure that all of the contents were  
22 accounted for?

23           A. I did, yes.

24           Q. So basically what you were doing was  
25 reestablishing the chain of custody; is that correct?

1 A. In a sense, yes.

2 Q. You would agree that an error like this can  
3 affect the chain of custody?

4 A. Yes.

5 Q. Do you agree that that error that we're talking  
6 about is something that should be disclosed?

7 A. When it comes to specific cases, yes.

8 Q. What do you mean by that?

9 A. Any case that was involved in the QI.

10 Q. Okay. This failure to properly seal boxes is a  
11 violation of protocol; is that correct?

12 A. Yes.

13 Q. Do you believe it's favorable to other  
14 defendants in other cases to know that you violated  
15 protocol in separate cases?

16 MR. FESMIRE: Objection. Speculation.

17 THE COURT: Sustained.

18 Q. (BY MR. LANDERS) And you've had training on  
19 Brady versus Maryland, correct?

20 A. Yes.

21 Q. And you've had training on the Michael Morton  
22 Act, correct?

23 A. Yes.

24 Q. What is your understanding of what a state  
25 agency needs to disclose to a defendant?

1                   MR. FESMIRE:  Objection.  Calls for a legal  
2 opinion.

3                   MR. LANDERS:  I'm asking about his  
4 training.

5                   THE COURT:  I understand the objection.

6                   MR. LANDERS:  I'm sorry.

7                   THE COURT:  Overruled.

8           A.  Can you repeat?

9           Q.  (BY MR. LANDERS)  Yes.  What is your  
10 understanding of when favorable evidence needs to be  
11 disclosed to a defendant?

12          A.  From what I know about Brady, any evidence  
13 that's favorable to the defense must be disclosed when  
14 it comes to Michael Morton, favorable evidence that  
15 exonerates the defendant, if I remember correctly.

16          Q.  Okay.

17          A.  Or proves innocence -- sorry -- something like  
18 that.

19          Q.  Is it favorable to a defendant, in your mind,  
20 if the analyst in this case has made multiple errors  
21 over multiple years?

22                   MR. FESMIRE:  Objection.  Calls for  
23 speculation.

24                   THE COURT:  I'm overruling that objection.  
25 Answer the question as it was asked.

1           A.    I think it can be, yes.

2           Q.    (BY MR. LANDERS) Have you disclosed -- so I'm  
3 going to talk about the last two quality incidents.  
4 These are the ones on Defendant's Exhibit No. 1 that we  
5 talked about.

6           A.    Okay.

7           Q.    It's really three incidents but two quality  
8 incidents; is that correct?

9           A.    Yes.

10          Q.    Okay. Have you disclosed those to other  
11 prosecutors recently before trial?

12          A.    Recently before trial, yes, I have.

13          Q.    And that was after Mr. Momin's case, correct?

14          A.    Yes.

15          Q.    As a matter of fact, was the first time in that  
16 case related to Defendant's Exhibit No. 1?

17          A.    Yes.

18          Q.    Okay. Why did you disclose it to those  
19 prosecutors?

20          A.    So with the first incidents or incident of the  
21 Montgomery County case, I'm familiar with the defense  
22 attorney, and he has asked me about QIs in the past, and  
23 the reason why I had disclosed the pending QIs was  
24 because in previous testimony, he had asked me if there  
25 were any pending QIs that I have, if I remember



1 correctly, and I wasn't -- it's not my intention to lie  
2 in testimony, so I felt like it would be necessary to  
3 disclose pending QIs to the prosecutor to inform them  
4 for this case.

5 Q. In that case the prosecutors then disclosed the  
6 pending QIs to defense counsel, correct?

7 A. Correct.

8 Q. Have you reviewed the email where you disclosed  
9 these pending QIs?

10 A. Not recently.

11 Q. Okay. Do you recall telling the prosecutors  
12 that defense counsel wouldn't know about them at that  
13 time?

14 A. Yes, I do remember that.

15 THE COURT: I'm sorry. Ask that question  
16 again.

17 Q. (BY MR. LANDERS) Do you recall telling the  
18 prosecutors -- what's the name of that case?

19 A. State v. Israel Monroy, Jr.

20 Q. Monroy --

21 A. Israel Lee Monroy, Jr.

22 Q. In the Monroy case, did you tell the  
23 prosecutors that defense counsel should not know about  
24 the pending QIs?

25 A. Instead of saying "should," I think I said they

1 wouldn't know about them.

2 Q. Okay. Why did you tell the prosecutors that?

3 A. Because the QIs were pending at the time and  
4 they were not in the public access.

5 Q. Were you attempting to hide that information  
6 from defense counsel?

7 A. No.

8 Q. Do you remember testifying in the James Brady  
9 Soape trial on October 23, 2024?

10 A. Yes.

11 THE REPORTER: Counsel, would you spell the  
12 last name, please?

13 MR. LANDERS: S-o-a-p-e.

14 Q. (BY MR. LANDERS) Do you recall testifying  
15 that, "There were things that I was hiding relating to  
16 these incidents"?

17 MR. FESMIRE: Objection. Relevance.

18 THE COURT: Overruled.

19 A. I do remember saying that statement, yes.

20 Q. (BY MR. LANDERS) Okay. Are there any new  
21 quality incidents that you're aware of today that we  
22 haven't discussed?

23 A. No.

24 Q. All right. You would agree that it's possible  
25 there's been mistakes in other cases that haven't been

1 caught, correct?

2 MR. FESMIRE: Objection. Speculation.

3 THE COURT: Ask it the way you asked it  
4 exactly again.

5 MR. LANDERS: Okay.

6 Q. (BY MR. LANDERS) You would agree that there's  
7 been mistakes in other people's cases that haven't been  
8 caught, correct?

9 THE COURT: Sustained.

10 Q. (BY MR. LANDERS) So we've discussed this case  
11 -- three pretty recent quality incidents, correct?

12 A. Yes.

13 Q. One of them involved 30 cases that were  
14 unboxed -- I'm sorry -- were not properly sealed?

15 A. Yes.

16 Q. You did not catch that error?

17 A. Correct.

18 Q. One of them involved blood vials that were in  
19 the wrong blood boxes, correct?

20 A. Yes.

21 Q. Did you catch that error?

22 A. No.

23 Q. The third involved switched laboratory  
24 submission forms; is that correct?

25 A. Yes.

1 Q. Did you catch that error?

2 A. I did catch that error.

3 Q. But did you catch it on the first box of  
4 evidence that you tested?

5 A. I did not.

6 Q. Okay. You would agree that there has been a  
7 pattern of mistakes that have not been caught by you  
8 personally in the lab?

9 MR. FESMIRE: Objection. Relevance and  
10 vague.

11 THE COURT: So I'm overruling as to  
12 relevance. What was your second part?

13 MR. FESMIRE: Vague, a pattern.

14 THE COURT: So I'm going to sustain it.  
15 Rephrase the form of your question.

16 MR. LANDERS: Sure.

17 Q. (BY MR. LANDERS) We are aware, everyone in  
18 here, of three mistakes that you didn't personally catch  
19 yourself at least initially, correct?

20 A. Correct.

21 Q. All right. It's possible that other mistakes  
22 have been made that you have not caught?

23 MR. FESMIRE: Objection again to  
24 speculation.

25 THE COURT: Overruled.

1           A.    It's possible, but I would not know.

2           Q.    (BY MR. LANDERS)   Okay.   I want to talk about  
3 Mr. Momin's case.

4           A.    Okay.

5           Q.    But before I get there, I want to talk about  
6 the two Montgomery County cases you had testified to  
7 after his case.

8           A.    Okay.

9           Q.    It's the Monroy case and the Soape case; is  
10 that correct?

11          A.    Yes.

12          Q.    Are you aware of the results of those cases,  
13 the outcomes?

14                   MR. FESMIRE:   Objection, Your Honor, to  
15 relevance.

16                   THE COURT:   Sustained as to that.

17          Q.    (BY MR. LANDERS)   Now, we'll get on to  
18 Mr. Momin's case.

19          A.    Okay.

20          Q.    Did you speak with Mr. Evans prior to that  
21 trial?

22          A.    I had a phone call with him, and I had met with  
23 him at the Stafford PD.   I don't know if I would call it  
24 a headquarters but an office.

25          Q.    Okay.   And just to be clear, you didn't turn

1 over any quality incidents to Mr. Evans prior to trial?

2 A. I did not.

3 Q. Do you recall Mr. Evans asking for a copy of  
4 your resume?

5 A. I do, yes.

6 Q. Was was your answer to that?

7 A. We don't usually give out resumes as far as  
8 like -- I don't remember, but I remember I didn't give  
9 him my resume.

10 Q. Okay. Are you aware that your personnel file  
11 does have a list of all of your prior employment?

12 THE COURT: Your prior what?

13 MR. LANDERS: Employment.

14 MR. FESMIRE: Objection. Leading.

15 THE COURT: Overruled.

16 A. I believe so.

17 Q. (BY MR. LANDERS) Okay. And what was your job  
18 just prior to being a DPS analyst?

19 A. I was a lifeguard at the Lockport YMCA.

20 MR. LANDERS: Judge, may I see our exhibits  
21 real quick?

22 Q. (BY MR. LANDERS) I'm going to show you  
23 Defendant's Exhibit No. 4 for the motion for new trial.  
24 Do you recognize what this is?

25 A. It looks like the lab submission form and the

1 chain of custody, but I don't recognize that.

2 Q. Okay. So Defendant's Exhibit No. 4 starts with  
3 a chain of custody form. Do you agree?

4 A. It appears so, yes.

5 Q. Okay. And that appears to be from the Stafford  
6 Police Department; is that correct?

7 A. Yes.

8 Q. Okay. The second page we get on to the  
9 toxicology request and submission form?

10 A. Yes.

11 Q. Who fills out the information on this form?

12 A. A representative from the submitting agency.

13 Q. And when is that form filled out?

14 A. I do not know.

15 Q. Is it before, during or after the submission of  
16 evidence?

17 A. Before.

18 Q. Okay. Do you know who filled this form out?

19 A. I do not.

20 Q. And most of the information on this form is  
21 typed in. Would you agree with that?

22 A. Yes.

23 Q. Okay. And included on this form is a printed  
24 name of individual blank; is that correct?

25 A. Yes.

1 Q. And what individual prints their name there?

2 A. It appears to be A. Mitchell.

3 Q. Okay. And there's also a date blank, is that  
4 correct?

5 A. Yes.

6 Q. Okay. But who fills that out? I know it says  
7 A. Mitchell. Is the person submitting the evidence  
8 fills that out?

9 MR. FESMIRE: Objection. Lacks personal  
10 knowledge.

11 THE COURT: Sustained.

12 Q. (BY MR. LANDERS) Do you know who fills this  
13 out?

14 A. I do not. When it comes to other agencies,  
15 some people write this, but it really depends on how  
16 they submit it --

17 THE REPORTER: I'm sorry?

18 A. It depends on how they submit the evidence.

19 Q. (BY MR. LANDERS) What is the purpose of this  
20 form? What's the purpose of that form?

21 A. The purpose of this form it's essentially a  
22 contract submitted to the lab for us to perform a  
23 request that an agency would like us to do.

24 Q. So an outside agency provides y'all with  
25 evidence, correct?



1 A. Yes.

2 Q. And this form is included for what reason?

3 A. This form is included to give information to  
4 the case as well as what is included.

5 Q. Okay. Does the agency fill this form out or  
6 does DPS fill this form out?

7 A. The agency fills it out.

8 Q. Is this toxicology request submission form, is  
9 that what was swapped in the May 2024 incident --  
10 quality incident?

11 A. Yes.

12 Q. Okay. And that happened prior to Mr. Momin's  
13 case, correct?

14 A. For --

15 Q. May 2024 is before Mr. Momin's case?

16 A. For trial, yes.

17 Q. Okay. That's what I meant. Now, in the two  
18 blanks we discussed, printed name of submitting  
19 individual, do you see both a typed and a handwritten  
20 name?

21 A. Yes.

22 Q. Okay. Can you read what the typed name says?

23 A. The typed name appears to be Andrea Stout.

24 Q. Is that crossed out?

25 A. Yes.

1 Q. And then what's written in?

2 A. A. Mitchell.

3 Q. What is the date that is typed on the form?

4 A. 10-14-2022.

5 Q. Is that crossed out?

6 A. Yes.

7 Q. Okay. What is the date that's written in?

8 A. 10-17-2022.

9 Q. Okay. Would you flip over to the front page of  
10 Defendant's Exhibit No. 4?

11 A. (Witness complies.)

12 Q. You would agree this is a Stafford Police  
13 Department chain of custody form?

14 A. It appears that way, yes.

15 Q. If you read, there's a blank over there that  
16 says, "Item moved to this location." Do you see that?

17 A. Yes.

18 Q. There's a column for that, right?

19 A. Yes.

20 Q. What is the date that, according to Stafford,  
21 this evidence was left at the DPS lab?

22 A. According to this document 10-14-2022.

23 Q. Okay. And that matches with the typed-in  
24 information on Page 1, the DPS information. Do you  
25 agree with that?

1           A.    Yes.

2           Q.    Okay.  Who is the person that allegedly dropped  
3 -- looking on the first page -- provided this blood  
4 evidence to DPS?

5           A.    Amir Mitchell.

6           Q.    And that matches with the handwritten  
7 information on Page 2, the DPS submission form, correct?

8           A.    Yes.

9           Q.    Okay.  Who made the correction on Page 2, the  
10 DPS request submission form?

11                   MR. FESMIRE:  Objection.  Calls for  
12 speculation.

13                   MR. LANDERS:  I'd like to ask it a  
14 different way, Judge.

15                   THE COURT:  Please do.

16           Q.    (BY MR. LANDERS)  Do you know who made the  
17 corrections on the DPS request submission form?

18           A.    I do not.

19           Q.    Do you know when they were made?

20           A.    I do not.

21           Q.    Does the signature in that square on Page 2  
22 look like a star or signature?  Do you recognize that?

23                   THE COURT:  Where are you referencing,  
24 Counsel?  Are you referencing this corner right here  
25 (indicating)?

1                   MR. LANDERS: Right. There's like a  
2 signature or initials.

3           Q.   (BY MR. LANDERS) Do you see what I'm talking  
4 about there?

5           A.   You're talking about, like, right here  
6 (indicating)?

7           Q.   No. I'm talking about in the upper right next  
8 to the barcode.

9           A.   This right here (indicating)?

10          Q.   Right.

11          A.   I do know whose initials those are, yes.

12          Q.   Whose are they?

13          A.   Those are initials for the evidence tech.

14          Q.   Do you know the name of that person?

15          A.   Yes.

16          Q.   What is that person's name?

17          A.   Sara --

18                   THE REPORTER: Sara --

19                   THE WITNESS: It's Saravith Vonne,  
20 S-a-r-a-v-i-t-h V-o-n-n-e.

21          Q.   (BY MR. LANDERS) And flip over to the last  
22 page, the chain of custody report. Do you see that?

23          A.   Yes.

24          Q.   Do we see Saravith Vonne's name on there  
25 sometimes?

1           A.    Yes.

2           Q.    So we think she's the person that made this  
3 correction?

4                   MR. FESMIRE:  Objection.  Calls for  
5 speculation.

6                   THE COURT:  Sustained.

7           Q.    (BY MR. LANDERS)  Is there a policy in the lab  
8 to fix errors in the chain of custody if they're noticed  
9 by employees of DPS?

10          A.    I do not know.

11          Q.    And you would agree with me that even with the  
12 handwritten information on the DPS request submission  
13 form, we still have a contradicting date between that  
14 and the Stafford Police Department form?

15                   MR. FESMIRE:  Objection.  Attorney  
16 testifying.

17                   THE COURT:  Counsel, ask it in the form of  
18 a question.

19                   MR. LANDERS:  Okay.

20          Q.    (BY MR. LANDERS)  What is -- look at Page 1.  
21 What date does the Stafford Police Department say the  
22 blood test for Mr. Momin's case was dropped off at the  
23 DPS lab?

24                   MR. FESMIRE:  Objection.  Asked and  
25 answered.

1 THE COURT: Overruled.

2 A. 10-14-2022.

3 Q. (BY MR. LANDERS) And then flip to Page 2.

4 A. (Witness complies.)

5 Q. What date does Page 2 say the in-person  
6 submission took place, the handwritten one?

7 A. The handwritten one says 10-17-2022.

8 Q. So even with the handwritten information there  
9 was a discrepancy on this form?

10 MR. FESMIRE: Objection. Attorney  
11 testifying.

12 THE COURT: Overruled.

13 A. It appears that way, yes.

14 Q. (BY MR. LANDERS) Do you recall if whenever you  
15 tested the evidence in this case the handwritten  
16 information was on the submission form?

17 A. I do not recall.

18 Q. And if you look on Page 3, did Ms. Vonne -- did  
19 she handle the blood evidence in this case before or  
20 after you tested it or both?

21 A. Both.

22 Q. So we don't know when that was done, do we?

23 A. For when she handled it?

24 Q. We don't know when the submission form was  
25 altered in this case?

1           A.    No.

2           Q.    If you would have noticed the discrepancy in  
3 dates, would you have noted that somewhere in the case  
4 file?

5           A.    I don't know if I would have.

6           Q.    Is a discrepancy in the chain of custody  
7 something that you should catch as far as your job?

8           A.    Yes.

9           Q.    You didn't note anything on the laboratory  
10 report about a discrepancy, did you?

11          A.    No.

12          Q.    In Mr. Momin's case, do you recall when you  
13 learned the case was set for trial?

14          A.    I'm sorry. Could you repeat?

15          Q.    Do you recall when you learned Mr. Momin's case  
16 was set for trial?

17          A.    I know -- I'm pretty sure it got reset a couple  
18 of times. I do not remember the initial day that I was  
19 notified for it.

20          Q.    I think you've already told us a couple of  
21 Fridays ago that you had some sort of meeting with the  
22 prosecutors before this case?

23          A.    Yes.

24          Q.    Okay. And just to refresh our memory, emails,  
25 Zoom calls, how did that happen?

1           A.    Yes.  I had a couple of phone calls and a  
2 couple of Zoom video calls for this case.

3           Q.    Did the chain of custody issues come up?

4           A.    I do not remember.

5           Q.    Do you remember if the handwritten changes on  
6 those forms came up?

7                   MR. FESMIRE:  Objection to relevance.

8                   THE COURT:  Overruled.

9           A.    I do not remember.

10          Q.    (BY MR. LANDERS)  What is that Defense exhibit  
11 you have in front of you?

12          A.    4.

13          Q.    Have you seen Page 1 of that prior to trial?

14          A.    I have not.

15                  MR. LANDERS:  Can I have one second, Judge?

16                  THE COURT:  Yes.

17                  MR. LANDERS:  I'm going to grab these  
18 exhibits, if it's okay, Judge.

19                  THE COURT:  Yes.

20          Q.    (BY MR. LANDERS)  So Defendant's Exhibit No. 1,  
21 it's the first Brady disclosure given in any of your  
22 cases, correct?

23          A.    Yes.

24          Q.    And that notice was given because you notified  
25 the prosecutors in that case about these pending Quality



1 Incident Reports?

2 A. Yes.

3 Q. And did those pending reports become a large  
4 part of the defense counsel's case in that case?

5 MR. FESMIRE: Objection. Relevance.

6 MR. LANDERS: And, Judge, I'll just say  
7 where I'm going. I think it goes to materiality, the  
8 effect that this type of evidence can have on a jury.  
9 That's where I'm going.

10 MR. FESMIRE: Relevance, Your Honor. What  
11 happened in that case isn't relevant to what's happening  
12 in our present case.

13 THE COURT: As to that form, sustained.

14 Q. (BY MR. LANDERS) Are you aware of the internal  
15 policies that your DPS lab has?

16 A. I'm familiar with some of them, yes.

17 Q. Do you have, like, a handbook you can review as  
18 part of your employment?

19 A. I do not remember.

20 Q. I'm going to show you -- well, I'm going to  
21 give you a document. Can you tell us what this is?

22 A. It's a portion of the crime lab division  
23 manual.

24 Q. Are you --

25 THE COURT: Have you marked this, Counsel?

1                   MR. LANDERS: I haven't. I just want to  
2 have him refresh his memory if that's okay.

3                   THE COURT: You can but for purposes of the  
4 record, can you identify it as something?

5                   MR. LANDERS: Sure.

6           Q.    (BY MR. LANDERS) What do you call it?

7           A.    It's a portion of the crime lab division  
8 manual.

9           Q.    And what chapter is it?

10          A.    Forensic disclosure and compliance policy.

11                  MR. LANDERS: Judge, I think the State  
12 might put this into evidence. I don't know if they just  
13 want to do it right now.

14                  THE COURT: I want to make sure that the  
15 record clearly indicates if he's going to ultimately  
16 testify about something, then I need to know what that  
17 is, and so I don't really care how you-all mechanically  
18 do it other than it reflects appropriately.

19          Q.    (BY MR. LANDERS) Are you familiar with this  
20 document?

21          A.    I'm familiar with the crime lab division  
22 manual, but when it comes to this chapter, I might have  
23 seen it during my training.

24          Q.    Okay. You don't specifically remember going  
25 over this?

1           A.    Not off the top of my head.

2           Q.    Okay.

3                   MR. LANDERS:  Judge, we'll not introduce it  
4 at this time, and no further questions right now.

5                   THE COURT:  All right.  I don't recall  
6 which of you had this witness.

7                   MR. FESMIRE:  Yes, Your Honor.

8                   THE COURT:  Mr. Fesmire.  Okay.  Go ahead.

9                               DIRECT EXAMINATION

10 BY MR. FESMIRE:

11           Q.    Zach, I want to ask you -- first of all,  
12 Defense counsel went over some perceived issues with the  
13 chain of custody form from Stafford PD and the lab  
14 submission form.

15                   That had no effect on the reliability of  
16 your results in your testing, correct?

17           A.    No.

18           Q.    I want to go through the cases with you on the  
19 specific quality incidents.  Starting with the quality  
20 incident entitled Defendant's Exhibit No. 6,  
21 QI-HOU-2022-0908-BA.

22           A.    Okay.

23                   MR. FESMIRE:  Your Honor, if I may, may I  
24 approach the witness?

25                   THE COURT:  You can.

1           Q.    (BY MR. FESMIRE) I'm showing you what has been  
2 marked as Defendant's Exhibit No. 6. Now, in this QI  
3 you were -- and "QI" stands for quality incident, right?

4           A.    Yes.

5           Q.    Okay. In this QI you were notified by Sugar  
6 Land that there were unsealed blood kits that they  
7 received?

8           A.    Not through this QI.

9           Q.    Oh, I apologize. Now, the crack in the blood  
10 tube, Defense counsel asked you if this incident was  
11 disclosed to the defendant whose specimen was involved  
12 in that QI, right?

13          A.    I believe so, yes.

14          Q.    Okay. Now, if a QI is developed, is that your  
15 responsibility to disclose that quality incident?

16          A.    If it's set for trial and I'm having a  
17 pre-trial with the prosecutor, I would disclose it then.

18          Q.    Or is it DPS's responsibility?

19          A.    I would consider it more of DPS's  
20 responsibility.

21          Q.    Now, in the case in which a blood tube was  
22 cracked, were you still able to test the specimen for  
23 that case?

24          A.    I was, yes.

25          Q.    And when the Quality Incident Report was

1 issued, are you aware if that is -- when a Quality  
2 Incident Report is issued, are you aware if that is made  
3 available to the public?

4 A. Yes.

5 Q. Okay. There's an open-facing website that  
6 anyone can see, right?

7 A. I believe so, yes.

8 Q. In which all finalized quality incidents are  
9 listed?

10 A. Yes.

11 Q. Was that available at the time of Mr. Momin's  
12 trial?

13 A. At the time of the trial, yes.

14 Q. Okay. And is that information, to your  
15 knowledge, is that available on the lab report that the  
16 defendant would receive on where to find the issued  
17 quality incidents?

18 A. I believe so, yes.

19 MR. FESMIRE: Your Honor, may I approach  
20 the witness?

21 THE COURT: You can.

22 MR. FESMIRE: Excuse me. May I approach  
23 the bench?

24 THE COURT: Give me one second.

25 MR. FESMIRE: May I see Defendant's Exhibit

1 No. 5?

2 THE COURT: I don't have that one. I just  
3 have No. 4.

4 MR. FESMIRE: Your Honor, may I approach  
5 the witness?

6 THE COURT: Yes.

7 Q. (BY MR. FESMIRE) I'm showing you what is  
8 marked as Defendant's Exhibit No. 5 on Page 2. The last  
9 paragraph on Page 2, could you read that?

10 A. Yes. In addition to this report, the lab  
11 maintains a complete case record which may be  
12 discoverable under Article 39.14 of the Texas Code of  
13 Criminal Procedure. A list of quality incidents  
14 involving the laboratory is available online at a  
15 website.

16 Q. Okay. And that is the DPS website, correct?

17 A. Yes.

18 Q. Okay. Now, if you still have Exhibit No. 6 in  
19 front of you, you can read your name under  
20 "collaborators." What's next to your name?

21 A. Tifani Parker.

22 Q. And next to that?

23 A. "Electronically signed."

24 Q. Okay.

25 THE COURT: Are you referencing No. 6?

1 MR. FESMIRE: Referencing No. 6, Your  
2 Honor.

3 THE COURT: Hang on, please.

4 Okay. I'm sorry. Where were you  
5 referencing, Mr. Fesmire?

6 MR. FESMIRE: If it's easier, I can go to  
7 the Elmo to show the exhibits.

8 THE COURT: That would be very helpful.  
9 Thank you.

10 MR. LANDERS: Judge, I apologize. I didn't  
11 see it. I didn't see the Elmo, otherwise, I would have  
12 done that.

13 THE COURT: That's okay.

14 MR. FESMIRE: While that's being loaded,  
15 Your Honor, could I also see State's Exhibit No. 4 and  
16 5?

17 THE COURT: They should be right there.  
18 That's all I have.

19 I was just verifying that what y'all were  
20 referencing was what I had in my own courtesy copies.

21 Q. (BY MR. FESMIRE) Can you see that all right?

22 A. Yes.

23 Q. Okay. And just to verify, the last question I  
24 asked you "collaborator," that's in the last section of  
25 the Defendant's Exhibit No. 6, correct?

1 A. Yes.

2 Q. Next to your name, there's Tifani Parker's  
3 name, next to that it says "electronically signed"?

4 A. Correct.

5 Q. Okay. Now, are you the one responsible for  
6 issuing documents pursuant to a blood discovery order  
7 signed by a judge?

8 A. No.

9 Q. That's someone else's job at DPS, correct?

10 A. Yes.

11 Q. And were you personally aware of whether this  
12 document was included in Mr. Momin's blood discovery  
13 documents?

14 A. No.

15 Q. Okay. You are aware, however, that this was  
16 issued at the time of Mr. Momin's trial? This was  
17 finalized?

18 A. This was finalized at the time of his trial?

19 Q. Correct.

20 A. This is the broken blood tube one?

21 Q. No. The date of this incident is 09-08-2022 or  
22 September 8, 2022.

23 A. Okay. What was your question again?

24 Q. Are you aware if this was finalized at the time  
25 of Mr. Momin's trial in September of -- in August of



1 2024?

2 A. It was finalized before.

3 Q. Okay. Now, I want to move on to State's  
4 Exhibit No. -- excuse me -- Defendant's Exhibit No. 8.  
5 Can you see that all right?

6 A. Yes.

7 Q. Now, you were notified by Sugar Land PD that  
8 there were unsealed blood kits in this Quality Incident  
9 Report, correct?

10 A. Yes.

11 Q. Your supervisor, Ms. Parker, was also notified?

12 A. Yes.

13 Q. By Sugar Land?

14 A. Yes.

15 Q. Now, what corrective action did you take  
16 whenever you learned about this incident?

17 A. As I stated earlier, I went to check any other  
18 cases that could still be at the lab that were a part of  
19 this batch. I had checked all the cases that were a  
20 part of this batch that were still at the lab and  
21 determined that the proper seal was not applied. After  
22 that I went back to the work list, as I had stated  
23 previously, to reach out to the other agencies that had  
24 evidence that was a part of this batch as well as Austin  
25 drug toxicology.

1           Q.   Are you aware if there was any damage done to  
2 the tubes in this case?

3           A.   No. All evidence was accounted for.

4           Q.   Now, this Quality Incident Report wasn't  
5 finalized at the time of Mr. Momin's trial, correct?

6           A.   Correct.

7           Q.   So it was not publicly available as we spoke  
8 about with the other Quality Incident Report?

9           A.   Correct.

10          Q.   Now, this quality incident had no impact on  
11 Mr. Momin's specimen or the direct results of your  
12 analysis in his case, correct?

13          A.   Correct.

14          Q.   Nor did it affect the accuracy of your results  
15 in his case?

16          A.   Correct.

17          Q.   Okay. Now, I'm going to move on to Defendant's  
18 Exhibit No. 9, and as was mentioned on direct, this  
19 Quality Incident Report was just finalized today --

20          A.   Yes.

21          Q.   -- correct?

22                       However, it involves two incidents?

23          A.   Yes.

24          Q.   Now, whenever an incident occurs do you write a  
25 Lab 403?

1 A. Yes.

2 | Q. Can you explain to us what a Lab 403 is?

3           A.    A Lab 403 is a laboratory information sheet.  
4 It documents and details something that happened in the  
5 lab.

6 Q. Okay. So it's a fairly general document. If  
7 something happens in the lab, that's your way to provide  
8 documentation for any other future cases or --

9 A. Yes.

10 Q. Okay. Now, I'm showing you what has been  
11 marked as State's Exhibit No. 4. Can you read that?

12 A. The whole thing?

13 Q. No. I'm just asking if you can read it from  
14 where you are?

15 | A. Yes.

16 Q. Okay. And now this Lab 403 is for the Garland  
17 cases, correct?

18 || A. Correct.

19 Q. And you were working overflow for Garland  
20 whenever this occurred?

21 | A. Yes.

```
22      Q.  Can you explain what it means to work overflow
23 cases?
```

24 A. Working overflow --

25 THE COURT: Counsel -- pardon me -- what

1 number is that?

2 MR. FESMIRE: That is No. 4, Your Honor. I  
3 can zoom out if you'd like.

4 THE COURT: No, I can see it. Hang on a  
5 second.

6 (Brief pause.)

7 THE COURT: Okay. Thank you.

8 Q. (BY MR. FESMIRE) Now, can you explain what  
9 working overflow cases mean?

10 A. So the Garland lab was receiving more cases per  
11 month than they could release, so the Houston lab  
12 insourced cases from the Garland lab to work to help  
13 with their backlog that was developing.

14 Q. Does Houston ever have to send overflow cases  
15 to another lab within DPS?

16 A. We have before, yes.

17 Q. Okay. Now, you had already tested a batch of  
18 cases for the Garland lab when you were notified by the  
19 Garland analyst that there was mismatched blood tubes to  
20 a kit that he was working, correct?

21 A. Correct.

22 Q. And in a situation like this, what are you  
23 supposed to do? What's your next step?

24 A. In a situation like this -- as an example, what  
25 I did, I immediately went to the refrigerator that the

1 blood kit that was in question was stored in, I examined  
2 the tubes myself to make sure that he was telling the  
3 truth essentially, determined that he was telling the  
4 truth and that he was correct. I immediately took the  
5 case out of the review process, and I discussed further  
6 steps with my supervisor.

7 Q. Okay. Now, after discussing further steps, you  
8 got the information for the agency that was involved,  
9 correct?

10 A. Yes.

11 Q. So the Lancaster PD?

12 A. Yes.

13 Q. Now, is Lancaster PD an agency that you  
14 normally test cases for?

15 A. No.

16 Q. And you knew this was important because the  
17 chain of custody may be affected in this case, right?

18 A. Yes.

19 Q. So you wanted to get --

20 A. Yes.

21 Q. Now, had the results been issued in the case  
22 that you had tested?

23 A. Results for the --

24 Q. Had a lab report been issued for that case?

25 A. A lab report was not released.

1 Q. Okay. It wasn't released to an agency, right?

2 A. It was not, correct.

3 Q. Were you able to remedy the situation and  
4 confirm the correct results before a lab report went out  
5 for the involved cases?

6 A. Could you repeat that?

7 Q. Of course. Were you able to remedy the  
8 situation here and give out a correct lab report to the  
9 agencies for the involved cases?

10 A. Yes.

11 Q. Okay. So the individuals whose cases were  
12 associated with this quality incident still received  
13 accurate results?

14 A. Yes.

15 Q. Okay. To your knowledge, were those tubes  
16 switched prior to coming to the Houston crime lab?

17 A. The Garland case?

18 Q. Correct.

19 A. Or the Garland incident?

20 Q. Yes.

21 A. Yes, they were switched prior to lab  
22 submission.

23 Q. Now, did this particular incident have any  
24 impact on Mr. Momin's specimen or the accuracy of your  
25 results in his case?

1           A.    It did not.

2           Q.    Now, I'm showing you what has been admitted as  
3 State's Exhibit No. 5 for the purposes of this hearing.  
4 Can you read that all right?

5           A.    Yes.

6           Q.    Now, this incident began when you were testing  
7 a specimen and you realized that the submission form for  
8 the case did not match the name of the blood kit and  
9 tubes, correct?

10          A.    For the second case, yes.

11          Q.    Right. Now, before you tested this specimen,  
12 had the submission form already been scanned in to the  
13 case by the evidence-receiving department at DPS?

14          A.    Yes.

15          Q.    So you, yourself, are not usually scanning in  
16 the submission form?

17          A.    Correct.

18          Q.    What system does it get scanned into?

19          A.    It gets scanned into our LIMS database.

20          Q.    And what does LIMS stand for?

21          A.    Laboratory Information Management System.

22          Q.    Okay. And correct me if I'm wrong, another  
23 phrase you use for that is the JTrax system?

24          A.    Yes, JTrax is short for JusticeTrax.

25          Q.    Okay. And JusticeTrax is your Laboratory

1 Information Management System?

2 A. Yes.

3 Q. Now, when the case is scanned in by evidence  
4 receiving, this is how it receives its unique case  
5 number?

6 A. Yes.

7 Q. I'm showing you what has been marked  
8 Defendant's Exhibit No. 4 on the second page.

9 Now, the label that states "Alcohol  
10 Content" that's at the top right of this document, is  
11 that put on there by evidence receiving at the DPS lab,  
12 to your knowledge?

13 A. The "X" mark in the request box, is that  
14 what --

15 Q. No. I apologize. The label -- the label with  
16 the title "Alcohol Content."

17 A. Oh, yes.

18 Q. Okay. And that signature that is on this, was  
19 it Saravith Vonne?

20 A. Saravith Vonne.

21 Q. Okay. Could you say it again?

22 A. Saravith Vonne.

23 Q. And she's the evidence tech at the lab?

24 A. Yes, she is an evidence tech.

25 Q. Okay. Now, I'm showing you again what's been



1 marked as State's Exhibit No. 5 for the purposes of this  
2 hearing.

3 Now, that physical submission form, I  
4 guess, does not stay with you when you're analyzing a  
5 batch, correct?

6 A. Correct.

7 Q. Okay. But it's up to you to check the  
8 submission form to make sure it matches the blood kit  
9 that you're testing?

10 A. Yes.

11 Q. And to do that, you look it up in the JTrax  
12 system or your Laboratory Information Management System,  
13 right?

14 A. Yes.

15 Q. Okay. And when doing this, you realized that  
16 the case you were testifying did not match?

17 A. Yes, for the second instance.

18 Q. For the second instance within this 403, right?

19 A. Yes.

20 Q. Okay. Now, at that point did you tell your  
21 supervisor?

22 A. Yes.

23 Q. And Ms. Parker then told you to look up the lab  
24 case number for the kit in your Laboratory Information  
25 Management System?

1 A. Yes.

2 Q. Okay. And that case has already been tested?

3 A. The first case, yes.

4 Q. Okay. Now, had the lab report went out to an  
5 agency for that first test case?

6 A. No.

7 Q. So the review process for that was not  
8 complete?

9 A. Correct.

10 Q. Now, does the process of testing a blood tube  
11 end after you've completed your analysis or are there  
12 different phases to testing?

13 A. Could you repeat the question?

14 Q. Are there different phases to testing or does  
15 it end after the results are generated after your  
16 testing?

17 A. There are different phases.

18 Q. Okay. Could you go through the phases with us  
19 briefly?

20 A. Yes. The first phase is unassigned. So this  
21 is when evidence is being created -- or not created --  
22 but this is when evidence is entered into the LIMS  
23 database. It's given the unique case number,  
24 information from the case is entered into the database.  
25 Chain of custody is generated for it at the lab.

1                   The next phase is assigned. So an analyst  
2 will assign casework depending on the discipline --  
3 depending on the discipline. An analyst will assign  
4 casework to themselves, and this is the next stage of  
5 the testing process.

6                   After that, it goes to findings entered.  
7 At this stage the evidence will be in the analyst's  
8 custody, and at this stage information from the evidence  
9 is matched up to information on the submission form.  
10 Any irregularities will be noted in the analyst's  
11 worksheet for that case. This is where the actual  
12 testing process occurs and this is also where the first  
13 part of the review process begins within the case's  
14 testing process.

15           Q. Okay. And after findings entered, what would  
16 be the next step in the process?

17           A. So after findings entered, after the analyst is  
18 done reviewing, making sure that all information is  
19 complete and accurate for the case, it will then enter  
20 draft complete.

21                   At this stage of the process, the analyst  
22 believes that a -- the report is finalized and accurate  
23 for release, and it is at this part where another  
24 analyst peer reviews the case to make sure that all the  
25 information is accurate.

1           Q.   And after that step, the lab report is issued  
2 to the agency?

3           A.   No.

4           Q.   Okay.  What's next?

5           A.   So after that step depending on if any  
6 corrections are needed, the peer review analyst will  
7 notify the analyst who worked the case and prepared it  
8 of the corrections that need to be done.

9                     If the peer review analyst determines that  
10 this case is ready for release, it will enter the next  
11 phase which is technical review -- technical reviewed,  
12 sorry.  At this point the next stage is where the final  
13 part is finalized and released and that last step is  
14 administrative reviewed.

15          Q.   So at this point on the 403 that we're  
16 currently looking at marked as State's Exhibit No. 5,  
17 you were in the draft complete stage?

18          A.   Yes, the first case was in draft complete.

19          Q.   Okay.  And the second was in findings entered?

20          A.   Yes.

21                   THE COURT:  Was what?

22                   MR. FESMIRE:  The second was in findings  
23 entered.

24          Q.   (BY MR. FESMIRE)  Now, you reached out to the  
25 agency when you learned to submit new submission forms

1 for these two cases, right?

2 A. Could you repeat that?

3 Q. Yes. When you learned of this mistake, you  
4 reached out to the agency to get new submission forms  
5 for these cases?

6 A. Yes.

7 Q. Okay. Now, after that you were able to issue  
8 the correct lab reports?

9 A. Yes.

10 Q. Okay. And it had no effect on the accuracy of  
11 the testing that you did; is that correct?

12 A. Correct.

13 Q. Okay. So these individuals whose cases were  
14 associated with a different specimen didn't receive the  
15 results for the other specimen. They received their  
16 results?

17 A. Yes.

18 Q. Okay. Now, did this particular incident have  
19 any impact on Mr. Momin's specimen or the direct  
20 reliability of the testing that you did in your case?

21 A. No.

22 Q. Okay. Now, why did you choose not to share  
23 this information with the State prior to Mr. Momin's  
24 trial?

25 A. I didn't find it to be relevant to the case

1 that was going to trial. And during the pretrial  
2 meetings that we had, to my recollection, we did not  
3 discuss any QIs.

4 Q. Now, Defense counsel mentioned something on his  
5 direct, and I want to give you an opportunity to  
6 explain, during the James Brady Soape trial.

7 Would you care to explain your testimony in  
8 that trial?

9 A. Yes. What part of the testimony?

10 Q. I guess regarding the hidden element of the  
11 quality incidents.

12 A. The hidden element of the quality incidents, he  
13 had really good wording. I will give him that.

14 THE COURT: He who?

15 THE WITNESS: The defense attorney.

16 A. I should have used my words a little bit more  
17 properly instead of using the word "hidden." When it  
18 comes to the QIs, I didn't hide them because I had  
19 disclosed them to the prosecution.

20 Q. Had you been aware that this was information  
21 that should have been disclosed, would you have  
22 disclosed it?

23 A. If it had to have been disclosed, yes, I would  
24 have disclosed it.

25 Q. Okay. Now, I want to talk about working up a

1 case in actual blood kits to get results.

2 Now, whenever you are collecting a batch of  
3 specimens for testing, can you explain a bit about how  
4 that works?

5 A. Yes, so for the blood alcohol discipline at the  
6 Houston lab, the analysts assign cases to themselves.  
7 Different disciplines have team leads that will assign  
8 cases to analysts, but for purposes of the blood alcohol  
9 section, we assign cases to ourselves.

10 We usually do it in tens, so every now and  
11 then on special occasions if a certain request is  
12 needed, we'll do a 10 batch, 20 batch. The most common  
13 that we do are batches of 30, and in the past we have  
14 worked batches of 40.

15 Q. Okay. Now, whenever you're working up a  
16 particular case, do you keep notes while you are going  
17 through your testing process?

18 A. Yes.

19 Q. What document do you keep that on?

20 A. It's on the worksheet for that case.

21 Q. I'm now showing you what has been marked as  
22 State's Exhibit No. 2 for the purposes of this trial.  
23 Can you see that?

24 A. Yes.

25 Q. Okay. On this document on the left column it

1 says, "Innermost Location of Subject Name." Can you  
2 read what it says to the right?

3 A. "Specimen Container."

4 Q. And what does that indicate to you?

5 A. That indicates the blood tube.

6 Q. Okay. Does that indicate that you were able to  
7 locate the subject's name on that blood tube?

8 A. Yes.

9 Q. Okay. Now, where it says the "Location of  
10 Innermost Seal," can you read what it says to the right?

11 A. "Specimen Container."

12 Q. And what does that indicate to you?

13 A. The seal is on the blood tube.

14 Q. Okay. Now, at what point in testing are you  
15 preparing this document?

16 A. The point where --

17 THE REPORTER: I'm sorry?

18 A. Were you asking what --

19 Q. (BY MR. FESMIRE) Is it throughout testing?

20 A. Yes.

21 Q. Okay. Or is it when you're finished with  
22 testing?

23 A. It's both actually.

24 Q. Okay. So you're actively taking notes as  
25 you're working the case?



1           A.    Yes.

2           Q.    Okay.  Now, on direct examination, again, a few  
3 weeks ago, you had mentioned that the lab submission  
4 form is not part of the chain of custody at the DPS lab;  
5 is that correct?

6           A.    I'm sorry.  Can you repeat?

7           Q.    Of course.  A few weeks ago you had mentioned  
8 that the lab submission form is not part of the DPS  
9 chain of custody; is that right?

10          A.    I do not remember.

11          Q.    Okay.

12                   THE COURT:  Can you hang on a second?  Are  
13 you referencing --

14                   MR. FESMIRE:  I'm referencing his  
15 testimony.  It's regarding --

16                   THE COURT:  No, I understand.

17                   MR. FESMIRE:  -- Defendant's Exhibit No. 4,  
18 Your Honor, the second page.  I'll display it on the  
19 screen.

20                   THE COURT:  Okay.  Thank you.

21          Q.    (BY MR. FESMIRE)  Now, is the DPS lab  
22 submission form directly part of the chain of custody of  
23 a case?

24          A.    Not necessarily.

25          Q.    Okay.  Because you have a separate chain of

1 custody; isn't that right?

2 A. Yes, a separate chain of custody compared to  
3 the chain of custody for the police department.

4 Q. And now I'm showing you what is marked as  
5 Defendant's Exhibit No. 4, Page 3. This is the chain of  
6 custody document provided by DPS, correct, to your  
7 knowledge?

8 A. Yes.

9 Q. Now --

10 MR. FESMIRE: I'm sorry, Your Honor. Just  
11 one moment to pull up the --

12 (Technical difficulties.)

13 (Discussion off the record.)

14 (Short recess.)

15 THE COURT: All right. We are back on the  
16 record in Cause No. 22-CCR-230111. Mr. Fesmire, you can  
17 continue with your examination.

18 MR. FESMIRE: Thank you, Your Honor.

19 Q. (BY MR. FESMIRE) Now, Mr. Augustyn, before the  
20 trial of Mr. Momin, Mr. Evans, you and an investigator  
21 from the DA's office and myself went to view the blood  
22 evidence stored at Stafford PD; is that correct?

23 A. Yes.

24 Q. Okay. Now, are you aware that that was  
25 videotaped by an investigator on his body cam?

1           A.    Yes.

2           Q.    Okay.  And when the blood evidence was brought,  
3 you had an opportunity to open the kit at that time,  
4 correct?

5           A.    Yes.

6           Q.    Okay.

7                   MR. FESMIRE:  Now playing what has been  
8 previously admitted as State's Exhibit No. 1 -- excuse  
9 me -- State's Exhibit No. 1 for the purposes of this  
10 hearing.  Playing from minute four second 32.

11                               (Video played.)

12           Q.    (BY MR. FESMIRE)  Now, Zach, we were able to  
13 partially hear, but the seal that's on the blood kit at  
14 that time that, that is the seal that you placed on the  
15 kit after testing, correct?

16           A.    Yes.

17           Q.    Okay.  Had anything been altered at that time  
18 to your seal?

19           A.    No.

20                   MR. FESMIRE:  Now playing from minute four  
21 second 54.

22                               (Video played.)

23           Q.    (BY MR. FESMIRE)  And after reviewing the  
24 contents of the blood kit, you boxed the kit back up,  
25 correct?

1 A. Yes.

2 Q. After that the investigator from the Fort Bend  
3 County District Attorney's Office took custody of the  
4 blood kit, to your knowledge, correct?

5 A. Yes.

6 Q. And you didn't touch the blood kit at any time  
7 until trial after that?

8 A. Correct.

9 Q. And you noticed the Defendant's name on the  
10 blood tubes, correct, during your analysis at the  
11 Stafford Police Department?

12 A. Yes.

13 Q. Did it match the kit that you saw in this case?

14 A. Yes.

15 MR. FESMIRE: Your Honor, may I approach  
16 the witness?

17 THE COURT: You may.

18 Q. (BY MR. FESMIRE) I'm showing you what has been  
19 marked as State's Exhibit No. 8 for the purposes of this  
20 trial. Is that the blood kit of Mr. Momin?

21 A. It is, yes.

22 Q. How do you recognize it?

23 A. I recognize it by the unique lab case number,  
24 my initials on the day I opened it and the initials and  
25 date when I sealed it.

1           Q.    Okay.  And is that the same seal that you had  
2 at the time when you opened it at the Stafford Police  
3 Department?

4           A.    Yes.

5           Q.    Okay.  Now, is Mr. Momin's name on the top of  
6 that box?

7           A.    It is, yes.

8           Q.    Okay.

9                   MR. FESMIRE:  At this time, Your Honor,  
10 I'll pass the witness.

11                  THE COURT:  Do you have any additional  
12 questions, Mr. Landers?

13                  MR. LANDERS:  Just a few follow-ups, Judge.

14                  THE COURT:  Yes.  Go ahead.

15                               RE CROSS-EXAMINATION

16 BY MR. LANDERS:

17           Q.    Are you licensed by the Texas Forensic Science  
18 Commission?

19           A.    Yes.

20           Q.    Is that what allows you to testify as an expert  
21 for the State?

22           A.    Yes.

23           Q.    Okay.  Is there also training and ethics as  
24 part of you getting that license?

25           A.    Yes.

1           Q.   Does that also include training on things like  
2 Brady versus Maryland?

3           A.   Yes.

4           Q.   You discussed the Soape trial with the  
5 prosecution, correct?

6           A.   Vaguely. I think I did.

7                   THE COURT: When you say "prosecution,"  
8 Mr. Landers, you mean from Fort Bend County?

9                   MR. LANDERS: Correct.

10          Q.   (BY MR. LANDERS) Earlier they asked you a  
11 question about -- lying about hiding evidence from the  
12 Soape trial. Do you remember that?

13          A.   Yes.

14          Q.   Okay. And do you want to see your answer --  
15 the question before --

16                 MR. LANDERS: Do you mind if I approach the  
17 witness to show him his testimony?

18                 THE COURT: Go ahead.

19                 MR. FESMIRE: Your Honor, may I approach as  
20 well?

21                 THE COURT: Yes.

22          Q.   (BY MR. LANDERS) Do you agree with me that it  
23 was your answer that suggested that you were hiding two  
24 quality incidents?

25                 MR. FESMIRE: Objection, Your Honor, to

1 relevance.

2 MR. LANDERS: This is in response to their  
3 questioning.

4 THE COURT: So I'm going to overrule your  
5 objection, but I am going to instruct the witness not to  
6 answer that question as argumentative.

7 MR. FESMIRE: If I may be heard briefly,  
8 Your Honor? Counsel is attempting to bring in evidence  
9 that he misstated --

10 THE COURT: I sustained the objection.

11 MR. FESMIRE: Yes, Your Honor. Understood.

12 THE COURT: Thank you. Well, not your  
13 objection, but I told the witness not to answer the  
14 question.

15 MR. FESMIRE: Yes, Your Honor.

16 Q. (BY MR. LANDERS) Do you agree that on  
17 October 23, 2024, in Montgomery County, Texas in a court  
18 of law you answered the question in this way, "The  
19 things that I was hiding I believe were the two quality  
20 incidents that I had disclosed to the prosecutor --"

21 MR. FESMIRE: Objection, Your Honor --

22 THE COURT: Can you let him finish the  
23 question, and I'll entertain your objection?

24 MR. FESMIRE: Yes, Judge.

25 Q. (BY MR. LANDERS) Did you state that on the

1 record on that date?

2 A. Yes.

3 MR. FESMIRE: Objection, Your Honor.  
4 Hearsay. Counsel -- the attorney is testifying. He's  
5 reading from a document not in evidence.

6 THE COURT: Do you want to respond,  
7 Counsel?

8 MR. LANDERS: I'm asking if he made a  
9 specific statement that is different than what was just  
10 discussed on cross-examination. The witness said he was  
11 asked a question, but I just read his answer, and he  
12 agrees that those were his words.

13 THE COURT: I'm going to overrule your  
14 objection.

15 Repeat your answer, sir.

16 A. Yes.

17 Q. (BY MR. LANDERS) Okay. The Soape trial was  
18 with the same lawyer as the Monroy trial, correct?

19 A. Yes.

20 Q. Okay. So the quality incidents from the end of  
21 2023 and the beginning of 2024 were turned over prior to  
22 that trial, correct?

23 A. Yes.

24 Q. And do you agree that by not -- by not  
25 disclosing evidence in a timely manner showed bias?



1                   MR. FESMIRE: Objection. Argumentative and  
2 relevance.

3                   THE COURT: Sustained as to argumentative.

4           Q.    (BY MR. LANDERS) You would agree that -- well,  
5 you're a scientist, correct?

6           A.    Yes.

7           Q.    And what is the job of a scientist?

8           A.    When it comes to forensics, the job of a  
9 scientist is to work in the realm of criminal justice  
10 through physical science background.

11          Q.    Is it important to be unbiased?

12          A.    Yes.

13          Q.    Is it important to follow protocol?

14          A.    Yes.

15          Q.    And for your testimony to be admissible, do you  
16 believe you need to follow the protocol?

17               MR. FESMIRE: Objection. Calls for a legal  
18 opinion.

19               THE COURT: Sustained.

20          Q.    (BY MR. LANDERS) In these various QIs we've  
21 discussed, you would agree there was violations of lab  
22 protocol?

23          A.    Yes.

24          Q.    As part of being unbiased, you shouldn't favor  
25 one party or the other?

1 MR. FESMIRE: Objection. Argumentative.

2 THE COURT: Overruled.

3 A. Could you repeat your question?

4 Q. (BY MR. LANDERS) Being unbiased means not  
5 favoring one party or another?

6 A. Correct.

7 Q. Are there actions you've taken in your career  
8 that suggest you're biased in favor of the State?

9 A. The State asks for my help more than the  
10 Defense does. I would consider that possibly biased.

11 THE COURT: I'm sorry. You said, "I would  
12 consider that"?

13 THE WITNESS: Biased.

14 Q. (BY MR. LANDERS) We've discussed the chain of  
15 custody a lot in this hearing, correct?

16 A. Yes.

17 Q. Okay. What is the reason for the LIMS system?

18 A. The reason for the LIMS system in general?

19 Q. Right.

20 A. It's a database that we use to keep track of  
21 all the cases that flow in throughout the whole state.

22 Q. Does that system create a chain of custody  
23 report?

24 A. It does, yes.

25 Q. Why do we want to document the chain of

1 custody?

2 A. To be transparent with everything that happens  
3 with evidence in our possession.

4 Q. And when you were discussing the February 2024  
5 swap vials incident with the prosecutor -- do you  
6 remember that?

7 A. Yes.

8 Q. And you mentioned that it's important to  
9 maintain the chain of custody?

10 A. Yes.

11 Q. And that because of what had happened in that  
12 case, you had to remedy that situation?

13 A. Correct.

14 Q. Okay. And that was to sure up the chain of  
15 custody, correct?

16 A. Could you rephrase your question?

17 Q. Well, the remedy was to get the boxes together  
18 and to make sure the blood matched the boxes; is that  
19 right?

20 A. The remedy for the Garland incident, since one  
21 case had already been analyzed with a specific lab  
22 number, that result is associated with that lab number,  
23 so the chain of custody had to be corrected for that  
24 case.

25 The blood tubes did stay with the blood

1 kits that they were to make sure that there was no swap  
2 of chain of custody while they were in our possession.

3 Is that what you're asking?

4 Q. Right. So the remedy was to basically fix the  
5 chain of custody, correct?

6 MR. FESMIRE: Objection. Vague.

7 THE COURT: Overruled.

8 A. The fix for that was to make sure that case  
9 information between the two cases was swapped.

10 Q. (BY MR. LANDERS) To maintain the chain of  
11 custody?

12 A. In a sense, yes.

13 Q. Related to the May incident, that involved  
14 swapped submission forms, right?

15 A. Yes.

16 Q. Okay. The first case that was tested, what  
17 stage was that review process in when that error was  
18 caught?

19 A. It was in draft complete.

20 Q. Okay. So everything had been completed, it  
21 just hadn't been finalized?

22 MR. FESMIRE: Objection. Mischaracterizes  
23 the witness's testimony.

24 MR. LANDERS: I'll ask a different  
25 question.

1 THE COURT: The witness can answer the  
2 question if you understand the format in which it was  
3 asked.

4 THE WITNESS: Yes.

5 A. So it didn't get to the technical review  
6 process. It was not yet retrieved by an analyst yet for  
7 review, but a final report was prepared for that case,  
8 the worksheet was finalized, but it had not gotten to  
9 technical review yet.

10 Q. (BY MR. LANDERS) Okay. So had it been peer  
11 reviewed yet?

12 A. No.

13 Q. Okay. Did you testify earlier peer review is  
14 different than technical review?

15 A. No. I think I had testified that during the  
16 draft complete phase, a peer review analyst ensures that  
17 all of the information is accurate and true for that  
18 case.

19 Q. And when does that happen?

20 A. That happens between draft complete and  
21 technical review.

22 Q. So for the first case from the May incident,  
23 had the case been technical reviewed?

24 A. It was not.

25 Q. Was it peer reviewed?

1           A.    It was not.

2           Q.    Okay.  For the second case, I'm talking about  
3 the same incident, you testified that it was findings  
4 entered?

5           A.    I had put it back in findings entered after I  
6 had seen the names didn't match.

7           Q.    Did you catch the mistake after your findings  
8 were entered in the second case as well?

9           A.    Could you repeat the question?

10          Q.    When did you catch your mistake on the second  
11 vial?

12          A.    So for the second vial, the unboxing process  
13 for that second batch, for that second case, was on  
14 5-13-2024.  That's when I had caught that during the  
15 unboxing process, so the stage of findings entered.

16          Q.    Findings entered happened before any testing  
17 had been done?

18          A.    Findings entered consists of opening up the  
19 blood kit, comparing information between the evidence  
20 and the submission form.  It also includes the testing,  
21 and it also includes my review.

22          Q.    Okay.  Once again, the violation of protocol in  
23 May affects the chain of custody, correct?

24          A.    I don't know.  It affects the submission forms,  
25 but I don't know if it affects the chain of custody.

1 Q. I want to talk about the submission forms.

2 A. Okay.

3 Q. I'll try and use the Elmo if it's available.

4 Can you see that?

5 A. Yes.

6 Q. This is Defendant's Exhibit No. 4 for this  
7 hearing. Do you know what form I'm talking about?

8 A. Yes.

9 Q. Okay. There's a barcode on this form, right?

10 A. Yes.

11 Q. Is this scanned -- this barcode scanned in the  
12 LIMS system?

13 A. Yes, that barcode is scanned into the LIMS  
14 system.

15 Q. And that barcode, does it create an event in  
16 the chain of custody log?

17 A. So that barcode will take you to the case file  
18 in our system, from that case file you can then access  
19 the chain of custody either through the evidence tab or  
20 the case info tab.

21 Q. So do you agree then that the submission form  
22 is relevant to the chain of custody?

23 A. It can be, yes.

24 Q. Okay. And we've discussed problems with or  
25 issues with the submission form in this case, correct?

1 A. Yes.

2 Q. Okay. As the State pointed out --

3 MR. LANDERS: I'm just going to show it to  
4 him, Judge.

5 THE COURT: Okay. If you'll just make sure  
6 you're referencing for me, please.

7 MR. LANDERS: Sure.

8 THE COURT: Are you still on Defendant's 4?

9 MR. LANDERS: I'm still on Defendant's 4.

10 Q. (BY MR. LANDERS) On the submission form which  
11 is Page 2, we've got a date of submission of what?

12 A. 10-17-2022.

13 Q. Okay. And that matches with the chain of  
14 custody report on the following page; is that correct?

15 A. Yes.

16 Q. What date does the Stafford Police Department  
17 say they delivered it to the DPS lab?

18 MR. FESMIRE: Objection. Asked and  
19 answered.

20 THE COURT: Overruled.

21 A. 10-14-2022.

22 Q. (BY MR. LANDERS) Okay. How many days of gap  
23 do we have there?

24 A. Three.

25 Q. Do we have any way of knowing in Mr. Momin's



1 case where the blood vials were for those days?

2 A. I do not know.

3 THE COURT: May I ask for a clarification  
4 on the witness's answer? Is your answer, "I do not  
5 know," meaning, "I do not know the answer to your  
6 question," or, "I do not know where they are"?

7 THE WITNESS: I do not know where they were  
8 before they had gotten to the lab.

9 Q. (BY MR. LANDERS) Whenever Mr. Momin's case  
10 went to trial, how many Quality Incident Reports  
11 involving you had been issued?

12 A. Had been issued?

13 Q. Yes.

14 A. Only one.

15 Q. And that's the one from 2022?

16 A. Yes.

17 Q. Apparently we're being told that was available  
18 on a DPS website?

19 MR. FESMIRE: Objection. Argumentative.

20 THE COURT: Sustained.

21 Q. (BY MR. LANDERS) Is it your understanding  
22 that's available on a DPS website?

23 A. Yes.

24 Q. Okay. There was a litigation packet produced  
25 in this case. Are you aware of that?

1           A.    I believe so, yes.

2           Q.    Okay.  Do you have part of it here with you  
3 today?

4           A.    I do have part of it, yes.

5           Q.    Okay.  Was the rest of it introduced at trial  
6 by Mr. Evans?

7           A.    Yes.

8           Q.    Okay.  The part you have today with you, any  
9 Quality Incident Reports in there?

10          A.    No.

11          Q.    Do you know if there were any Quality Incident  
12 Reports in the part introduced at trial?

13          A.    No.

14          Q.    You don't know or there were none?

15          A.    The only piece of the litigation packet that  
16 was brought into evidence was the worksheet and that  
17 doesn't have any QIs on it.

18          Q.    Okay.  So there was no -- in the litigation  
19 packet there was no Quality Incident Reports?

20          A.    No.

21          Q.    Okay.  And that litigation packet is what would  
22 have been given to Mr. Evans whenever he requested it  
23 through discovery?

24          A.    The discovery order is different than the  
25 litigation packet.

1 Q. Okay.

2 A. So the litigation packet is everything within  
3 the electronic case file along with my statement of  
4 qualifications and disclosure form of myself and the  
5 reviewer of this case.

6 Q. Your disclosure form at the time of Mr. Momin's  
7 trial did not have any QIs listed, correct?

8 A. Correct.

9 Q. The two pending QIs, they weren't finalized at  
10 the time of Mr. Momin's trial?

11 A. Correct.

12 Q. Those wouldn't have been in any discovery  
13 provided to Defense; is that correct?

14 A. Correct.

15 Q. Are you aware of the outcome of the Soape case?

16 MR. FESMIRE: Objection. Relevance.

17 THE COURT: Can you reask that question,  
18 please?

19 Q. (BY MR. LANDERS) Are you aware of the  
20 relevance of the Soape case -- of the outcome?

21 THE COURT: I'm sustaining that objection.

22 MR. LANDERS: Okay. No further questions,  
23 Your Honor.

24 THE COURT: I'm reading something. Just a  
25 minute.

1 (Brief pause.)

2 THE COURT: Okay. Mr. Fesmire?

3 MR. FESMIRE: No further questions from the  
4 State, Your Honor.

5 THE COURT: Okay. Thank you.

6 MR. O'BRIEN: To clarify, Your Honor, is  
7 the witness excused? Does the Defense have anything  
8 further?

9 MR. LANDERS: If we could hold on to him,  
10 Your Honor. Hopefully we won't be here much longer.

11 THE COURT: So, Mr. Augustyn, if you will  
12 just make sure that each of the parties have your phone  
13 number. It's the lunch hour, so if you want to not go  
14 so far away and have some lunch, if you'll just make  
15 sure they can access you pretty quickly.

16 THE WITNESS: I have my lab number  
17 forwarded to my phone, so they can just call me. Is  
18 that okay?

19 MR. O'BRIEN: We have his number, Judge.

20 THE COURT: Thank you. All right.  
21 Mr. Landers?

22 MR. LANDERS: Judge, that will be our only  
23 witness. I'd like to re-urge a couple of exhibits  
24 before we rest, if that's okay.

25 THE COURT: You sure can. Let me get a

1 little organization up here.

2 (Brief pause.)

3 THE COURT: Where are all of the admitted  
4 exhibits? While I thank you-all for the courtesy  
5 copies, one of the things you did not do was mark --  
6 while you marked them with numbers, you didn't mark  
7 which ones were Defense versus State, and so I'm looking  
8 at, for example, two No. 6's, two No. 4's.

9 (Discussion off the record.)

10 THE COURT: Mr. Landers, you can -- you  
11 indicated you needed to re-urge some matters.

12 MR. LANDERS: Right. Before our hearing  
13 started, we had attempted to introduce Defendant's  
14 Exhibit No. 3 for this motion for new trial. That's the  
15 affidavit of Morgan Bourque. I'm going to give you a  
16 copy, but it's -- paraphrasing, it's -- Mr. Bourque was  
17 the -- and I've given a copy to the State --  
18 paraphrasing, this was the lawyer in Mr. Monroy's case,  
19 and it explains how he received notice -- well, also in  
20 Soape's, but he was the lawyer in the first case these  
21 issues came up, and he explains some of the testimony  
22 we've already gone over today.

23 THE COURT: Can you pause for a second?

24 MR. LANDERS: Yes.

25 THE COURT: Was that the same attorney that

1 Mr. Augustyn, in his previous testimony, said that he  
2 knew, that he had had some relationship with him?

3 MR. LANDERS: That's correct. He's the  
4 attorney in the Monroy -- after our case, the Monroy  
5 case happened, and then that Soape case happened. Both  
6 of those were in Montgomery County. They're both with  
7 Mr. Bourque. This affidavit, it is included as part of  
8 our motion for new trial. It's one of the attachments.

9 It discusses the circumstances of this  
10 being disclosed to Mr. Bourque right before his trial in  
11 Montgomery County, and it discusses -- it does discuss  
12 the outcome in a hung jury out there, and it discusses  
13 the importance of the evidence to Defense in that case,  
14 and I would note that -- I think we discussed this two  
15 Fridays ago -- the code does allow you to accept  
16 affidavits, if you wish, in lieu of testimony. So we  
17 would urge our Defendant's Exhibit No. 3 be entered into  
18 the record.

19 THE COURT: Thank you. Do you have a  
20 response?

21 MR. O'BRIEN: Yes, Your Honor. The State  
22 objects to relevance. While some portions of this  
23 affidavit may have some relevance, mainly the incidents  
24 or the actual disclosure mentioned on that lower part of  
25 the first page of Exhibit 3.

1                   THE COURT: Are you talking about the first  
2 paragraph?

3                   MR. O'BRIEN: Your Honor, the last three  
4 paragraphs.

5                   THE COURT: That's what I mean --

6                   MR. O'BRIEN: Yes.

7                   THE COURT: But are you talking about the  
8 first paragraph of those last three paragraphs?

9                   MR. O'BRIEN: Just each of those  
10 paragraphs. Your Honor, those -- while that's relevant  
11 to understanding what was disclosed -- what Brady  
12 disclosure was previously given and has high relevance  
13 to why we're here today, that is completely encapsulated  
14 by Defense's Exhibit 1, and at this point would be  
15 cumulative.

16                   Regarding the rest of the affidavit, as it  
17 pertains to the Defense counsel of the case of Israel  
18 Lee Monroy, opposing counsel has had the opportunity to  
19 get into some questions and elicit testimony pertaining  
20 to that, and the Judge gave them some leeway, however,  
21 your previous rulings in regards to sustaining relevance  
22 objections about the outcome of those cases, I think  
23 still applies at this point now, Your Honor.

24                   Ultimately, while this attorney may testify  
25 or given an affidavit about how that proceeding went, it

1 does ultimately come to a full outcome and conclusion as  
2 to what happened, and so similarly I would object to  
3 relevance on that basis, Your Honor.

4 THE COURT: Okay. Thank you. So with  
5 respect to Defendant's Exhibit No. 3, I do recognize  
6 that it necessarily seems to contain that which would be  
7 that I previously indicated as relevant as well as the  
8 mixture of that which I determined to be not relevant.  
9 Because I sit in this circumstance as the trier of fact  
10 and of law, I believe that I can sufficiently fare it  
11 out that -- clearly, I can't unsee what I've seen,  
12 right, that's not a thing. However, I do believe that I  
13 can sufficiently not consider that which I have  
14 determined to be not relevant. I've ruled that it's not  
15 relevant, and so my consideration of that is consistent  
16 with that, that it's not relevant, and this Court will  
17 consider consistently that which I have determined to be  
18 relevant since redacting it out would make no sense  
19 since you can't redact it out of my eyeballs.

20 MR. O'BRIEN: Understood, Your Honor.

21 THE COURT: So with that said, I'm going to  
22 admit Defendant's Exhibit No. 3.

23 (Defendant's Exhibit No. 3 was offered and  
24 admitted into evidence.)

25 MR. O'BRIEN: And so, Your Honor, just in



1 regards to an official ruling on --

2 THE COURT: I just ruled.

3 MR. O'BRIEN: The objection, Your Honor?

4 THE COURT: I'm overruling it.

5 MR. O'BRIEN: Understood, Your Honor.

6 MR. LANDERS: The next exhibit is one that  
7 we had previously attempted to admit. I'll give you a  
8 copy -- a courtesy copy.

9 THE COURT: Hang on. I'm making myself a  
10 note. Do y'all have a courtesy copy of 3?

11 MR. O'BRIEN: Yes, Your Honor.

12 THE COURT: May I have -- before we move  
13 forward, may I have a courtesy copy of Defendant's  
14 Exhibit 3?

15 MR. O'BRIEN: I just have what was  
16 previously given to me.

17 THE COURT: Thank you.

18 MR. LANDERS: Yes, ma'am.

19 THE COURT: Hang on one second.

20 (Brief pause.)

21 THE COURT: All right. Counsel --  
22 Mr. Landers?

23 MR. LANDERS: Judge, the next thing we have  
24 is Defendant's Exhibit No. 7 for the motion for new  
25 trial. Here's a courtesy copy for Your Honor.

1 THE COURT: And Defendant's Exhibit No. 7  
2 was also one that I previously did not admit.

3 MR. LANDERS: That's correct. And briefly  
4 summarizing, these are jury questions from that same  
5 Monroy trial, and I'll tell you right now the reason we  
6 think it's relevant is we think it goes to materiality,  
7 whether or not this type of evidence that wasn't  
8 disclosed would affect the outcome of Mr. Momin's trial.  
9 We realize it's different trials, but what's interesting  
10 is the jury questions specifically --

11 THE COURT: Well, Counsel, I don't  
12 know that I need you to go into the content of it  
13 because that would defeat the purpose.

14 MR. LANDERS: Sure.

15 MR. O'BRIEN: If I may, Your Honor?

16 THE COURT: Hang on.

17 (Brief pause.)

18 THE COURT: Specifically, Counsel,  
19 articulate for me what the materiality is with respect  
20 to the issue of law, not that which the finder of fact  
21 would have made a determination.

22 MR. LANDERS: Well, I have to agree with  
23 you that materiality in this case is a question for you  
24 to make based on the legal standards. You know, you sat  
25 over the trial, you sat over this hearing, you got a

1 taste -- although it might not have been as theatric as  
2 it might have been with the jury here -- we just wanted  
3 you to have the evidence, but the fact that the jury in  
4 this Monroy case are specifically asking about the  
5 analyst's testimony and these very issues and that it  
6 ends in a mistrial, we think adds credibility to our  
7 argument that this is material -- material  
8 misrepresentation -- material Brady evidence that was  
9 withheld in our case which Mr. Evans was deprived of and  
10 forced to trial.

11 THE COURT: So I don't believe the jury  
12 ever sits as the finder of law on issues of law. So for  
13 that reason, I'm going to continue to disregard and not  
14 admit Defendant's Exhibit No. 7.

15 MR. LANDERS: Could we keep that separate  
16 as an offer of proof?

17 THE COURT: Absolutely.

18 MR. LANDERS: Okay. And do you want me to  
19 somehow note that?

20 THE COURT: That's between you and the  
21 court reporter.

22 MR. LANDERS: Okay.

23 THE REPORTER: It's in the record.

24 MR. LANDERS: Okay. I'll keep them  
25 separate from the other -- I'll take this back and let

1 me give you 4.

2 THE COURT: She'll still need it, though.

3 MR. LANDERS: Okay. This is 7. My  
4 apologies.

5 And since we were here the last time, we  
6 have -- I don't know what exhibit I'm on. Am I on 10?

7 THE REPORTER: Yes.

8 MR. LANDERS: We don't have a courtesy copy  
9 of this, Judge, but we have from the Soape case, which  
10 is the second case that's been discussed post  
11 Mr. Momin's case, it's entitled -- it's a file-stamped  
12 document from Montgomery County -- it's entitled "Motion  
13 to Dismiss," but it explains found not guilty by the  
14 jury. It's the exact same relevance as the last  
15 issue --

16 THE COURT: All right.

17 MR. LANDERS: So we think it goes to  
18 materiality that the jury in that case found the  
19 defendant not guilty.

20 THE COURT: Okay. I am not going to  
21 admit -- do you want to argue?

22 MR. O'BRIEN: I mean, I was going to object  
23 on the same basis of relevance. He's already just said  
24 the content of what it was without bringing it to you,  
25 but I'm sure Your Honor can decipher between the

1 relevance of what it would be.

2 THE COURT: Thank you. I'm going to  
3 sustain that objection. Defendant's Exhibit No. 10 will  
4 not be admitted.

5 MR. LANDERS: And we'll just make an offer  
6 of proof on that --

7 THE COURT: Absolutely.

8 MR. LANDERS: -- if that's okay, Your  
9 Honor. And with that, we'll rest, Judge.

10 THE COURT: Thank you, Mr. Landers.

11 Mr. O'Brien, am I to assume that you're  
12 taking over now?

13 MR. O'BRIEN: Yes. I'll start with our  
14 first witness, Judge, whenever you're ready.

15 THE COURT: Absolutely. I'm ready now.  
16 Thank you.

17 MR. O'BRIEN: The State calls Somiyeh  
18 Zalekian.

19 THE COURT: You may proceed, Mr. O'Brien.

20 MR. O'BRIEN: Thank you, Your Honor.

21

22

23

24

25

1                   SOMIYEH ZALEKIAN,  
2   having been duly sworn, testified as follows:

3                   DIRECT EXAMINATION

4   BY MR. O'BRIEN:

5           Q.    Good afternoon, Ms. Zalekian.

6           A.    Good afternoon.

7           Q.    Could you please introduce yourself and spell  
8   your name, please?

9           A.    My name is Somiyeh, S-o-m-i-y-e-h, Zalekian,  
10   Z-a-l-e-k-i-a-n, and I'm the quality manager at the  
11   Texas Department of Public Safety Houston laboratory.

12          Q.    Okay. And you said you're the quality manager  
13   of DPS?

14          A.    Yes, sir, the Houston laboratory.

15          Q.    DPS Houston. So how long have you been working  
16   in that role?

17          A.    Since November of 2020.

18          Q.    And could you give a brief description of what  
19   your job would be as a quality manager?

20          A.    Essentially I'm the quality assurance person  
21   who basically runs the quality assurance program to  
22   ensure that everybody is proficiency tested to ensure  
23   that they're following policies and procedures, if there  
24   are anything that -- any, like, quality incidents that  
25   need to be written up, I'm basically over that,

1 basically any kind of quality.

2 Q. So anything having to do with quality  
3 pertaining to the DPS crime lab?

4 A. Correct.

5 Q. Okay. You mentioned that -- I guess, first,  
6 one of your job duties was ensuring proficiency was  
7 clear across the scope.

8 Are you familiar with an analyst that works  
9 at DPS crime lab Houston named Zachary Augustyn?

10 A. Yes.

11 Q. Are you familiar with his proficiencies and  
12 whether he's up to date on them?

13 A. He is.

14 Q. And in general what kind of proficiencies does  
15 that entail?

16 A. So I have a DNA, so DNA has two proficiencies a  
17 year. There's firearms, they have some depending on  
18 what they're authorized in, trace evidence also has  
19 several, seized drugs has some, blood alcohol, basically  
20 every section.

21 Q. Is it fair to say it varies based off the  
22 analyst or what role they have at the DPS crime lab?

23 A. It bases off of what their job is.

24 Q. Okay. And are you familiar with what  
25 Mr. Augustyn's job is?

1 A. Correct. Yes.

2 Q. What is his job?

3 A. He's a blood alcohol analyst.

4 Q. Okay. So all of the proficiencies required for  
5 that position, he's competent and he's passed?

6 A. Yes.

7 Q. Okay. Now, specifically you also mentioned one  
8 of your job duties was pertaining to quality incidents?

9 A. Correct.

10 Q. Can you generally, I guess, describe for the  
11 Court what quality incident is?

12 A. So a quality incident can be a nonconformance  
13 which is basically something that is where there's a  
14 potential policy violation or it could be an incident  
15 that occurred and we need a means of documenting what  
16 happened and that we've evaluated risk and so basically  
17 what we do is when something happens, typically the  
18 analyst will let their supervisor know, and then also  
19 let myself know and then depending on the situation, we  
20 would initiate a quality incident.

21 So basically the quality incident, the  
22 analyst at that point was pretty much responsible for  
23 adding the information into the quality incident because  
24 they have the first -- most of the firsthand knowledge,  
25 so that's in the documentation step and so once that's



1 done, then really their role is not as -- they're not  
2 really as involved. We need to edit something or  
3 correct something because at that point now we're  
4 looking at risk and that's more of a conversation  
5 between the supervisors, me and, like, the subject  
6 matter experts.

7 Q. Okay. So I want to break that down just a  
8 little bit more simply. So in regards to, I guess, the  
9 purpose of quality incidents -- and correct me if I'm  
10 wrong -- it seems like it could have multiple purposes  
11 or benefits for DPS; is that correct?

12 A. Yes, it does.

13 Q. Okay. So does one of those benefits or  
14 purposes of the Quality Incident Reports just have to do  
15 with helping DPS run the labs as efficiently as  
16 possible? And I can rephrase that if it doesn't make  
17 sense.

18 What benefit do quality incidents provide  
19 DPS in regards to how things are done?

20 A. So the quality incidents help us track trends  
21 so we can -- so we can see if, like, there's a specific  
22 incident that keeps occurring. There may be -- at that  
23 point we may need to look at policy or may need to look  
24 at the practice either of the individual or of the  
25 section, but it also -- I mean, we also document --

1 like, if there is a nonconformance, we would document on  
2 that, but -- and then sometimes you might see a trend  
3 in, like, the specific nonconformance. It might not be  
4 an individual but just a specific nonconformance, and so  
5 at that time we might need to evaluate, like, that  
6 policy.

7 Q. Okay. Understood. I want to talk with you now  
8 more so about the different phases or stages of a  
9 quality incident and the generation of that report.

10 So can you generally describe, I guess, if  
11 it does have stages, what those might be?

12 A. So it has different stages. It starts off as  
13 initiation, so whoever starts the quality incident  
14 basically fills out a certain portion of it, they  
15 initiated the quality incident, and then it goes into  
16 the documentation step, and then the documentation step  
17 is where whoever is listed on it as a collaborator or as  
18 the quality manager or as the lab manager, whoever, we  
19 can all go in at that time and basically add any  
20 information that we need to, add any kind of  
21 documentation we need to and then once that is done, I  
22 will then send the -- I will then send it to a system  
23 quality analyst-- or a system quality assurance person  
24 who's -- most of ours are in Austin, they're not all in  
25 Austin, but basically they will take -- it's just --

1 they're a set of eyes to look over and make sure we're  
2 not -- make sure we're not missing something, make sure  
3 we haven't gotten, like, you know, tunnel vision, and  
4 we're actually seeing the big picture. So once they  
5 look at it and they approve it, then it goes into the  
6 final review and approval step.

7 Q. And so, I guess, are you in charge of  
8 coordinating and running all of those stages of quality  
9 incidents?

10 A. Yes.

11 Q. Okay. And so is it fair to say each one of  
12 those stages are phases you would have some role in it?

13 A. Yes.

14 Q. Are you the one that ultimately finalizes and  
15 discloses the finalized Quality Incident Report?

16 A. No.

17 Q. Okay. Who does that?

18 A. That's another quality assurance specialist in  
19 Austin who actually reconciles the report and puts it on  
20 the public-facing website.

21 Q. But before that happens, are you the one that  
22 sends them that Quality Incident Report?

23 A. Yes. I try to be the final approver.

24 Q. Okay. So is it fair to say you're the final  
25 approval within DPS Houston?

1           A.    Yes.

2           Q.    And then at that point you send it off to  
3 someone else to finalize and publish on the DPS website?

4           A.    That's correct.

5           Q.    Okay.  Now, previously you discussed risk level  
6 associated with Quality Incident Reports.  Can you kind  
7 of generally explain what a risk level of a Quality  
8 Incident Report is?

9           A.    So we look at risk in the sense of whether it's  
10 a low risk, whether it's a medium risk or a high risk or  
11 catastrophic, and it's essentially -- it's -- there's  
12 not a hard true, like, this is the definition of, you  
13 know, as far as, like, this is what will always be a  
14 medium risk or this will always be a catastrophic risk.  
15 It's very subjective.

16                   A lot of times it's based off of what was  
17 impacted.  You know, if it's impacting a lot of cases,  
18 that's going to increase the risk.  If it's something  
19 that, you know, it didn't happen -- impact on casework  
20 at all, but, like, it's an instrument -- the instrument,  
21 you know, malfunctioned or something like that, that  
22 risk may be lower.  So it really just depends on the  
23 situation -- the totality of the situation.

24           Q.    Okay.  And when you say it's subjective, do you  
25 mean that you're the one that ultimately decides on your

1 own whim what risk level it's assigned?

2 A. The risk level is typically a conversation  
3 between me and either the supervisor or the technical  
4 leader or the person who has the most subject matter  
5 expert (sic) essentially.

6 Q. Okay.

7 A. So it's something that's collaborated on.  
8 Sometimes it is just me. Sometimes I'll assign risk.  
9 Sometimes I will ask -- I will ask for additional help  
10 from, like, my DNA TL or something like that.

11 Q. Okay. Although a number of people collaborate,  
12 to your knowledge, do any of them or do y'all utilize  
13 any criteria that are assigned to you in determining  
14 what that risk level is?

15 A. So there is, like, on our QIs workflow,  
16 there's, like, basically a chart, and so we look at it  
17 as far as the severity, and we look at as far as -- hold  
18 on. Let me think about it.

19 Q. If you don't remember something exactly off the  
20 top of your head --

21 A. I have it in -- I believe it's in the  
22 paperwork, and I did print off that chapter.

23 Q. Would it help you to refresh your memory if --

24 A. If that's okay.

25 Q. Yes. Just don't read from the document. Just

1 look it over and let us know whenever you're refreshed.

2 A. If it's in here. So basically we're looking at  
3 the likelihood of occurrence, so how often it happens.  
4 We're taking that into consideration. We're taking into  
5 consideration any kind of adverse impacts that it might  
6 have, and so that chart is kind of how we -- what guides  
7 us to determine, like, what we say is an acceptable  
8 risk, or if it's medium risk or if it's something that's  
9 not acceptable, and, typically, if something is not  
10 acceptable, those are going to be our more -- those are  
11 going to be essentially what we consider significant,  
12 and so those are most likely going to be the ones that  
13 we have to disclose.

14 THE COURT: Which ones?

15 THE WITNESS: The ones that are not  
16 acceptable at all.

17 MR. O'BRIEN: Are the exhibits up there,  
18 Judge?

19 THE COURT: They are.

20 MR. O'BRIEN: May I approach?

21 THE COURT: You may.

22 MR. O'BRIEN: May I approach the witness,  
23 Judge?

24 THE COURT: Yes.

25 MR. O'BRIEN: Thank you.

1           Q.    (BY MR. O'BRIEN)  Ms. Zalekian, I'm handing you  
2 what's been previously admitted as Defendant's Exhibits  
3 6, 8 and 9.  Take a brief glance at those and tell me if  
4 you recognize them.

5           A.    Yes.

6           Q.    In a general sense what are they?

7           A.    They're quality incidents.

8           Q.    Okay.  And who do they pertain to?  Is there a  
9 specific analyst, I guess, that they pertain to?

10          A.    Zach.

11          Q.    Zach Augustyn?

12          A.    Yes.

13          Q.    Looking first at the Defendant's Exhibit No. 6,  
14 can you, I guess, briefly tell us what this quality  
15 incident pertains to?

16          A.    May I take time to look at it?

17          Q.    You may.  Yes, please.

18          A.    So this was a quality incident where we  
19 documented the instance where a blood tube was cracked  
20 that Zach was analyzing.

21          Q.    Okay.  And then regarding Defendant's Exhibit  
22 No. 8, can you similarly briefly look at it and tell us  
23 what it concerns?

24          A.    So this was a quality incident where Zach  
25 inadvertently forgot to seal his blood kits after boxing

1    them back up.

2           Q.    Okay.  And was it a batch of about 30?

3           A.    Yes.

4           Q.    Okay.  And then similarly with Defendant's  
5   Exhibit No. 9, can you briefly tell us what it's about?

6           A.    So this is the one that we just finalized.  
7   This one is about -- where Zach was -- didn't recognize  
8   that the names on the blood tubes in two cases -- well,  
9   in one set of cases, and then it happened again a couple  
10  of months later that the name on the blood tube at that  
11  point did not match what was on the submission form or  
12  on the blood kit itself.

13          Q.    Understood.  Can I take those from you?

14                   MR. O'BRIEN:  Judge, may I publish these on  
15  the Elmo?

16                   THE COURT:  Please do.  Thank you.  Yes.

17          Q.    (BY MR. O'BRIEN)  So, Ms. Zalekian, you  
18  mentioned that this most recent report, Defendant's  
19  Exhibit No. 9, was just recently finalized, right?

20          A.    That's correct.

21          Q.    When was it finalized?

22          A.    I approved it this morning.

23          Q.    Approved it this morning.  Generally you  
24  explained to us the different phases or stages of  
25  Quality Incident Reports, how it gets generated.  How



1 long is that time frame?

2 A. It's really dependant on what my availability  
3 is just because I have -- I'm the one who has to move it  
4 to the next step, but I'm also the one that is most  
5 likely going to get with the other personnel in the lab  
6 to actually sit down and start working on it, so it  
7 really just depends on what my availability is.

8 Q. Okay. And specifically in regards to this most  
9 recent report that was finalized this morning, do you  
10 know about how long it took you to generate the report?

11 A. I believe the first incident happened in  
12 February, so it was still open when the second incident  
13 happened. So we added the second incident on to the  
14 first, and it was finalized today.

15 Q. Understood. Now, when you say "it's  
16 finalized," you previously mentioned that once you're  
17 done with it, you send it off to someone in Austin to  
18 officially finalize it and add it to the DPS website,  
19 right?

20 A. It's a workflow, so it's an electronic send. I  
21 mean, we don't have to send anything. It just --  
22 basically the documentation just goes into a  
23 reconciliation step.

24 Q. Okay.

25 A. And then the SQA individual can go to that

1 workflow and basically they just electronically move it  
2 onto the public-facing website.

3 Q. Have they done that yet?

4 A. I don't think so. It normally takes a couple  
5 of days.

6 Q. Okay. A couple of days. And when you're  
7 talking about the public-facing website where would, I  
8 guess, me as a prosecutor or a defense attorney be able  
9 to know about that website or be able to access it?

10 A. So it's recently changed. So currently what  
11 you have on the reports is where it says where the  
12 public -- like, basically where the quality incidents  
13 are.

14 Q. Wait a minute. So just to be clear, are you  
15 referring to the lab report?

16 A. The lab report, yes.

17 Q. So the toxicology report that DPS sends back  
18 to, I guess, the prosecutor or the law enforcement  
19 agency for a particular case?

20 A. Yes, that's correct.

21 Q. Okay.

22 A. That was being placed on to the DPS  
23 public-facing website. We are basically migrating over  
24 to the Texas Forensic Science Commission website. So  
25 all of our quality incidents will now be on their

1 portal.

2 Q. Okay. But so even with how it's used to being  
3 even with the new change, are all finalized Quality  
4 Incident Reports accessible to the public?

5 A. Yes.

6 Q. Okay. Now, for the reason I came over here, I  
7 want to draw your attention back to Defendant's Exhibit  
8 No. 6. I believe you previously stated you looked over  
9 this, and this had to do with broken blood vials. Does  
10 that sound right?

11 A. Yes. Yes, sir.

12 Q. Okay. Now, you've previously talked to us  
13 about the designation of risk levels. I want to draw  
14 your attention to the risk level associated with this  
15 report. Do you see it there?

16 A. Yes, sir.

17 Q. And what is that risk level?

18 A. It says "low."

19 Q. Okay. Looking over the risk assessment to  
20 yourself to help refresh your memory, if need be, can  
21 you explain to the Court why a low risk level was  
22 associated with this incident?

23 A. So the severity was listed as moderate, and the  
24 likelihood of occurrence was remote since that was an  
25 incident that hadn't happened for Zach.

1                   So in that case that's why I determined  
2 that the risk level was low.

3           Q.   And as a risk level is low, is that something  
4 that you would ultimately put on a disclosure form?

5           A.   No.

6           Q.   And why is that?

7           A.   Because our disclosure forms have very specific  
8 buckets that something has to follow into before we put  
9 anything on the disclosure form.

10          Q.   Okay. And I think we'll get into those  
11 buckets, as you put it, in a moment, but before we do, I  
12 want to finish up with these exhibits.

13                   I'm now showing you on the Elmo what we  
14 previously discussed, Defendant's Exhibit No. 8, and so  
15 similarly here, we talked about this one just now.

16                   Does this appear to be the one that  
17 pertains to the unsealed blood kits?

18          A.   Yes, sir.

19          Q.   Specifically here there is also a risk level  
20 associated with this incident report. Do you see that?

21          A.   Yes, sir.

22          Q.   What is that risk level?

23          A.   It's also low.

24          Q.   Okay. And looking over the risk assessment  
25 there if you need to refresh your memory. Can you

1 please instruct the Court why a low risk level was  
2 associated with this incident?

3 A. In the same instance where the -- since the  
4 severity was moderate and the likelihood of occurrence  
5 was uncommon, it kind of puts it in that acceptable  
6 range, so that's like the low risk.

7 Q. And so given that it's a low risk, would it be  
8 something that you would put on a disclosure form?

9 A. No, sir.

10 Q. And then finally I want to bring your attention  
11 to Defendant's Exhibit No. 9. If you recall, this is  
12 the one that has to do with the swapped blood tubes in  
13 blood kits that Zach dealt with?

14 A. Yes, sir.

15 Q. So similarly I want to draw your attention to  
16 the bottom here. Do you see the risk level associated  
17 with this incident?

18 A. Yes.

19 Q. Okay. What is that risk level?

20 A. It says it's medium.

21 Q. Okay. And if you need to, can you look over  
22 the risk assessment and instruct the Court as to why  
23 medium was associated with this case?

24 A. So in this instance we considered the severity  
25 as a whole. So the severity was what was considered

1 major, but the likelihood of occurrence was uncommon.  
2 It has only happened twice, which in the grand scheme of  
3 things, it's not a lot. They see a lot of blood kits,  
4 they see a lot of blood tubes, and so because of that,  
5 that kind of put it into the next level which I would  
6 determine was -- which is actually a medium risk.

7 Q. Okay. And specifically for severity of major,  
8 why did it get major?

9 A. So the severity was listed as major because I  
10 looked at -- we look at -- well, I look at it from the  
11 stance of what happened versus essentially what could  
12 have happened.

13 Q. Okay.

14 A. So in this instance what happened was that the  
15 blood tubes did not match the submission form or the  
16 blood kits but that was caught in our review process.  
17 Had it not been caught in the review process and we  
18 issued a report, that at that point would have elevated  
19 the risk.

20 Q. Is it fair to say the risk is ultimately  
21 elevated if it could potentially have an impact on the  
22 final results of a blood analysis?

23 A. That's one thing, yes.

24 Q. Okay. That's one of the, I guess, potential  
25 things that affects it.

1                   Okay. But, however, you mentioned that  
2 that was paired with the likelihood of occurrence being  
3 uncommon --

4           A.    Uncommon.

5           Q.    -- right?

6                   And I believe you stated that it's only  
7 happened twice for Zach; is that right?

8           A.    That's correct.

9           Q.    And would those two incidents or the two times  
10 that it's happened be the two instances that are  
11 reflected in this incident report?

12          A.    That's correct.

13          Q.    Okay. Has, to your knowledge, there been any  
14 other incidents or instances, rather, where police  
15 agencies have swapped blood tubes within blood kits?

16          A.    That happens quite frequently.

17          Q.    Okay. And so given that it's only uncommon for  
18 Zach, has he caught every other instance in which they  
19 have been swapped?

20                   MR. EVANS: Objection. Speculation.

21                   THE COURT: Overruled.

22          Q.    (BY MR. O'BRIEN) You can answer.

23          A.    To my knowledge, yes.

24          Q.    Okay. Now, we talked a little bit --

25                   MR. O'BRIEN: May I approach and put these

1 back, Judge?

2 THE COURT: Yes.

3 Q. (BY MR. O'BRIEN) We talked a little bit  
4 earlier about disclosure forms. Can you briefly  
5 describe what a disclosure form is for the Judge?

6 A. So a disclosure form is essentially what the  
7 department uses to communicate anything that might be  
8 exculpatory as well as, like, Brady material for the  
9 analyst -- involving the analyst.

10 Q. Okay. And so when you say "exculpatory and  
11 Brady material," have y'all undergone certain training  
12 or certain lessons to understand what that is?

13 A. Yes, sir.

14 Q. Okay. And to be clear, is it just random  
15 people within DPS that are setting criteria for what  
16 constitutes exculpatory or Brady evidence?

17 A. No. This was all decided at levels higher than  
18 myself, involving the chief as well as our OGC, our  
19 Office of General Counsel.

20 Q. Okay.

21 A. So they vet that stuff as well.

22 Q. And do you have any other personal knowledge of  
23 who else may be involved in that process?

24 A. I think from what I remember being -- when it  
25 was explained was that they were also -- the time that



1 disclosure forms, when they started, there was an  
2 incident that happened in the Garland area, and so they  
3 also included some of the attorneys from the Garland  
4 area when they were basically first creating the  
5 disclosure forms and what those buckets were going to  
6 be.

7 Q. Okay. And so when you were referring to these  
8 buckets, can you kind of in general describe what those  
9 buckets are?

10 A. So there's very specific criteria. Basically  
11 if there is -- if there is an incident that involves  
12 EE0, so if there is a sustained complaint involving EE0,  
13 that is something that's going to go on a disclosure  
14 form.

15 Q. And to clarify -- I don't mean to interrupt  
16 you -- what is EE0?

17 A. That's our Equal Employment Office basically.  
18 So if it's a discrimination -- if it's a discrimination  
19 complaint, if we have a sustained complaint, basically a  
20 complaint of --

21 Q. I think -- to cut you off there, perhaps this  
22 will help you: Do y'all have, I guess, a crime lab  
23 division manual that ultimately has certain selective  
24 criteria for disclosure of any incidents?

25 A. Yes, sir.

1 Q. Okay.

2 MR. O'BRIEN: Your Honor, may I approach  
3 the witness?

4 THE COURT: You may.

5 Q. (BY MR. O'BRIEN) I'm showing you what's been  
6 remarked as State's Exhibit No. 11 MNT (sic). Do you  
7 recognize this?

8 A. Yes.

9 Q. Okay. Could you look through it briefly and  
10 then tell us in general what it is?

11 A. This was the chapter that I provided to you  
12 guys that discusses the disclosure form.

13 Q. But what did you say it describes?

14 A. It describes the policy about the disclosure  
15 forms.

16 Q. Okay. And so in your capacity as a quality  
17 manager at the DPS Houston crime lab, are you familiar  
18 with this portion of the manual?

19 A. Yes.

20 Q. And do you use it regularly?

21 A. Yes.

22 Q. Okay. Would you say it's in the same or  
23 substantially similar condition as the policies you've  
24 briefly reviewed within this manual?

25 A. Yes.

1 MR. O'BRIEN: State offers to opposing  
2 counsel -- and I believe we're at State's Exhibit No. 9.

3 Sherri, is that right?

4 THE COURT: You said "11."

5 MR. O'BRIEN: I said "11" previously but  
6 Denver -- Mr. Fesmire corrected me that we may be at 9.

7 THE REPORTER: It would be 9.

8 MR. O'BRIEN: It would be 9, so apologies.  
9 At this point State offers State's Exhibit No. 9 MNT  
10 into evidence.

11 MR. EVANS: No objection, Judge.

12 THE COURT: State's Exhibit No. 9 will be  
13 admitted.

14 (State's Exhibit No. 9 was offered and  
15 admitted into evidence.)

16 (Discussion off the record.)

17 MR. LANDERS: What's the policy number  
18 again?

19 THE WITNESS: The policy itself is under  
20 Chapter 33, and the specific policy that talks about  
21 what events would be included on a disclosure form is  
22 33.2 H.

23 Q. (BY MR. O'BRIEN) And just for clarity sake,  
24 Ms. Zalekian, I'm going to have you use the exhibit  
25 we've just entered into evidence.

1                   So if you could -- I believe you were just  
2 describing that there's certain selective criteria  
3 within that portion of the division manual. What are  
4 those selective criteria for?

5           A. Those are the criteria to place something on an  
6 individual's disclosure form.

7           Q. And are those the same things that you've  
8 previously referred to as "buckets"?

9           A. Yes.

10          Q. Okay. So now that you have that in front of  
11 you, if you need to refresh your recollection, look it  
12 over, and just in general could you kind of describe  
13 some of the instances that would dictate putting an  
14 incident on an analyst's disclosure form?

15          A. So it would be sustained or founded by  
16 disciplinary actions, complaints against laboratory  
17 personnel, misconduct, allegations of falsification of  
18 government records, breaches of ethical standards,  
19 founded complaints of negligence or misconduct from the  
20 Texas Forensic Science Commission.

21                   And then there are additional incidents  
22 which is if you're placed on a performance improvement  
23 plan, that goes on your disclosure form. If you have an  
24 unsatisfactory proficiency test, that would go on your  
25 disclosure form; unsatisfactory completion of a

1 competency test by a qualified employee; if the testing  
2 conclusion reported to the customer was found to be  
3 incorrect upon subsequent testing or mandatory  
4 retesting; a sample switch, if discovered after the  
5 results are reported to the customer; and then if we do  
6 a suspension for work -- a suspension of work for cause,  
7 that would also go onto your disclosure form.

8 Q. Okay. And so I want to dial in on one of those  
9 that you mentioned there, 9 (e). I believe you stated,  
10 "A sample switch, if discovered after results are  
11 reported to the customer"?

12 A. That's correct.

13 Q. And what is the reason for that one, I guess,  
14 as opposed to a sample switch that was discovered before  
15 results were sent to the customer?

16 A. So essentially we have built into our practices  
17 reviews. That's basically levels of reviews, so you  
18 have a self-review, you have a technical review. A lot  
19 of times -- some labs have separate admin reviews where  
20 a different person looks at it.

21 So essentially -- you know, we're all  
22 human, and so we all make mistakes, so this is kind of  
23 like our catch. It's basically your safety net  
24 essentially to have somebody else review your work or  
25 you review your work, and at that time you can -- you

1 know, you might find that you made a mistake but you  
2 still have the ability to make the correction because we  
3 haven't published any results. We haven't sent results  
4 to the customer yet.

5 Q. Okay.

6 A. So that's why -- that's not as significant as  
7 once we've already published it to the customer.

8 Q. Okay. And so more specifically here as it  
9 pertains to Mr. Augustyn's disclosure, are you familiar  
10 with whether he has any disclosures on his disclosure  
11 form?

12 A. I believe he does not.

13 Q. Okay. And is it fair to say that's because  
14 none of his conduct has fallen within these buckets or  
15 selective criteria that you've listed for us?

16 A. That's correct.

17 Q. And so is it fair to say that he hasn't  
18 necessarily done anything within this criteria that  
19 would affect or reduce the reliability or accuracy of  
20 samples that he's tested?

21 A. That's correct.

22 Q. Now, in regards to disclosure forms and quality  
23 incidents, now we know what may make a quality incident  
24 on that disclosure form, but if an instance where a  
25 quality incident is pending, even if it does maintain

1 this criteria, I guess would y'all disclose that?

2 Was that a clear -- did you understand that  
3 question?

4 A. Are you asking me if it contained a situation  
5 that would have gone on a disclosure form but the  
6 quality incident was still pending?

7 Q. I'll rephrase. So if a quality incident is  
8 pending, will it be disclosed either generally on the  
9 website or through a disclosure form?

10 A. It will not be disclosed on the website because  
11 it's not a record yet.

12 Q. Okay.

13 A. Depending on the severity, typically if we have  
14 a situation where there is an instance where we do have  
15 to put the event on the disclosure form, those quality  
16 incidents are prioritized so that we can get them done  
17 within a very short amount of time so we can disclose  
18 that information.

19 Q. Okay. And you say if it has a higher risk  
20 level, you'll ultimately put it to the top of the cue,  
21 so to speak, to kind of turn it out quicker; is that  
22 fair?

23 A. Not necessarily risk. If it's something that's  
24 actually where we have to -- we have to advise, like,  
25 our accrediting bodies.

1           Q.    Okay.  And to be clear, did you have to do that  
2 in any of the three incident reports that we just  
3 discussed concerning Mr. Augustyn?

4           A.    No.

5           Q.    And to be clear -- I know you've previously  
6 stated there was a Quality Incident Report finalized,  
7 well, finished this morning by you, right?

8           A.    Yes, sir.

9           Q.    Okay.  So even with the completion of that  
10 report, will Mr. Augustyn have any disclosures on his  
11 disclosures form?

12          A.    As of right now, no.

13                   MR. O'BRIEN:  We'll pass the witness,  
14 Judge.

15                   THE COURT:  It will be you, Mr. Evans?

16                   MR. EVANS:  Yes, Your Honor.  Thank you.  
17 If I may have a minute, Judge?

18                   THE COURT:  Yes.

19                   MR. EVANS:  Thank you.

20                   MR. O'BRIEN:  Your Honor, may I approach to  
21 put the exhibit back?

22                   THE COURT:  Yes.

23                   MR. EVANS:  May I proceed, Your Honor?

24                   THE COURT:  You may.

25                   MR. EVANS:  Thank you.



## RECROSS-EXAMINATION

2 BY MR. EVANS:

3 Q. All right, ma'am. So you discussed your job  
4 duties with the prosecution. One of those is -- you  
5 said was following policies and procedures, right?

6 A. Basically, yes. I have to ensure that policies  
7 and procedures are followed.

8 Q. And how are you able to ensure that all of the  
9 analysts at the DPS are following the procedures at all  
10 times?

11           A.    So, I mean, essentially it's the honor system  
12 in the sense that the expectation is that if a mistake  
13 is made or a policy is not being followed, that that is  
14 told to a supervisor, and then it comes -- and then it  
15 will come to me.

16 Q. Okay. So an analyst has to own up to it,  
17 right?

18 A. Yes, sir.

19 Q. They have to disclose it to someone else?

20 A. Yes, sir.

21 Q. So that someone else can make the decision  
22 about how severe that is, right?

23           A.    In some instances it's very clear if a quality  
24 incident will be done because there is a policy  
25 violation, and other instances it may just be -- it may

1 not necessitate a quality incident, but it just really  
2 depends on the situation. Every situation for our  
3 quality incidents are different.

4 Q. So there's really not some hard definition of  
5 what rises to that level, correct?

6 A. That's correct.

7 Q. All right. And ultimately you make that call;  
8 is that right?

9 A. I make that call, but that call is also made in  
10 conjunction with discussion with, like, our -- the  
11 technical leaders or the supervisors or even, like, my  
12 supervisor depending on what the situation is, so it's  
13 not always just me.

14 Q. Okay. If an analyst is making multiple  
15 mistakes, does that increase the risk when you're doing  
16 your analysis?

17 A. It can but it doesn't always. It just really  
18 depends on what's being -- what mistakes are being made.  
19 Sometimes, you know, if you're making the same mistake  
20 over and over again repeatedly, that's a cause for  
21 concern, but, again, we all make mistakes. I mean --  
22 and so our quality incidents are not punitive. They're  
23 not there to punish. They're there just to be as  
24 transparent as possible.

25 Q. But you would agree that with the form that

1 you-all are working with dealing with evidence in a  
2 criminal case, that mistakes are very important, right?

3 A. Mistakes are important, yes, sir.

4 Q. And even though people can make mistakes, those  
5 mistakes in this situation can greatly affect someone's  
6 life, right?

7 A. It could have if it was reported, yes, sir.

8 Q. If it was reported. So if it's not -- so if a  
9 mistake happens and it's not reported, then the Defense  
10 doesn't get a chance to bring it up in front of a jury;  
11 is that right?

12 A. That's not true because a quality incident  
13 would still be done, and you would still have access to  
14 the quality incident.

15 Q. So I would have to go look and find that then?

16 A. Unless you're just -- unless you send us a  
17 discovery -- a motion for discovery. If it says --  
18 determining -- determined on what it says, then that's  
19 essentially what we will provide.

20 Q. Okay. So on the agreed order -- there is a  
21 discovery order that's used in most cases around the  
22 Houston area, right?

23 A. I believe so.

24 Q. One that's got the same language throughout --  
25 that's used by the Defense and the prosecution, right?

1           A.    I don't really deal with the discovery orders,  
2 but I believe there's something pretty similar to each  
3 other that's being used.

4           Q.    Okay. And quality incidents would be included  
5 in that kind of discovery order, right?

6           A.    It depends on how it's asked.

7           Q.    Okay.

8           A.    Typically we give you quality incidents that  
9 are involved in the case regardless. If it's part of  
10 the case and that case is involved in a quality  
11 incident, when you get the litigation packet, we will  
12 also provide that information. If the quality incident  
13 is completed at that time, then you will also get the  
14 quality incident.

15                   If you ask specifically for quality  
16 incidents involving an analyst, then we will give you  
17 the quality incidents specifically involving the  
18 analyst. If you ask for quality incidents involving the  
19 discipline, then that's going to be a different set, so  
20 it really just depends on what you're asking for.

21           Q.    Okay. If a prosecutor asks about quality  
22 incidents, is the analyst suppose to turn those over?

23           A.    It depends on what the prosecutor is asking  
24 for. If they're asking for a quality incident involving  
25 the case, then, yes.

1           Q.    Okay.  But if they're just generically asking  
2 for any quality incidents, should an analyst turn that  
3 over, whether or not they're on the disclosure form or  
4 not?

5           A.    I can't definitively say yes or no because  
6 sometimes when you're talking to the prosecutor, they're  
7 asking of quality incidents, but through the  
8 conversation you know that they're asking for what  
9 pertains to that specific case.  So the analyst may only  
10 say, no, there was not a quality incident because  
11 there's not a quality incident with that case.

12          Q.    So if the prosecutor doesn't ask the right  
13 question the right way, then the analyst doesn't turn it  
14 over?

15          A.    I mean, basically, yeah.  The quality incidents  
16 are on the public-facing website, so they are  
17 attainable.  So, really, as far as discovery orders go,  
18 I mean, the analyst might ask, you know, do you want all  
19 of our quality incidents, do you want all of the ones  
20 I've been involved in, they can ask those questions as  
21 well, but if they're just asked if this case was  
22 involved in a quality incident and if it wasn't, then  
23 they would say, no.

24          Q.    The quality incidents that are online on the  
25 DPS website, do those -- the ones that are not included

1 on a disclosure form, okay, do those contain the name of  
2 the analyst?

3 A. No.

4 Q. No. So how is a defense attorney suppose to  
5 determine whether or not an analyst has a quality  
6 incident that they were involved in --

7 MR. O'BRIEN: Objection --

8 Q. (BY MR. EVANS) -- without having a name to  
9 connect it to an analyst?

10 MR. O'BRIEN: I'm sorry. I thought he was  
11 done. Objection. Speculation.

12 THE COURT: Overruled.

13 A. I can't answer that. As far as by our policy,  
14 we don't associate names on the -- like, on the actual  
15 record and when we put them on the portal. That might  
16 change because now we're putting it on the Forensic  
17 Science Commission's portal, but I don't know yet. I  
18 mean, all that is new, but currently the way we do it in  
19 DPS for the DPS public-facing website, we don't include  
20 names.

21 Q. (BY MR. EVANS) Okay. So you've just discussed  
22 the Texas Forensic Science Commission website. You're  
23 familiar with that website?

24 A. Yes, somewhat. I'm pretty familiar with it,  
25 but I'm not going to be able to tell you anything

1 specifically unless I'm really looking at it.

2 Q. Okay. Are you familiar with the training and  
3 testing that has to go on for an analyst to get licensed  
4 with the Texas Forensic Science Commission?

5 A. Yes.

6 Q. Okay. Are you aware that an analyst has to  
7 take a legal and professional responsibility course --

8 A. Yes.

9 Q. -- before being licensed?

10 A. Yes.

11 MR. EVANS: Your Honor, may I approach the  
12 witness?

13 THE COURT: You may.

14 Q. (BY MR. EVANS) I'm handing you what's been  
15 marked as Defendant's Exhibit No. 11. Does this appear  
16 to be a document from the Texas Forensic Science  
17 Commission website?

18 A. Yes, sir.

19 Q. And do you see that there is a URL there for  
20 the Texas Forensic Science Commission website?

21 A. Yes, sir.

22 Q. Okay. And does this appear to be a page where  
23 you can begin taking the Texas Forensic Science  
24 Commission legal and professional responsibility course?

25 A. I don't know because I don't have to do this,

1 so I don't typically get on the website for this  
2 specific thing, and it's been a long time since I've  
3 been licensed, so unless I can pull up the website, I  
4 can't confirm that this is exactly what's on there.

5 Q. Okay. Have you been -- have you taken the  
6 licensing test?

7 A. When I first started, yes, sir.

8 Q. Okay. So you took a course for legal and  
9 professional responsibility?

10 A. Yes, sir, when I tested.

11 Q. All right. Does it appear that anything on  
12 this document has been altered or deleted?

13 A. Not that I can tell.

14 MR. EVANS: Tendering to opposing counsel  
15 Defendant's Exhibit No. 11.

16 MR. O'BRIEN: No objection, Judge.

17 THE COURT: Defendant's Exhibit No. 11 will  
18 be admitted.

19 MR. EVANS: Thank you, Judge.

20 (Defendant's Exhibit No. 11 was offered and  
21 admitted into evidence.)

22 MR. EVANS: Okay. May I publish, Judge?

23 THE COURT: You may.

24 Q. (BY MR. EVANS) Okay. Can you see that okay  
25 where you're at?



1           A.    Yes.

2           Q.    All right.  So looking at the Defendant's  
3 Exhibit No. 11, we see that this is a mandatory course  
4 for -- to obtain your license as a forensic analyst or  
5 technician, correct?

6           A.    Yes, sir.

7           Q.    And part of that -- part of that testing covers  
8 topics such as Brady and the Michael Morton Act,  
9 correct?

10          A.    Yes, sir.

11          Q.    Ethical responsibilities as outlined in the  
12 Texas Code of Professional Responsibility for Forensic  
13 Analysts?

14          A.    Yes, sir.

15          Q.    And all analysts are required to take this  
16 course once each license cycle for the renewal of their  
17 license, right?

18          A.    Yes, sir.

19          Q.    Okay.  And then we see there is an access link  
20 under "Course Registration" where they can take the  
21 test; is that right?

22          A.    I don't see the link.

23          Q.    Under "Course Registration," it says, "TopClass  
24 Account Registration" --

25          A.    Yes, sir, I see the link now.

1 Q. Okay. So this would be where an analyst would  
2 go to take this test, correct?

3 A. Yes, sir.

4 Q. Okay.

5 MR. EVANS: May I approach the witness?

6 THE COURT: Yes.

7 Q. (BY MR. EVANS) All right, ma'am. I'm handing  
8 you what's been marked as Defendant's Exhibit No. 12.  
9 Now, do you see on this document that it's got the Texas  
10 Forensic Science Commission seal?

11 A. Yes, sir.

12 Q. Okay. And at the top here can you see that  
13 this is the Legal Disclosure and Professional  
14 Responsibility test?

15 A. I see that it says, "Legal Disclosure and  
16 Professional Responsibility," but I --

17 THE COURT: And if I can ask the both of  
18 you if you'll please keep your voices up just a little  
19 bit.

20 THE WITNESS: Sorry.

21 MR. EVANS: Yes, Your Honor.

22 THE COURT: Thank you.

23 A. I see that it says, "Legal Disclosure and  
24 Professional Responsibility," but I don't know that  
25 that's what the test looks like.

1           Q.    (BY MR. EVANS) Does it appear that this is a  
2   screenshot of the Legal Disclosure and Professional  
3   Responsibility course from the Texas Forensic Science  
4   Commission?

5           A.    Again, I don't deal with the actual licensing  
6   as far as what the Forensic Science Commission is doing,  
7   so I don't actually take part in what this looks like,  
8   so unless I could log in and look, I can't confirm that,  
9   yes, that is exactly what it looks like. I haven't seen  
10   that in a very long time.

11          Q.    When was the last time you renewed your  
12   license?

13          A.    I don't -- I'm not licensed currently.

14          Q.    Okay. But you're familiar with the licensing  
15   process, right?

16          A.    I am, but this has changed since I've taken the  
17   test.

18          Q.    Now, you're the quality assurance manager at  
19   DPS Houston, correct?

20          A.    The licensing by the Forensic Science  
21   Commission is different.

22          Q.    I'm asking if you're the --

23          A.    Yes.

24          Q.    -- quality assurance manager, correct?

25          A.    Yes.

1           Q.    Okay.  And you have been trained on Brady and  
2 the Michael Morton Act and all those other laws that  
3 were listed on Defendant's Exhibit No. 11, correct?

4           A.    Yes.

5           Q.    And so are you saying that you're not familiar  
6 with the licensing requirements with the Texas Forensic  
7 Science Commission?

8           A.    No, sir.  I am familiar with the licensing  
9 requirements.  I'm not familiar with what the website  
10 looks like as far as when you get into the test.

11          Q.    Okay.

12                   MR. EVANS:  Just a moment, Judge.

13          Q.    (BY MR. EVANS)  Do you recall --

14                   THE COURT:  Hold on one second.

15                           (Brief pause.)

16                   THE COURT:  We're going to take about a  
17 15-, 20-minute break unless you have -- unless you're  
18 winding up with this witness.  We've been going about an  
19 hour and 20 minutes.

20                   MR. EVANS:  I've --

21                   THE COURT:  No.  We've been collectively  
22 going for about an hour and 20 minutes, and I want to be  
23 courteous to the court reporter.

24                   MR. EVANS:  Sure.  Absolutely, Judge.

25                   THE COURT:  So I'm saying if you just have,

1 you know, 10 or 15 more minutes, we may be okay, but I'm  
2 not rushing you. I'm saying if you're going to be  
3 longer, that's okay. Let's just take a little break.

4 MR. LANDERS: Whatever you want to do,  
5 Judge. I don't think we have much longer --

6 MR. EVANS: -- with this witness.

7 THE COURT: Why don't we go ahead and just  
8 take a break so that you-all can have an accurate  
9 record.

10 (Short recess.)

11 THE COURT: We're back on the record in  
12 Cause No. 22-CCR-230111. Mr. Evans, you may continue  
13 with your examination of the witness.

14 MR. EVANS: Thank you, Your Honor.

15 Q. (BY MR. EVANS) Earlier on direct you were  
16 discussing --

17 THE COURT: And, Mr. Evans, if you will  
18 make sure to turn on your microphone.

19 MR. EVANS: Is that better, Judge?

20 THE COURT: Much better.

21 Q. (BY MR. EVANS) Earlier in your testimony you  
22 discussed disclosures and who is required to report any  
23 sort of disclosures; is that right?

24 A. Yes. We talked about what requirements go on  
25 or what instances would go on a disclosure form.

1           Q.    Okay.  On a disclosure form.  And it's the  
2 employee's responsibility to disclose any items that  
3 relate to their credibility as a witness; is that right?

4           A.    Yes.

5           Q.    Okay.  So if there had been instances where  
6 they testified one way and testified differently in  
7 another proceeding, that could call their credibility  
8 into question, right?

9                   MR. O'BRIEN:  Objection.  Calls for  
10 speculation.

11                  THE COURT:  I'm going to sustain that  
12 objection.

13           Q.    (BY MR. EVANS)  If a witness testifies  
14 differently under oath in two different proceedings, in  
15 your opinion, would that call their credibility into  
16 question?

17                   MR. O'BRIEN:  Objection.  Calls for  
18 speculation.

19                  THE COURT:  I'm going to overrule that  
20 objection, but it's not relevant and so don't answer  
21 that question.

22                   THE WITNESS:  Yes, ma'am.

23                  THE COURT:  Thank you.

24           Q.    (BY MR. EVANS)  All right.  Going back to the  
25 QI for the two incidents this year, the swapping

1 incidents, you first learned about that in the first  
2 incident in February; is that right?

3 A. Yes, sir.

4 Q. And then an investigation began at that point  
5 into determining whether or not there was a quality  
6 incident?

7 A. Yes, sir. It was pretty -- it's kind of almost  
8 instantaneous. When I find out what happened, I make  
9 the decision at that point essentially if we're going to  
10 do a quality incident, and so once I found out -- once  
11 they told me what happened, I told them to go ahead and  
12 initiate a quality incident.

13 Q. Okay. So it wasn't a question of whether or  
14 not there was going to be a quality incident, it was  
15 when you were going to finish that report?

16 A. Correct. The finishing and the completeness of  
17 the quality incident is really based off of my  
18 availability.

19 Q. Gotcha. And so during your investigation of  
20 this incident, of the swapping incident, another  
21 incident occurred just a couple of months later; is that  
22 right?

23 A. That's correct.

24 Q. And that -- so you decided to just add that  
25 into the same quality incident that you were already

1 investigating, right?

2 A. Correct, because they were very similar.

3 Q. Okay. And it wasn't until eight months later  
4 that you concluded that investigation and finalized your  
5 report; is that right?

6 A. Yes, sir. We just finished it.

7 Q. And you said that you can essentially move up  
8 quality incidents in the order that you're taking them  
9 if they seem more significant than others, right?

10 A. Yes, especially if they are significant in the  
11 sense that we have to disclose it to the accrediting  
12 bodies. So we do try to get those done as soon as  
13 possible because those are discussed during the  
14 commission meetings.

15 Q. All right. And the determination of the level  
16 or what bucket it falls into is just a subjective  
17 opinion of yours, right?

18 A. So when I was -- when I was talking about the  
19 buckets, that's more for like the disclosure form, so  
20 that is pretty -- it's set, but as far as the severity  
21 level, that's typically -- that's my decision along with  
22 the supervisors or my supervisors, depending on if I  
23 need additional help with that.

24 Q. Okay. But the severity level on this last QI  
25 with the swapping vials, you determined that was severe,



1 right, or major?

2 A. Yes.

3 Q. And during the last eight or nine months while  
4 this investigation was going on, Mr. Augustyn has been  
5 testifying in trials; is that correct?

6 A. That's correct.

7 Q. Multiple trials, right?

8 A. I'm not sure how many trials he's been in.

9 Q. Has he left the office to testify?

10 A. I have seen him leave the office at least a  
11 couple of times to testify but that's just because my  
12 office is right there, but I don't know what their  
13 schedules are.

14 Q. All right. And how many analysts are there  
15 right now that testify for DPS?

16 A. We have over 70 personnel in the lab.

17 Q. Specific to alcohol?

18 A. Oh, to alcohol?

19 Q. Right.

20 A. There are four if you include the supervisor.

21 Q. Okay. So three really that are on the line  
22 that are doing the analyses day in and day out?

23 A. That's correct.

24 Q. And those are the three that go to testify in  
25 court if there's a trial?

1           A.    That's correct, and we have one in training.

2           Q.    Okay.

3                   MR. EVANS:   Your Honor, may I approach the  
4 witness?

5                   THE COURT:   You may.

6                   MR. EVANS:   Your Honor, may I approach?

7                   THE COURT:   Yes.

8           Q.    (BY MR. EVANS)   Ma'am, I'm handing you what's  
9 been marked as Defendant's Exhibit No. 13.   Do you  
10 recognize this?

11          A.    Yes, sir.

12          Q.    What is it?

13          A.    It's the chapter for Nonconforming Work out of  
14 the crime lab.

15                   THE COURT:   I can't hear you.   The chapter  
16 for what?

17                   THE WITNESS:   I'm sorry.   It's the chapter  
18 for Nonconforming Work out of our crime lab division  
19 manual.

20          Q.    (BY MR. EVANS)   Okay.   And I'm also handing you  
21 what's been previously marked as Defendant's  
22 Exhibit No. 14.   Do you recognize that?

23          A.    Yes, sir.

24          Q.    And what is it?

25          A.    It's the chapter for Risks, Opportunities, and

1 Improvements.

2 Q. Is that part of the crime laboratory division  
3 manual as well?

4 A. Yes, sir.

5 Q. And is this something that you rely on in your  
6 job?

7 A. Yes, sir.

8 Q. You're familiar with these?

9 A. Yes, sir.

10 Q. Okay. Is there -- as far as you can tell, is  
11 there anything that's been altered or deleted off these?

12 A. No, sir.

13 Q. Okay.

14 MR. EVANS: Defense moves to enter  
15 Defendant's Exhibit Nos. 13 and 14 and opposing counsel  
16 has already reviewed them.

17 MR. O'BRIEN: No objection, Judge.

18 THE COURT: Defendant's Exhibit Nos. 13 and  
19 14 will be admitted.

20 (Defendant's Exhibit Nos. 13 and 14 were  
21 offered and admitted into evidence.)

22 THE COURT: Are you going to ask about  
23 those, Mr. Evans?

24 MR. EVANS: No, Your Honor. I just wanted  
25 to make those part of the record.

1           Q.    (BY MR. EVANS) Okay. I want to go back to the  
2 Chapter 33, the Forensic Disclosure and Compliance  
3 Policy. Do you have a copy of that with you?

4           A.    Yes.

5           Q.    Okay. So I'm referring to State's Exhibit  
6 No. 9 and are you familiar with Section 33.3, Notice of  
7 Third-Party Action?

8           A.    Yes, sir.

9           Q.    And as part of your policy there, isn't it true  
10 that a judge or an attorney may take action that  
11 requires subsequent disclosure even though the event  
12 falls outside the personnel-specific disclosure  
13 requirements?

14          A.    Yes, sir.

15          Q.    Okay. But a judge or an attorney can only make  
16 those disclosures if they know about the information,  
17 right?

18          A.    I would assume so, yes.

19                   MR. EVANS: I'll pass the witness, Judge.

20                   THE COURT: Do you have any additional  
21 questions?

22                   MR. O'BRIEN: Nothing further. We'd ask  
23 that this witness be excused.

24                   THE COURT: Thank you.

25                   MR. EVANS: No objection from Defense.

1 THE COURT: Thank you. You may be excused,  
2 but you remain under the rule until these proceedings  
3 have ended.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Thank you so much. Are y'all  
6 letting her go?

7 MR. O'BRIEN: Yes, Judge.

8 MR. EVANS: Yes.

9 THE COURT: You may call your next witness.

10 MR. FESMIRE: At this time, Your Honor, the  
11 State calls Tifani Parker.

12 MR. O'BRIEN: I can go grab her real quick.

13 THE COURT: The bailiff can do it.

14 Hi, Ms. Parker.

15 THE WITNESS: Hi.

16 MR. FESMIRE: May I proceed?

17 THE COURT: Yes.

18 MR. FESMIRE: Thank you, Your Honor.

19 TIFANI PARKER,  
20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FESMIRE:

23 Q. Could you please introduce yourself to the  
24 Court?

25 A. Yes. My name is Tifani Parker, T-i-f-a-n-i,

1 P-a-r-k-e-r.

2 Q. And, Ms. Parker, what are your -- what is your  
3 -- first of all, where do you work?

4 A. I work for the Texas Department of Public  
5 Safety crime lab in Houston.

6 Q. Okay. And what's your position there?

7 A. I am the toxicology section supervisor.

8 Q. And what are your duties as the section  
9 supervisor for toxicology?

10 A. As a supervisor I can still review cases. I  
11 continue to work cases. I conduct section meetings. I  
12 review discovery orders. I maintain, like, case  
13 assignments and make sure cases are getting out in a  
14 timely manner.

15 Q. And how long have you been in that position?

16 A. Over four and a half years.

17 Q. And did you work with the crime lab prior to  
18 that?

19 A. Yes.

20 Q. And what was your position then?

21 A. I was a forensic scientist.

22 Q. Okay. And that's what Mr. Augustyn is  
23 currently, right?

24 A. That is correct.

25 Q. Okay. And are you Mr. Augustyn's direct

1 supervisor?

2 A. Yes, I am.

3 Q. Okay. Now, in your position as a section  
4 supervisor over toxicology, do you also handle the  
5 intake of blood kits into the lab?

6 A. No.

7 Q. Okay. Now, who handles that?

8 A. That would be our evidence coordination team.

9 Q. Okay. And are you still familiar with the  
10 process for the intake of cases in the lab?

11 A. Yes.

12 Q. Can you explain that a little for us from  
13 inception to when it gets handed over to the toxicology  
14 section?

15 A. Yes. So when a case is brought into the crime  
16 laboratory, it's also brought in with a submission form  
17 that has the case information that can include the  
18 agency case number, what the evidence is, the offense  
19 information, and all of that information is inputted  
20 into -- or input into our laboratory information  
21 management system known as LIMS, and then that's going  
22 to create a unique laboratory case number and a barcode  
23 for that piece of evidence.

24 For blood alcohol cases, once it's received  
25 into the laboratory, it's going to be placed into a

1 refrigerator that's inside of a secure vault until  
2 analysis.

3 Q. Now, that barcode that's created, that's  
4 created in evidence receiving, right?

5 A. That is correct.

6 Q. Where does that barcode -- is that barcode  
7 placed on the kit and the submission form?

8 A. Yes. There's usually two of the barcodes  
9 placed on the blood kit itself, and then one placed on  
10 the submission form.

11 MR. FESMIRE: Your Honor, permission to  
12 display what has been admitted as State's Exhibit No. 8  
13 and Defendant's Exhibit No. 4 on the Elmo?

14 THE COURT: Yes.

15 Q. (BY MR. FESMIRE) Ms. Parker, can you see that  
16 all right?

17 A. Yes.

18 Q. So this would be the lab specific case number  
19 and the barcode beneath it, correct?

20 A. That is correct.

21 Q. Okay. And that barcode is placed on the blood  
22 kit by evidence receiving?

23 A. Yes.

24 Q. Okay. Now, I'm showing you what has been  
25 previously admitted as Defendant's Exhibit No. 4. Do



1 you recognize this?

2 A. Yes.

3 Q. Okay. This is a submission form, correct?

4 A. That is correct.

5 Q. Okay. And the barcode that's placed there on  
6 the top right, that's placed on the document by evidence  
7 receiving?

8 A. Yes.

9 Q. Okay. And that is the lab specific case number  
10 and barcode associated with it?

11 A. Yes.

12 Q. Now, there's two names underneath that barcode.  
13 Can you read those? One is crossed out.

14 A. Like, under whose -- under the submission --

15 Q. Under, "Complete the following for in-person  
16 submissions only."

17 A. "Andrea Stout and A. Mitchell."

18 Q. Okay. Now, it looks like there was physical, I  
19 guess, edits done on this case. Is that abnormal?

20 A. No.

21 Q. Okay. Can you explain why it's not abnormal?

22 A. If a case is brought in person, then the person  
23 that brought it in would be the person that signed that  
24 submission form.

25 Q. Okay. So is it possible that someone generated

1 the lab submission form and then another person turned  
2 it in to the actual lab?

3 A. Yes.

4 Q. Okay. And, again, that is not unusual,  
5 correct?

6 A. No.

7 Q. Ms. Parker, I'm showing you what's been  
8 previously admitted as State's (sic) Exhibit No. 9 via  
9 the Elmo. Can you see that all right?

10 A. Yes.

11 Q. Okay. Now, are you aware of what this document  
12 is?

13 A. Yes.

14 Q. What is it?

15 A. It's a Quality Incident Report.

16 Q. Okay. Are you aware of what incident this  
17 Quality Incident Report is describing?

18 A. Yes.

19 Q. Okay. Which incident is it describing briefly?

20 A. This is the incident where there were two  
21 separate incidents where submission forms and blood kits  
22 were switched prior to submission.

23 Q. Okay. Now, I'm going to turn to Page 2 of this  
24 document. Now, under the section entitled, "Approval,"  
25 can you read the names under "Collaborators"?

1           A.    Zachary Augustyn, Tifani Parker.

2           Q.    Okay.  And then next to it it says "awareness  
3 only."  What does that mean?

4           A.    That means when this final document has been  
5 completed and is sent for final approval, that the  
6 collaborators are not going to be a part of that  
7 approval process.

8           Q.    Okay.  Now, underneath "Collaborators," it  
9 says, "Subject Matter Experts," and then it lists your  
10 name, correct?

11          A.    That is correct.

12          Q.    Okay.  Now, what does it mean to be a subject  
13 matter expert for the purposes of Quality Incident  
14 Reports?

15          A.    So because this is a blood alcohol-related  
16 incident and I am the toxicology section supervisor, I  
17 would be considered the subject matter expert for this.

18          Q.    And in being the subject matter expert, is it  
19 your duty then to write the Cause Analysis for this  
20 Quality Incident Report?

21          A.    Yes, but I will collaborate with any  
22 individuals that are involved in that quality incident  
23 as well as my quality manager.

24          Q.    And for this quality incident in particular,  
25 are you aware of what role you had in drafting this?

1           A.    Yes.

2           Q.    What role was that?

3           A.    So, again, with the quality incident, once it's  
4 opened in our -- like, our qual (sp.ph.) track system  
5 which is where we keep our quality incidents that are  
6 pending, anybody that's a part of the collaboration can  
7 go in and work on it.

8                        So I can gather information from any  
9 analyst that's involved, I can also speak to my quality  
10 manager, and I can either meet with her and we will work  
11 on it together or I can go in and type up stuff on my  
12 own.

13          Q.    Now, I wanted to point out a few lines in this  
14 Cause Analysis, and if you're familiar, you can answer.  
15 If not, just let me know.

16          A.    Okay.

17          Q.    On Line No. 5 of the Cause Analysis starting  
18 with, "Analyst has had less problems," would you mind  
19 reading that sentence.

20          A.    "Analyst has had less problems working with  
21 Garland cases compared to Houston cases as a result the  
22 analyst was not as diligent as he should have been."

23          Q.    Can you tell us what that portion of the Cause  
24 Analysis means? Can you give us more information?

25          A.    Yes. So we have seen in the past with our

1 Houston cases, more incidents where submission forms and  
2 blood kits have been switched prior to submission during  
3 our analysis process, we have noticed that, and we had  
4 not had that occur with any of the Garland cases that we  
5 had worked, so that is where I think it was not expected  
6 that we would see it with the Garland cases.

7 Q. Had you had any previous Garland cases in which  
8 the blood tubes were switched between boxes?

9 A. Not that I'm aware of.

10 Q. Okay. Now, I want to go back to the intake  
11 process. Is it normal that the lab submission forms are  
12 not included in the sealed boxes?

13 A. After the blood has been drawn?

14 Q. No. I apologize. Upon receipt of the blood  
15 kits by the agencies, is it normal that the lab  
16 submission forms are not included in the kits, that  
17 they're separate?

18 A. It depends on how the blood kit is submitted  
19 into the laboratory.

20 Q. Okay. Can you expand on that?

21 A. Yes. Because these blood kits are mailing  
22 kits, so they can be mailed directly to our laboratory,  
23 so the submission form could be in the blood kits in  
24 that situation, and then sometimes there's an outside,  
25 like, white envelope that's stuck to the back of our

1 blood kits, and so the submission form can be in there  
2 as well, and then if it's submitted in person, then that  
3 submitting officer could be the one bringing it in in  
4 person so then the blood kit doesn't have to be opened.

5 Q. Thank you. Now, I want to go on to the  
6 following sentence starting with, "GAR-2401-01459 was  
7 not in the workflow," would you mind reading that  
8 sentence?

9 A. Yes. "GAR-2401-01459 was not in the workflow  
10 on this day, which could have triggered a response to  
11 the analyst seeing that information between 2 cases was  
12 switched as the analyst has had experience with this  
13 such scenario in the past with other agencies."

14 Q. Can you explain what that sentence in the Cause  
15 Analysis means?

16 A. Yes. So we work cases in batches, so that  
17 means we could have between 10 and 40 cases in a batch,  
18 and these two cases were not worked in the same batch,  
19 so if this case was worked in the same batch and that  
20 analyst go to it and noticed that name was wrong, it  
21 would have triggered him to look to see if he had that  
22 name in another case that he had been working because in  
23 the past when we have seen this situation, those cases  
24 are in the same batch.

25 Q. Could you read the last sentence in the Cause

1 Analysis paragraph?

2 A. "H0U-2404-05411 and H0U-2404-05416 were a part  
3 of two different batches, H0U-2404-05416 was not in the  
4 workflow on 05/09/2024, this could have triggered a  
5 response to the analyst seeing that information between  
6 2 cases was switched."

7 Q. Okay. Now, is this a similar scenario that you  
8 have just talked about in the previous sentence you  
9 read?

10 A. Yes.

11 Q. Now, a defendant can have an order signed by a  
12 judge to get additional discovery materials from the DPS  
13 crime lab, correct?

14 A. Correct.

15 Q. Okay. And whenever that is filed, it's DPS's  
16 responsibility to compile those documents and send them  
17 to the defense attorney, correct?

18 A. We compile the information. We're in the -- we  
19 are in the practice of providing it to the prosecutor,  
20 and then the prosecutor providing it to the defense.

21 Q. Now, who at the DPS Houston crime lab manages  
22 compliance with blood discovery orders?

23 A. My -- I had a toxicology technician that helped  
24 with discovery orders. She's no longer my technician,  
25 and then I was the one that would review all the

1 documents before the discovery order was -- got sent  
2 out.

3 Q. So you're familiar with the process of  
4 compiling documents to be produced pursuant to a blood  
5 discovery order?

6 A. Yes.

7 Q. Okay. Now, where do you draw from when you're  
8 gathering the documents to respond to a blood discovery  
9 order?

10 Is that from your lab information  
11 management system?

12 A. That is part of it because that has the case  
13 record information, but we also just have, like, a  
14 laboratory drive folder on our computer that houses,  
15 like, the maintenance logs, refrigerator logs or  
16 anything like that that's requested on a discovery  
17 order.

18 Q. The case-specific documents that you're talking  
19 about, would that include the lab submission form?

20 A. Yes.

21 Q. So the submission form would be drawn from the  
22 LIMS system to be produced in the response to a blood  
23 discovery order?

24 A. Correct.

25 MR. FESMIRE: Pass the witness, Your Honor.



1 THE COURT: Mr. Evans?

2 MR. EVANS: Thank you, Judge.

3 CROSS-EXAMINATION

4 BY MR. EVANS:

5 Q. Ms. Parker, are you currently licensed as a  
6 forensic analyst?

7 A. Yes.

8 Q. Okay. And did you do your testing to become  
9 licensed through the Forensic Science Commission?

10 A. Yes.

11 Q. Okay. The Texas Forensic Science Commission?

12 A. Yes, I did.

13 Q. All right. When was the last time that you  
14 renewed your license?

15 A. It was actually very recent because my  
16 expiration is November 30th, so it has now been renewed.

17 Q. Okay. And so did you -- as part of your  
18 renewal, did you have to take a course entitled, "Legal  
19 Disclosure and Professional Responsibility"?

20 A. Yes.

21 Q. And did you take that course online?

22 A. Yes.

23 Q. And were there, I guess, slides that you would  
24 have to go through as you're taking the course?

25 A. Yes.

1           Q.   And this course goes over things like Brady and  
2 Michael Morton Act and things like that, right?

3           A.   That is correct.

4           Q.   Okay. And then at the end of the course, you  
5 have to take a test to be able to renew that license; is  
6 that correct?

7           A.   There are questions at the end of the  
8 presentations, yes.

9           Q.   Okay.

10                   MR. EVANS: Your Honor, may I approach the  
11 witness?

12                   THE COURT: You may.

13           Q.   (BY MR. EVANS) Ms. Parker, I'm showing you  
14 what's been previously marked as Defendant's  
15 Exhibit No. 11. Does this appear to be the page on the  
16 Forensic Science Commission website where you would  
17 begin that course?

18           A.   I don't remember if this is what the page  
19 looked like, but it does look like it came from their  
20 website.

21           Q.   Okay. I'm showing you what's been previously  
22 marked as Defendant's Exhibit No. 12. Do you recognize  
23 this?

24           A.   This looks like part of the presentation from  
25 that course.

1           Q.    Okay.  So you recognize this slide from that  
2 course?

3           A.    There was numerous slides, so it appears to be  
4 one from that course.  I don't remember every single  
5 slide on it.

6           Q.    Sure.

7                   THE COURT:  You what?  I'm sorry.  I didn't  
8 hear what you said.  You said, "There was numerous  
9 slides.  This appears to be" -- I didn't hear what you  
10 said.

11                  THE WITNESS:  This appears to be one from  
12 that course.

13                  THE COURT:  Thank you.

14           Q.    (BY MR. EVANS)  And we see here that Texas  
15 Forensic Science Commission seal?

16           A.    Yes.

17           Q.    And Legal Disclosure and Professional  
18 Responsibility at the top?

19           A.    Correct.

20           Q.    Okay.  Does it appear as though, from what you  
21 remember of the slide, if anything has been changed or  
22 altered on it?

23           A.    It does not appear to be altered.

24                   MR. EVANS:  At this time, Your Honor, I'll  
25 tender to opposing counsel for objection to Defendant's

1 Exhibit No. 12.

2 MR. FESMIRE: Objection. Lack of  
3 foundation and relevance. She stated she doesn't recall  
4 this specific slide from her training...

5 THE COURT: Was your testimony that it  
6 appeared to be one that came from the training?

7 THE WITNESS: It appears to look like it.  
8 I just don't remember every single slide.

9 THE COURT: Okay. That objection is  
10 overruled. Defendant's Exhibit No. 12 is admitted.

11 (Defendant's Exhibit No. 12 was offered and  
12 admitted into evidence.)

13 MR. EVANS: Okay. Your Honor, may I  
14 publish it? Here's a courtesy copy for you.

15 THE COURT: Yes. Thank you.

16 Q. (BY MR. EVANS) Ms. Parker, can you see  
17 Defendant's Exhibit No. 12 there up on the screen?

18 A. Yes.

19 Q. All right. And this particular slide, as a  
20 part of that course, at the top there it says, "Analyst  
21 has a pending investigation"; is that right?

22 A. That is correct.

23 Q. And the next sentence, does it say, "Pending  
24 investigative materials are Brady"?

25 A. That is correct.

1 Q. And it doesn't say that when a report is  
2 finalized, that it becomes Brady; is that right?

3 A. I'm sorry. I'm reading through the whole  
4 slide.

5 Q. Sure. Take your time.

6 A. Correct, it does not say anything about  
7 completed.

8 Q. Okay. And this slide, it's discussing a case.  
9 Do you see down at the bottom there, "United States v.  
10 Olsen"?

11 A. Correct.

12 Q. All right. And this was a case out of a  
13 federal court, the 9th Circuit, was the court for this  
14 opinion; is that correct?

15 A. It says, "9th circuit," yes.

16 Q. All right. And here it says that, "The court  
17 held that the materials contained in the pending,  
18 unresolved internal investigation were 'clearly  
19 favorable' to the defense." Did I read that correct?

20 A. You did.

21 Q. And on the second bullet here, it says, "The  
22 materials contained allegations of sloppy work,  
23 unexplained contaminants, and prior testimony  
24 'indicating a proclivity to shade testimony in favor of  
25 the government's case.'" Did I read that correctly?

1 A. Yes.

2 Q. And the final bullet," All materials could  
3 have been used as impeachment evidence when the analyst  
4 testified." Did I read that correct as well?

5 A. Yes.

6 Q. So according to this slide, the Texas Forensic  
7 Science Commission, it's saying that a pending  
8 investigation for an analyst should be disclosed, right?

9 A. That's what that says, yes.

10 Q. All right. In the QI that you were discussing  
11 with Mr. Fesmire, y'all went over some specific lines in  
12 that QI, and one of them had to do with Mr. Augustyn  
13 having less problems with Garland cases, right?

14 A. That is correct.

15 Q. So it's fair to say that he's had problems with  
16 Houston cases, then, right?

17 A. In the sense of samples, like, submission forms  
18 and blood kits being switched prior to submission, yes.

19 Q. That's a very -- that sort of -- submission  
20 forms and blood kits being switched, that's a  
21 significant event, right?

22 MR. FESMIRE: Objection. Argumentative.

23 THE COURT: Give me a second to think about  
24 that.

25 Why don't you rephrase your question.

1           Q.    (BY MR. EVANS)  As part of your policy in the  
2 crime lab division manual, there's definitions of  
3 significant events, right?

4           A.    Yes.

5           Q.    And sample switching would be a significant  
6 event, right?

7           A.    Blood kits and submission forms are not sample  
8 switches.

9           Q.    I understand that.  That's not what I'm asking.  
10 I'm saying sample switching is a significant event,  
11 right?

12          A.    I believe so.  I don't have that -- the CLD in  
13 front of me.

14          Q.    Okay.  Would you like to review that?

15          A.    Sure.

16          Q.    Okay.  I'm handing you what's been marked or  
17 what's been admitted as State's Exhibit No. 9, and I  
18 believe under 33.2 H, Subsection 9, Subsection E.

19                    Would you take a moment and read that?

20          A.    Out loud?

21          Q.    No.  Does that refresh your recollection?

22          A.    Yes.  So this is saying the following list --  
23 "The following is listed on an employee's disclosure  
24 form, and thereby disclosed, regardless of the time  
25 frame of the event."

1                   And under it there's, "Additional incidents  
2 as listed below," and E says, "Sample switch, if  
3 discovered after results are reported to the customer."

4           Q.    Okay.  So that would be a significant event  
5 then?

6           A.    Yes.

7           Q.    Okay.  And part of that QI with the switching  
8 incidents, one of those was Magnolia PD; is that right?

9           A.    Can I use my notes and refer to them?

10          Q.    Yes.

11          A.    Okay.  Thank you.  Yes, one of them was  
12 Magnolia PD.

13          Q.    Okay.  And Magnolia PD would be a Houston area  
14 law enforcement agency?

15          A.    That is correct.

16          Q.    All right.  On direct you testified that the  
17 DPS Houston lab is currently in the practice of  
18 providing discovery to prosecutors, right?

19          A.    That is correct.

20          Q.    It's being given directly to the DA's office,  
21 and then from there you don't know what happens with it,  
22 right?

23          A.    That's correct.

24          Q.    Okay.  So it's important for the DPS lab to  
25 give everything that they have on a case to the



1 prosecutor so they have the opportunity to review it and  
2 determine what should and maybe should not be disclosed,  
3 right?

4 A. I agree with that.

5 Q. All right. It used to be the practice for DPS  
6 lab to provide that discovery directly to the defense;  
7 isn't that right?

8 A. Yes, we have provided directly to the defense  
9 before, yes.

10 Q. For years that was the practice of the DPS  
11 Houston crime lab, right, to have a disk sitting at the  
12 front desk for attorneys or their representative to go  
13 pick that up; isn't that right?

14 A. When I got there I believe the disks were  
15 mailed directly, so I don't know about picking up. I  
16 think there is the option to pick up directly.

17 Q. Okay. But the practice of the lab was to give  
18 the discovery that was ordered by a judge to be given to  
19 the defense directly to the defense, correct?

20 A. That is correct.

21 Q. And that's not the case anymore, is it?

22 A. That is not the case.

23 MR. EVANS: I'll pass the witness, Judge.

24 MR. FESMIRE: Just a few questions, Your  
25 Honor.

1 THE COURT: Go ahead.

2 REDIRECT EXAMINATION

3 BY (BY MR. FESMIRE)

4 Q. Now, first, Ms. Parker, whenever Zach  
5 discovered the issues with the quality incident that was  
6 issued today, did he report those to you?

7 A. Yes.

8 Q. And he reported them to his direct supervisor,  
9 correct?

10 A. That is correct.

11 Q. Is that what your policy is whenever there is  
12 an --

13 THE REPORTER: I'm sorry. Can you repeat  
14 the question?

15 THE COURT: Can you reask that question.

16 MR. FESMIRE: I apologize.

17 Q. (BY MR. FESMIRE) Is that your policy whenever  
18 there is a nonconformance, to report that to your  
19 supervisor?

20 A. Yes.

21 Q. Now, I'm showing you what has been marked as  
22 Defendant's Exhibit No. 12. Now, this slide says,  
23 "Analyst has a pending investigation."

24 Is there a difference at the DPS crime lab  
25 between a pending investigation and a pending quality

1 incident?

2 A. Yes.

3 Q. Can you explain the difference?

4 A. Yes. A quality incident is something that we  
5 create when something out of the ordinary course of  
6 business happens in casework.

7 So in this instance where submission forms  
8 and blood kits were switched and one of them was not  
9 caught by the analyst, that was a quality incident that  
10 we documented.

11 An investigation would be involved -- like,  
12 investigating that analyst and determining if there  
13 needs to be some sort of, like, pending, like,  
14 repercussions or punishment. There was no investigation  
15 done on Zachary when these incidents were brought up.

16 Q. Are you aware if there will be an investigation  
17 into Zachary after this quality incident?

18 A. No, there is no pending -- there is no  
19 investigation for these quality incidents.

20 Q. Thank you. I wanted to show you on Page 2 of  
21 what has been marked as State's Exhibit No. 9 --  
22 previously admitted as State's Exhibit No. 9.

23 On direct, Defense counsel was showing you  
24 under Section H, Subsection 9, "Additional incidents as  
25 listed below." Can you see that all right?

1           A.    Yes.

2           Q.    Specifically Subsection E of Subsection 9, it  
3 states, "Sample switch, if discovered after results are  
4 reported to the customer," is a substantial event,  
5 correct?

6           A.    Yes.

7           Q.    Can you differentiate that from what happened  
8 in the quality incidents involving Zach?

9           A.    Yes.  So what the crime laboratory division  
10 manual is saying is that if that sample switch happens,  
11 the analyst didn't catch it, the technical reviewer  
12 didn't catch it, and that report is released and it is  
13 determined later on that it was reported incorrectly,  
14 then that would be a significant event.

15                   In these situations -- in this quality  
16 incident, none of the cases that were involved, the  
17 reports had not been released yet, and the corrections  
18 were able to be made before the reports went out.

19           Q.    Thank you.

20                   MR. FESMIRE:  Pass the witness, Your Honor.

21                   THE COURT:  Mr. Evans?

22                   MR. EVANS:  Yes, Your Honor.  Thank you.

23                               RE CROSS-EXAMINATION

24 BY MR. EVANS:

25           Q.    You were just discussing with the prosecutor

1 Defendant's Exhibit No. 12, and it seemed like there was  
2 some distinction being made between a quality incident  
3 versus an investigation. Am I understanding that right?

4 A. Yes.

5 Q. So does a quality incident not require any sort  
6 of investigation?

7 A. I would not think, like, an investigation,  
8 like, on the analyst. There's some discussion on, like,  
9 Cause Analysis and root cause, but there's no, like,  
10 formal investigation that's done for this incident.

11 Q. Is it a root cause analysis where a supervisor  
12 questions what's happened?

13 A. Yes.

14 Q. Is it -- are employees questioned to determine  
15 what the root cause is?

16 A. The analyst involved, yes.

17 Q. And so are you telling the Judge that a quality  
18 incident doesn't fall under an investigation like this  
19 slide talks about under Texas Forensic Science  
20 Commission?

21 A. I personally didn't think it did, no.

22 Q. Okay. Would an investigation by the Texas  
23 Forensic Science Commission, would that be an  
24 investigation?

25 A. I would think --

1 THE COURT: What did you ask?

2 Q. (BY MR. EVANS) If the Texas Forensic Science  
3 Commission was conducting an investigation, do you think  
4 that is an investigation into an analyst?

5 A. I would think so, yes.

6 Q. Okay. Are you aware that there is a pending  
7 complaint against Mr. Zachary Augustyn with the Texas  
8 Forensic Science Commission?

9 A. I don't think I was aware of that, no.

10 Q. Okay.

11 MR. EVANS: I'll pass the witness.

12 MR. FESMIRE: No further questions, Your  
13 Honor. May this witness be excused?

14 THE COURT: No, not yet. I have a couple  
15 of questions, and I'll give you both the opportunity to  
16 readdress her.

17 Ms. Parker, is there such thing as a  
18 particular conduct, incidents, events, right, all of the  
19 above, that are, per se, results in an investigation?

20 THE WITNESS: There could be, yes. I think  
21 there could be events that take place that might --

22 THE COURT: Let me just -- Per se -- if  
23 this happens, per se, this results in an investigation?

24 If this happens, per se, results in an  
25 investigation?

1 THE WITNESS: Yes. I just don't know --

2 THE COURT: What they are?

3 THE WITNESS: Off the top of my head, yes.

4 THE COURT: Okay. So thank you. I wasn't  
5 asking that part of it, and then my second question then  
6 is -- well, let me ask you: Is there such a list that  
7 exists somewhere, and it's just that you don't know what  
8 particular events, occurrences, et cetera, are on that  
9 list?

10 THE WITNESS: I'm not sure if there's,  
11 like, a formal list that says if this happens, it must  
12 be investigated.

13 THE COURT: But they're the kind of events  
14 or occurrences that, while it might not be named, if you  
15 saw it, you go, "That needs to be investigated"?

16 THE WITNESS: Yes.

17 THE COURT: Okay. With respect to  
18 everything else that does not fall into what might be  
19 identified on its face as sort of a, per se,  
20 investigation, is everything else completely subjective  
21 as determined -- well, let me ask that question. Is it  
22 just -- is it completely subjective?

23 THE WITNESS: Is what completely  
24 subjective?

25 THE COURT: Whether or not a particular

1 event, occurrence, et cetera, can become an  
2 investigation or should be the subject of an  
3 investigation?

4 THE WITNESS: It could be subjective, yes.  
5 I think after discussion with, like, the supervisor,  
6 quality manager, lab manager, if there's discussion of  
7 that event, then -- if there's concerns or anything,  
8 then it might be, like, okay, we need to investigate  
9 further, yes.

10 THE COURT: And that is determined by who?

11 THE WITNESS: I think it could be  
12 determined by anybody that's involved in the situation  
13 that's being told about it. So that could be the  
14 quality manager, lab manager, somebody higher than that  
15 within DPS.

16 THE COURT: So do I correctly understand  
17 that DPS serves as its own decision-maker as to what  
18 becomes an investigation and what doesn't?

19 THE WITNESS: I think they could make that  
20 decision, yes.

21 THE COURT: Well, that's not quite my  
22 question, which is, DPS -- is it accurate that DPS and  
23 DPS alone decides -- unless the Texas Forensic -- DPS  
24 and DPS alone decides what becomes the subject of an  
25 investigation or not, whether that is per se or whether



1 that is subjectively decided?

2 THE WITNESS: I'm not sure if it's DPS  
3 alone. I don't know if somebody else could also make  
4 that decision.

5 THE COURT: Okay. Thank you.

6 I believe this is your witness -- Parker is  
7 your witness, and so if you have additional questions as  
8 a result of the Court's inquiries, you certainly may ask  
9 them.

10 MR. FESMIRE: Your Honor, may I have a  
11 minute to consult with co-counsel?

12 THE COURT: Yes.

13 MR. FESMIRE: Judge, it's not necessary to  
14 approach, but we do have the lab manager for the DPS  
15 Houston crime lab whose been here reviewing the  
16 analyst's testimony today. So he's reported to me that  
17 he would be the person who would be over on the  
18 personnel side for handling investigations into the lab,  
19 if that's your line of questioning, but, again, the rule  
20 has been invoked.

21 THE COURT: It has been, and if this is not  
22 a witness that you've indicated that should be under the  
23 rule --

24 MR. FESMIRE: That's correct, Your Honor.

25 THE COURT: -- and that response would be

1 directly triggered by testimony that has already been  
2 heard by another witness, I'm not going to allow that  
3 testimony.

4 MR. FESMIRE: Understood. Yes, Your Honor.

5 THE COURT: Thank you. But you may ask the  
6 witness additional questions if you'd like to.

7 MR. FESMIRE: No further questions, Your  
8 Honor.

9 THE COURT: Thank you.

10 Mr. Evans, do you have additional questions  
11 as a result of the Court's inquiries?

12 MR. EVANS: No, Your Honor.

13 THE COURT: Okay. Thank you. Am I to --

14 MR. FESMIRE: May this witness be excused?

15 THE COURT: Yes, she may. Thank you.

16 MR. FESMIRE: And does Defense plan on  
17 calling Zachary Augustyn back or may he be excused as  
18 well?

19 MR. EVANS: He can be excused.

20 MR. FESMIRE: May I have a moment to go  
21 outside and tell --

22 THE COURT: Oh, yes. I'm sorry. Go ahead.

23 MR. O'BRIEN: To be clear, the State has no  
24 further witnesses at this point.

25 THE COURT: Okay. Thank you very much.

1 Mr. Evans, do you have any additional witnesses?

2 MR. EVANS: No, Judge.

3 THE COURT: Thank you. I will entertain  
4 argument. Mr. Evans, it's your motion.

5 MR. EVANS: Yes, Your Honor. Thank you.  
6 May I have a brief moment?

7 THE COURT: Yes.

8 MR. O'BRIEN: Can we take five moments, I  
9 guess, to --

10 THE COURT: Yes, go ahead.

11 (Short recess.)

12 THE COURT: Are you ready, Mr. Evans?

13 MR. EVANS: Yes, Your Honor.

14 THE COURT: Mr. Evans, you may proceed with  
15 your closing remarks.

16 MR. EVANS: Thank you, Your Honor. Judge,  
17 we've got three different claims that we're going under  
18 for this motion for new trial.

19 THE COURT: And are you referencing me to  
20 -- you're going to tell me which --

21 MR. EVANS: I was just going to tell you  
22 which ones --

23 THE COURT: What rule are you --

24 MR. EVANS: Trap 21.3, Subsection E, that a  
25 defendant must be granted a new trial for any of the

1 following reasons, "When evidence tending to establish  
2 the defendant's innocence has been intentionally  
3 destroyed or withheld, thus preventing its production at  
4 trial."

5           The second claim we have is Brady versus  
6 Maryland, and -- well, let me just back up. I'll start  
7 with 21.3, the evidence that we've been fighting over in  
8 this case is QIs that were not disclosed. It was  
9 withheld, and it could have been used by me at trial.  
10 The standard -- the chain of custody was a serious issue  
11 that we fought a lot about. We had a hearing outside  
12 the presence of the jury to determine whether or not  
13 certain documents were going to come in after we had a  
14 Michael Morton Act violation, 29.13. You excluded one  
15 of those documents. I would have used that document if  
16 I had known more about what Mr. Augustyn's problems  
17 were. I had not been made aware of the fact that he had  
18 any QIs at all, and I anticipate that the State is going  
19 to argue that I could have found these by going to --  
20 could have found one at least by going onto the DPS  
21 website, but there's no name that's associated with the  
22 QIs on that DPS website. So how am I supposed to find  
23 that?

24           The other two QIs, they're impossible to  
25 find online because they didn't finalize them. It took

1 over eight months to finalize it. When the quality  
2 assurance manager testified that she makes the decision  
3 pretty much right away that it's going to be a quality  
4 incident, and then it's just a matter of when she gets  
5 around to it. So this internal policy within DPS that's  
6 delaying the disclosure of this and then their own  
7 internal policy where they've got subjective levels of  
8 measuring what the risk is and whether or not to put it  
9 in a certain bucket or not so that the Defense finds out  
10 about it instead of just trying to sweep it under the  
11 rug and not let us know about it, and the idea that I  
12 have to go out and find this kind of information lies in  
13 the face of due process.

14                   And Banks versus Dretke, Judge, that's  
15 going to be 124 S. Ct. 1256. This is a supreme court  
16 case, Your Honor, from 2004. In it on Page 1275, it  
17 states, "A rule that's declaring that the prosecutor may  
18 hide and defendant must seek is not tenable in a system  
19 constitutionally bound to accord defendant's due  
20 process. Ordinarily we presume the public officials  
21 have properly discharged their official duties."

22                   And what that basically means is, Judge, I  
23 don't have to seek out favorable evidence. The State,  
24 the government, has a duty to turn that over to a  
25 defendant, and that -- the State is the team. It's not

1 just the prosecutors. It is everyone involved in the  
2 law enforcement process and DPS -- Mr. Augustyn  
3 testified that he works for DPS, that they're a part of  
4 the prosecution team, and he's had training on Brady and  
5 Giglio and the Morton Act. He knows about what's  
6 required of him, Judge, and the idea that I have to go  
7 out and seek this out is ridiculous.

8           Going into Brady versus Maryland, the  
9 second claim that we have, basically what we have to  
10 show is that the State failed to disclose evidence, that  
11 it's favorable to the accused, and that that evidence is  
12 material. Those first two prongs are -- I don't think  
13 there's any question about those. This is clearly  
14 favorable evidence -- excuse me -- it clearly was not  
15 disclosed to me prior to trial. Mr. Augustyn did not  
16 discuss this at all with the trial prosecutors, and I'm  
17 sure if they had known about it, they would have  
18 disclosed it right away, just like how when they learned  
19 more things about what's been going on recently with  
20 Mr. Augustyn, they disclosed it to me right away, and --  
21 but in this situation, it didn't happen. It was not  
22 turned over. I didn't get a final report on this QI  
23 until this morning, right, eight months before the first  
24 incident was discovered, and that's the other issue as  
25 well, is how many other instances are there out there

1 for Mr. Augustyn, right? These are the ones that were  
2 caught, not by him, but by other people in the system.  
3 It got out of his hands and how many times has that  
4 happened since then? That's something that a jury  
5 should have heard about, that they should have had the  
6 opportunity to decide whether or not they believe his  
7 credibility.

8 I would have pushed much harder on my  
9 cross-examination with him. I would have asked for a  
10 702 hearing to determine whether or not his credibility  
11 is an issue and whether or not his testing in this case  
12 was reliable under the third prong of Kelly, and I would  
13 have had a lot more to work with if I had had this  
14 information. I could have questioned him much  
15 differently about the chain of custody issues, and the  
16 fact that he's had problems with that in the past, and  
17 that kind of goes also to what I anticipate part of what  
18 the State is going to argue, that whether or not this --  
19 these other quality incidents affected the reliability  
20 of this test. It doesn't matter. It doesn't matter  
21 whether those affected the reliability. They go to his  
22 credibility, and I should have been able to  
23 cross-examine him on these issues to question his  
24 credibility and put that in front of a jury, and the  
25 fact that they're unrelated to this case does not

1 matter, Judge.

2 I have two cases for you. One is Carroll  
3 versus State. That's 916 S.W.2d 494. That's a 1996  
4 case out of the Court of Criminal Appeals, and then I  
5 also have Sherman versus State. That is going to be 20  
6 S.W.3d 96. That's a 2000 case out of Texarkana, and,  
7 Judge, both of these cases stand for the proposition  
8 that they both had issues where there was investigations  
9 that occurred with witnesses that had nothing to do with  
10 the underlying case, but the defense counsel was either  
11 not made aware of them or was not given the opportunity  
12 to cross-examine the witnesses about that and the courts  
13 found that that was wrong, and that the defense counsel  
14 should have been able to go into that and question the  
15 witnesses' credibility.

16 The question about materiality is whether  
17 or not there's a reasonable probability that had the  
18 evidence been disclosed the outcome of the trial would  
19 have been different. I think it's based on what we had  
20 with the officer's testimony, that there was no probable  
21 cause during the stop, there was no probable cause  
22 during his personal contact with Mr. Momin, he looked  
23 and sounded just fine on video, and then when they get  
24 over to doing the field sobriety tests, the officer  
25 admitted all sorts of problems with that, right? So the



1 blood test was a pivotal part of the State's case. They  
2 didn't have someone who had wrecked and was clearly  
3 intoxicated to the point where they don't even need the  
4 blood, right?

5                   There's a case Diamond versus State, Your  
6 Honor. That is the Court of Criminal Appeals and that  
7 is 613 S.W.3d 536, and that is a case where the  
8 defendant was clearly intoxicated and there was a lot of  
9 facts that were against her as far as intoxication is  
10 concerned. This was a case where Andrea Gooden, who was  
11 a lab technician, I believe, at DPS in Houston, if I  
12 remember correctly, had violated quality control and  
13 documentation protocols in another unrelated case, and  
14 the Court ultimately held that that wasn't -- it  
15 shouldn't have been admissible, but it was because there  
16 was overwhelming evidence of intoxication, and we have a  
17 much different scenario in this case, right? There  
18 wasn't overwhelming -- he wasn't stumbling, falling all  
19 over himself and having balance issues and, you know,  
20 getting into a wreck. That did not happen in this case.

21                   THE COURT: Mr. Evans, are you purporting  
22 that -- and I don't know -- what's the style of that  
23 case? I heard the cite. I didn't hear the style.

24                   MR. EVANS: Diamond versus State.

25                   THE COURT: Are you purporting that Diamond

1 v. State says that the solely relevant variable is  
2 whether or not there was overwhelming evidence, and  
3 that's what made it admissible or not?

4 MR. EVANS: No. The Court did not allow  
5 the defense to get into the unrelated investigation on  
6 the analyst in that case. What the Court held is that  
7 it was not harmful, right, because there was so much  
8 overwhelming evidence of intoxication. Basically the  
9 blood didn't matter and --

10 THE COURT: So the --

11 MR. EVANS: So any sort of -- excuse me,  
12 Judge.

13 THE COURT: So am I to understand that the  
14 Court didn't pass upon it because they did a harm  
15 analysis and determined that it didn't -- it wasn't  
16 relevant under a harm analysis?

17 MR. EVANS: Basically, but at the end of  
18 the day, Judge, I think materiality is what we're --  
19 what we're arguing about, and this is something that  
20 would have been useful, and he had a duty to report  
21 this, right? He hid this from me and from the  
22 prosecution in this case. He didn't tell them anything  
23 about it. He admitted that he hid it from the defense  
24 attorney in Montgomery County. He had inconsistent  
25 statements under oath, and he's admitted to being --

1 that he was not unbiased. So we've got an analyst here  
2 with a lot of credibility problems, right?

3           Actively hiding impeachment evidence from  
4 defense attorneys and telling prosecutors, "Hey, you  
5 might not know about it. Let's hope that it doesn't get  
6 out there," and they recognized it right away and issued  
7 this Brady notice, which is how I found out about this.

8           This is the kind of evidence that is vital  
9 to cross-examination and cross-examination is vital to  
10 due process, Judge, but at the end of the day, even if  
11 you find that it's not material, you still have the  
12 interest of justice from -- or claim that we've raised  
13 in the motion for new trial, and you can decide that in  
14 the interest of justice because of what's gone on here,  
15 that Mr. Momin is entitled to a new trial, and that's  
16 what we're asking, Judge.

17           THE COURT: All right. Mr. O'Brien?

18           MR. O'BRIEN: Yes, Your Honor. May I  
19 proceed?

20           THE COURT: Yes.

21           MR. O'BRIEN: Judge, people make mistakes,  
22 but the reason we're here today is because opposing  
23 counsel has claimed that the mistakes made by  
24 Mr. Augustyn in three completely unrelated incidents  
25 give rise to a basis for new trial under 21.3 (e) as

1 well as a Brady claim and, further, in the interest of  
2 justice.

3               Now, the Court should ultimately deny this  
4 motion for three reasons. First and foremost, Your  
5 Honor, any of the specific incidents that are discussed  
6 within these pending quality incidents that we've  
7 discussed here today would be inadmissible as improper  
8 character evidence under 404 (b), however, the only  
9 basis for impeachment -- or for admissibility that they  
10 may have is for impeachment purposes, and on that basis,  
11 Your Honor, it would be inadmissible under 608 (b) as  
12 specific instances of conduct would not be admissible  
13 for impeachment purposes.

14               To help portray this argument, Your Honor,  
15 I have some case law here. It is the case of Rodney  
16 Scott Smith versus State of Texas, a copy for the  
17 reporter and a copy for Your Honor --

18               THE COURT: Thank you.

19               MR. O'BRIEN: -- as well as opposing  
20 counsel. Your Honor, in full candor, this case is an  
21 unreported case out of the First District of Houston,  
22 however, it utilizes case law that has been published  
23 and it's very enlightening in regards to the analysis of  
24 404 (b) as well as 608 (b).

25               If I may turn the Court's attention to the

1 8th (sic) page under "Standard of Review and Applicable  
2 Law," if we look at the third paragraph, if you will,  
3 starting with Hampton v. State, it says, "Additionally,  
4 we require that the evidence central to the Brady claim  
5 be admissible in court."

6 Right before we even look at the Brady  
7 claim, before this Court even looks at the basis under  
8 21.3, the Court must first determine if the evidence  
9 purported here today would be admissible because if it  
10 is not admissible, then it can't tend to prove any  
11 innocence. If it's not admissible, it cannot be  
12 material, Your Honor.

13 In this case ultimately the Court  
14 distinguishes and discusses an instance with the  
15 defendant in this case, and ultimately they conclude  
16 that there's no Brady violation because the appellant  
17 did not show evidence which pertained to an  
18 investigation of a detective in this case by DPS. So  
19 similar instances, there was a pending instance, whether  
20 it was an investigation or the QIC of someone who had a  
21 material part in the case, however, the Court reasoned  
22 that because those specific instances of conduct  
23 discussed or concerning that investigation or improper  
24 character evidence, they would be used for potential  
25 propensity (indiscernible) than one instance of bad

1 conduct he's likely to act similar in this case here,  
2 that it would be inadmissible.

3           If you were to consider it for impeachment  
4 or credibility purposes, which opposing counsel has  
5 clearly laid out would be the main intent of his use for  
6 this evidence or for these quality incidents, we then  
7 turn to the next page where it states, "With regard to  
8 witness' credibility, specific instances of the conduct  
9 of a witness, for the purpose of attacking or supporting  
10 the witness' credibility, other than conviction of crime  
11 as provided in Rule 609, may not be inquired into on  
12 cross-examination" --

13           THE COURT: Hold on, Mr. O'Brien.

14           MR. O'BRIEN: Yes, Your Honor.

15           THE COURT: Where are you referencing?

16           MR. O'BRIEN: I'm at the top of Page 9,  
17 Your Honor, first paragraph where it's citing 608 --

18           THE COURT: I don't think my pages are  
19 numbered in the same way that yours are.

20           MR. O'BRIEN: May I approach, Your Honor?

21           THE COURT: You can. This is my Page 9.

22           MR. O'BRIEN: Oh, apologies. It is a  
23 different format. Can I look at it real quick?

24           THE COURT: If you can just tell me what  
25 footnote or headnote or whatever it is.

1                   MR. O'BRIEN: I don't have footnotes. If I  
2 may just briefly look at it. The last paragraph on this  
3 Page 7, Your Honor.

4                   THE COURT: Thank you.

5                   MR. O'BRIEN: Starting with, "With regard  
6 to a witness' credibility" --

7                   THE COURT: All right. Mr. Evans, I  
8 think -- as a courtesy -- I think the format with which  
9 you and I were given is Page 7.

10                  MR. EVANS: Yes, Your Honor.

11                  MR. O'BRIEN: Apologies --

12                  THE COURT: That's okay.

13                  MR. O'BRIEN: People make mistakes as seen  
14 just now.

15                                 (Brief pause.)

16                  MR. O'BRIEN: Oh, yes, Your Honor.  
17 Apologies. I thought you were giving him an  
18 opportunity to find it.

19                         So in regards to that point, Your Honor, it  
20 clearly lays out the standard under 608 (b) to show that  
21 even if the evidence -- the Quality Incident Reports  
22 were allowed for the limited purposes of impeachment,  
23 they wouldn't be allowed to be utilized as using  
24 specific instances of conduct as opposed to opinion or  
25 reputation testimony, which is the only basis that

1 you're allowed to use to challenge the credibility of  
2 the witness. You would have to have another witness up  
3 here to testify to his opinion or reputation testimony.  
4 He would purely be intending to use it to cross-examine  
5 him for his credibility utilizing these Quality Incident  
6 Reports.

7                   Moving on, though, Your Honor, even if the  
8 Court were to determine that this would be admissible  
9 for other purposes, it does not survive the materiality  
10 analysis. First under 21.3 (e), Your Honor, it would  
11 not survive because it does not have a tendency to prove  
12 the defendant's innocence in the same vein under the  
13 Brady claim. It is not material as it does not have a  
14 reasonable probability to change the outcome of the  
15 case, and the reason for that, Judge, is because none of  
16 the testimony, none of the evidence that was offered  
17 here today actually goes to show that it would have any  
18 effect on the accuracy of the results that were done by  
19 Mr. Augustyn.

20                   The incidents that have been brought before  
21 this Court pertain to three quality incidents that were  
22 done years after Mr. Augustyn's analysis of the blood in  
23 this case. Not only that, Judge, the content, the  
24 concern of those quality incidents pertain to forgetting  
25 to seal evidence, the breaking of blood tubes and the



1 swapping of blood tubes within blood kits. If there was  
2 one thing that opposing counsel was very thorough on and  
3 elicited in front of the jury, it was the Toxicology  
4 Request Submission Form, right, it was the names that  
5 were involved and the importance of them as he claims it  
6 affected the chain of custody, but if we look at that  
7 evidence, Judge, if we listen to the testimony here  
8 today, the blood kit, the Toxicology Request Submission  
9 Form, you'll see that the Defendant's name, Jawed Momin,  
10 was on the blood tube. The Defendant's name was on the  
11 kit. The Defendant's name was on the Toxicology Request  
12 Submission Form and it all matched. There was no  
13 concern and the case here today of the Quality Incident  
14 Reports, they have no bearing on the effect or the  
15 ultimate analysis, and, Judge, that is a heavy  
16 distinction that other courts have looked at in regards  
17 to whether there's a material basis.

18               So I will refer this Court to two cases.  
19 First, Olsen v. the State of Texas, which I'm confirming  
20 I have a similar copy here. I'll tender to opposing  
21 counsel, the court reporter as well as Your Honor.

22               THE COURT: Thank you.

23               MR. O'BRIEN: Okay. In this case, Your  
24 Honor, there's similar facts. There was an analyst in  
25 this case, who ultimately -- in the case for which there

1 was a Brady claim or a new trial -- used the wrong  
2 pipette which ultimately affected the calibration of the  
3 instrument she was using to test the blood. As a  
4 result, there ultimately was a separate analyst who  
5 ultimately retested the blood. Now, that separate  
6 analyst's results were not allowed to be brought in or  
7 were not admitted, and, ultimately, the appellant in the  
8 case, the defendant, claimed that because of that  
9 analyst's improper use of the pipette and the effect  
10 that it could have on potential blood results as well as  
11 the disclosure of the new information after the trial  
12 that another separate analyst had tested it, that they  
13 deserved a new trial on a basis of a Brady claim as well  
14 as potentially, I think, Your Honor, a habeas claim.

15           Now, I would like to turn the Court's  
16 attention to Page 6 of this document. It is entitled,  
17 "Motion for New Trial," and that first paragraph  
18 basically summarizes the facts. A defective pipette was  
19 used in analyzing the defendant's blood sample and was  
20 not disclosed to the defendant until after the trial.  
21 That's the basis of the new evidence that pertained to  
22 the actual case at hand.

23           Now, in this case the Court did not use  
24 21.3 (e) as the basis for their analysis. They used the  
25 standard under 40.001 of the Code of Criminal Procedure,

1 and while I know Mr. Evans's co-counsel did distinguish  
2 that there was no case law that he could find on 21.3  
3 (e), a majority of case law does utilize the standard  
4 for a motion for new trial under 40.001, and in  
5 analyzing that standard, it's very similar to that of a  
6 Brady claim, and I would argue to that of the 21.3 (e)  
7 claim, that specifically, "A new trial shall be granted  
8 an accused where material evidence favorable to the  
9 accused has been discovered since trial."

10 In analyzing whether the standard has been  
11 met, the Court looks at four prongs. They listed out  
12 there in the second column, Your Honor. First, "The  
13 newly discovered evidence was unknown or unavailable to  
14 the defendant at the time of trial." The State would  
15 not object to that here.

16 Second, that, "The defendant's failure to  
17 discover or obtain new evidence was not due to the  
18 defendant's lack of due diligence." Again, the State  
19 does not contest that.

20 It's in regards to the third and fourth  
21 prongs that the State would argue that the Defendant  
22 does not have a basis for new trial here, and that is,  
23 "The new evidence is admissible and not merely  
24 cumulative, corroborative, collateral, or impeaching";  
25 and, "The new evidence is probably true and will

1 probably bring about a different result in a new trial.  
2 Thus, the failure to establish one of these prongs would  
3 support the trial court's denial of the motion for new  
4 trial."

5                   So revisiting the notion of admissibility,  
6 even if the Court were to determine that it's  
7 admissible, opposing counsel himself has claimed in  
8 person here and in his motion that his main intent for  
9 that evidence would be for impeachment purposes of  
10 Mr. Augustyn. As that, it clearly violates that third  
11 prong of the standard for a motion for new trial under  
12 40.001. On that basis alone, a Court could find that  
13 there is no basis for a motion for new trial, but we  
14 move on, Your Honor, and we look at how the Court did an  
15 analysis and their ultimate conclusion, even beyond the  
16 fact that it could be impeachment evidence, was that in  
17 the case the defendant failed to show how providing  
18 information of the analyst's newly discovered error or  
19 mistake would have resulted in a different verdict given  
20 that the difference in the testing of the defective  
21 pipette did not change the results of her blood alcohol  
22 concentration of 0.135.

23                   The similar -- the same thing is applying  
24 here, Judge. Despite these quality incidents or the new  
25 evidence that opposing counsel discovered after the

1 trial, whether we brought them in, whether they were  
2 allowed for impeachment purposes or not, they don't  
3 change the overall result. They had nothing to do with  
4 how Mr. Augustyn operated the instrument, how he did the  
5 testing, how anything came in to actually challenge the  
6 accuracy of the blood results. You didn't hear anything  
7 today. It all had to do with the process and the  
8 standard by which he either swapped blood or whether he  
9 cracked blood or whether he missealed blood. They  
10 didn't argue that the -- that blood could have been  
11 improperly tested. They argued that it could have been  
12 improperly swapped. That has heavy bearing on this  
13 Court here today in the consideration of the basis as to  
14 whether these quality incidents are material or not.  
15 It's the State's position that they are not, Your Honor,  
16 because they have no effect on the overall accuracy of  
17 the results that Mr. Augustyn came to.

18 Further, Your Honor, another case law -- I  
19 won't be exhaustive on it. I'll just give it for the  
20 Court's consideration, but it's that of Ex Parte  
21 Kristopher Joseph Lalonde, Applicant, and it's out of  
22 the Court of Criminal Appeals in Texas and I'm tendering  
23 to opposing counsel, the court reporter, as well as Your  
24 Honor.

25 THE COURT: Thank you.

1                   MR. O'BRIEN: Your Honor, this case is a  
2 similar instance in which an actual investigator at hand  
3 was subject to a perjury investigation, and obviously  
4 the Court said that that is favorable evidence to the  
5 defendant, but, ultimately, it didn't have -- it didn't  
6 satisfy the basis for a Brady claim because there was  
7 other corroborative evidence that would lead them to a  
8 decision -- to the same decision that the jury made.

9                   It's the State's position that these  
10 accurate blood results, that the failure to produce any  
11 testimony here today or any new evidence about how those  
12 test results were improper or inaccurate, it's  
13 corroborative evidence of Mr. Augustyn and his  
14 credibility and what he ultimately testified to on the  
15 stand, Your Honor.

16                   This Court states, "The mere possibility  
17 that the undisclosed information might have helped the  
18 defense or affected the trial's outcome does not  
19 establish materiality." The State is not arguing the  
20 fact that this may not have -- that this was favorable  
21 to the Defendant. We recognize that it could have  
22 clearly been favorable had it been admissible, right,  
23 had he had the opportunity to cross-examine him, but the  
24 point is it's not material. It doesn't change the end  
25 fact. It doesn't change the end result of the officer's

1 investigation as well as the actual results of that  
2 blood.

3           What it really comes down to, Your Honor,  
4 is materiality and opposing counsel wanted to utilize  
5 instances of the case of Olsen and on Exhibit 12 that he  
6 ultimately admitted. He cross-examined Ms. Tifani  
7 Parker on that and brought up that case to ultimately  
8 try to get her to state that the mere investigation of  
9 someone is Brady evidence that has to be submitted, but  
10 I pulled up the case of Olsen, Your Honor, and,  
11 ultimately, if you do as well, you'll see that the Court  
12 in that case was analyzing an analyst who had a wide  
13 track of improperly contaminating crime scenes, and in  
14 the case at hand, the case of U.S. v. Olsen, that  
15 analyst improperly cross-contaminated evidence that they  
16 were seizing from the defendant with ricin. They were  
17 investigating him for potential murders and potential  
18 planned murders with ricin and the analyst there  
19 cross-contaminated it.

20           Now, they discovered that there was an  
21 investigation and there were views of this analyst, and  
22 the Court at hand found, yeah, that would have been  
23 favorable to the defendant, but it's not material  
24 because of the other corroborating evidence that  
25 existed, that they did not think that there would have

1   been -- there was no reasonable possibility that a jury  
2   would have thought differently or came to a different  
3   outcome. So even though opposing counsel tries to claim  
4   that the mere presence of an investigation of an  
5   analyst, according to that slide on Exhibit 12, is a  
6   Brady violation, that is not what the case law says that  
7   he was citing. It says that while it can be favorable,  
8   you still have to look at the whole context of the  
9   evidence to determine if it's material.

10                   Further, Your Honor, opposing counsel  
11   utilized the case of Diamond v. State, and he ultimately  
12   said that in that, the Court looked at the whole picture  
13   of things and that because she was so drunk apparently  
14   by the video in which she was doing, that it determined  
15   that things were fine, that there was no basis for it,  
16   but, ultimately, in that case they state that, "Given  
17   the habeas court's findings of fact and determinations  
18   of credibility, we agree with the State that the  
19   undisclosed evidence would not have been material  
20   impeachment evidence against Gooden sufficient to  
21   undermine her testimony regarding the accuracy of  
22   Appellant's blood results. Appellant's blood sample and  
23   subsequent report contained no labelling errors."

24                   Similarly here in this instance,  
25   Mr. Augustyn's work here in this case contained no



1 errors. "And Gooden's temporary removal from casework  
2 at the time of Appellant's trial does not overcome the  
3 fact that there was no evidence of any error in Gooden's  
4 analysis of Appellant's blood." There was no evidence  
5 proffered here today that would challenge Mr. Augustyn's  
6 analysis of the Appellant's blood or of the Defendant's  
7 blood.

8 "Whatever impeachment value this new  
9 information had to undermine Gooden's testimony, it was  
10 nevertheless not material." It's the State's position  
11 here today that it's the same instance, Your Honor,  
12 whether it had impeachment value or not, it's not  
13 material because it all comes down to the fact that it  
14 did not challenge the accuracy and the credibility of  
15 Mr. Augustyn's blood results. It had no bearing on the  
16 case here today, Your Honor. It only served to  
17 potentially attack him on a basis of improper character  
18 evidence for bad acts.

19 If I were to sit here and ask Mr. Evans if  
20 I can bring up another DWI investigation that happened  
21 after the fact of his Defendant, if he thinks that would  
22 be relevant for me to bring up, he would object on 404  
23 (b,) Your Honor. It's not admissible, and more than  
24 that, it's not material.

25 Lastly, Your Honor, it is not in the

1 interest of justice to grant this. Opposing Counsel has  
2 claimed in his motion that his basis for a due process  
3 violation for interest of justice is that of the Brady  
4 violation. If this Court ultimately finds that there  
5 was no materiality and there was no Brady violation,  
6 then they find that it's not in the interest of justice  
7 to grant this motion. For these reasons, the State asks  
8 the Court to deny the motion for new trial.

9 THE COURT: I think it's your motion. Go  
10 ahead, Mr. Evans.

11 MR. EVANS: Thank you, Your Honor. First,  
12 as far as Brady is concerned, I don't see why there's  
13 any argument at all about whether or not this is Brady.  
14 It is Brady. It was disclosed in the Montgomery County  
15 case as Brady evidence. They filed the motion. That  
16 motion was provided to me by the prosecution. It's  
17 Brady. They determined that it was. Now, whether or  
18 not they filed the specific motion in this case, it's  
19 not relevant. They understood that other prosecutors  
20 saw what the evidence was, and they needed to disclose  
21 it prior to trial and that --

22 THE COURT: Just so I'm clear, Mr. Evans,  
23 when you say "they," you're talking about "they" being  
24 the Montgomery County prosecutors?

25 MR. EVANS: Right. Montgomery County

1 prosecutors determined that it was Brady after  
2 Mr. Augustyn tried to hide it, and that in and of itself  
3 is a problem, right?

4 THE COURT: I'm sorry. I'm just trying to  
5 understand -- I want to make sure I'm understanding your  
6 argument. Are you saying either -- that just the  
7 disclosure of it alone was what characterized it as  
8 Brady or are you saying that the disclosure of Mr. --  
9 allegedly Mr. Augustyn's effort to conceal it is what  
10 made it Brady?

11 MR. EVANS: Both.

12 THE COURT: Okay. Go ahead.

13 MR. EVANS: And to address the argument  
14 that we didn't bring up any sort of evidence that this  
15 was a switched vial or that this wasn't Mr. Momin's  
16 blood, I never made that argument at any point, and  
17 that's why you haven't heard that.

18 Our focus on our defense was fermentation.  
19 We had an expert here to talk about that, how it can  
20 happen, what problems need to happen in the process to  
21 get it to the point where fermentation could potentially  
22 occur, and that is something that can happen without  
23 being able to visually recognize that. Even if he is  
24 looking through it and making sure that the name is  
25 correct on the submission form and the blood kit, he

1 still -- there's still the possibility that fermentation  
2 occurred, and he didn't see that, right, and that's why  
3 the chain of custody was important. There's three days  
4 in there where we don't know where that blood was. The  
5 blood -- the nurse that I had cross-examined admitted  
6 about problems with the draw where he touched the door,  
7 he didn't wash his hands before putting the gloves on,  
8 he didn't -- we didn't see at all the disinfecting  
9 process because we had no video of that, right? So --  
10 and we also had testimony about the vial itself not  
11 being fully filled. It was only three quarters of a  
12 tube. That's in the worksheet that Mr. Augustyn filled  
13 out. That could have been a problem with the seal and  
14 that could have allowed candida albicans to enter into  
15 the tube and create a situation where if we're lacking  
16 refrigeration -- so there's heat and there is time for  
17 the process to occur, then fermentation can happen  
18 within a vial. That's what my expert testified to.

19                   So the issue isn't whether or not I showed  
20 that the vials were swapped. It's that there was a  
21 problem with the chain of custody and that flows -- that  
22 follows that he had other issues with chain of custody  
23 during his analysis and his handling of the evidence.  
24 My defense was there were problems in every step of the  
25 process, and I didn't get to cross-examine him about the

1 problems that he's had in his past that would have  
2 called his testimony into question in front of the jury.  
3 They didn't get to hear any of that, so they didn't get  
4 to make a determination whether or not, well, maybe he  
5 doesn't -- maybe he does sloppy work, maybe -- you know,  
6 maybe he didn't catch the fact that there is -- there  
7 could have been fermentation or maybe we shouldn't  
8 believe the things that he's telling us to try and  
9 counter the expert that I brought here that has a PhD  
10 and has an impeccable background and doesn't have any  
11 QIs or investigations going on into him and doesn't have  
12 other cases where he's testified inconsistently. Judge,  
13 that's not the case, and this isn't -- we're not  
14 bringing this claim under Article 40.001, so the  
15 argument that the analysis should be under that, it's  
16 just wrong. This is a claim under 21.3, but, you know,  
17 at the end of the day, Judge, we didn't get this, and it  
18 was material, and we should have been able to put this  
19 in front of a jury or at the very least been able to  
20 argue to you why we should be able to use it, and we  
21 didn't get that opportunity because he hid it, not the  
22 prosecutors, but he hid it, and he's a part of their  
23 team. So we deserve a new trial because of that, Judge,  
24 and I'm asking you to grant our motion.

25 Judge, I do have courtesy copies of the

1 cases.

2 THE COURT: I appreciate that.

3 What is day 75?

4 MR. EVANS: I'd have to go back and look,  
5 Judge.

6 THE COURT: Can y'all look at your  
7 calendar, please?

8 MR. O'BRIEN: It appears to be November 13,  
9 Judge. Of course, I want Defense to verify that.

10 MR. EVANS: It's November 13, Your Honor.  
11 That's what I have.

12 THE COURT: So y'all agree that it's  
13 November 13?

14 MR. EVANS: 75 days from -- although, if I  
15 remember now --

16 THE COURT: Well, let me just say this: It  
17 is not my intention to allow this to overrule by  
18 operation of law. I'm going to make a ruling.

19 MR. EVANS: Okay.

20 THE COURT: That's why I was asking, so I  
21 don't want to inadvertently allow it to overrule by  
22 operation of law. I'm going to make a ruling.

23 MR. EVANS: We will double check, and I can  
24 get with Mandy on that. If there's anything  
25 different --

1                   THE COURT: If there's nothing else, I will  
2 take this under advisement, and you can anticipate that  
3 I will make a ruling prior to November 13.

4                   MR. O'BRIEN: Thank you, Your Honor.

5                   MR. FESMIRE: Thank you, Your Honor. May  
6 we be excused?

7                   THE COURT: You may. Thank you so much.

8                   (Proceedings concluded.)  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## 1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS )  
3 COUNTY OF FORT BEND )

4 I, Sherri Johnson, Official Court Reporter in and  
5 for County Court at Law No. 2 of Fort Bend County,  
6 Texas, do hereby certify that the foregoing contains a  
7 true and correct transcription of all portions of  
8 evidence and other proceedings requested in writing by  
9 counsel for the parties to be included in this volume of  
10 the Reporter's Record, in the above-styled and numbered  
11 cause, all of which occurred in open court or in  
12 chambers and were reported by me.

13 I further certify that this Reporter's Record of  
14 the proceedings truly and correctly reflects the  
15 exhibits, if any, tendered in an offer of proof or  
16 offered into evidence.

17 I further certify that the total cost for the  
18 preparation of this Reporter's Record is \$5,609.00 and  
19 was paid by Fort Bend County District Attorney's Office.

20 WITNESS MY OFFICIAL HAND this the 28th of  
21 February, 2025.

22 /s/ Sherri Johnson  
23 Sherri Johnson, Texas CSR 2938  
24 Expiration Date: 1/31/2026  
25 Official Court Reporter  
County Court at Law No. 2  
301 Jackson  
Richmond, Texas 77469



	<b>1422</b> <sup>[1]</sup> - 2:6 <b>15</b> <sup>[2]</sup> - 130:17, 131:1 <b>151</b> <sup>[2]</sup> - 3:6, 3:8 <b>153</b> <sup>[1]</sup> - 3:17 <b>154</b> <sup>[1]</sup> - 3:17 <b>160</b> <sup>[2]</sup> - 3:6, 3:8 <b>162</b> <sup>[2]</sup> - 3:6, 3:8 <b>169</b> <sup>[1]</sup> - 3:21 <b>177</b> <sup>[1]</sup> - 3:22 <b>198</b> <sup>[1]</sup> - 3:22 <b>1996</b> <sup>[1]</sup> - 174:3	<b>3</b>	101:13, 105:8, 184:16 <b>6's</b> <sup>[1]</sup> - 83:8 <b>608</b> <sup>[4]</sup> - 178:11, 178:24, 180:17, 181:20 <b>609</b> <sup>[1]</sup> - 180:11 <b>613</b> <sup>[1]</sup> - 175:7 <b>67</b> <sup>[2]</sup> - 3:5, 3:8	<b>able</b> <sup>[18]</sup> - 42:22, 52:3, 52:7, 59:7, 62:6, 65:12, 104:8, 104:9, 119:8, 124:25, 152:5, 162:18, 173:22, 174:14, 193:23, 195:18, 195:19, 195:20 <b>abnormal</b> <sup>[2]</sup> - 143:19, 143:21 <b>above-entitled</b> <sup>[1]</sup> - 1:20 <b>above-styled</b> <sup>[1]</sup> - 198:10 <b>absolutely</b> <sup>[4]</sup> - 89:17, 91:7, 91:15, 130:24 <b>accept</b> <sup>[1]</sup> - 84:15 <b>acceptable</b> <sup>[5]</sup> - 100:7, 100:9, 100:10, 100:16, 107:5 <b>access</b> <sup>[7]</sup> - 17:13, 24:4, 77:18, 82:15, 104:9, 121:13, 127:19 <b>accessible</b> <sup>[1]</sup> - 105:4 <b>accord</b> <sup>[1]</sup> - 171:19 <b>according</b> <sup>[4]</sup> - 32:20, 32:22, 156:6, 190:5 <b>Account</b> <sup>[1]</sup> - 127:24 <b>accounted</b> <sup>[3]</sup> - 19:20, 19:22, 48:3 <b>accrediting</b> <sup>[2]</sup> - 117:25, 134:11 <b>accuracy</b> <sup>[9]</sup> - 48:14, 52:24, 59:10, 116:19, 182:18, 187:6, 187:16, 190:21, 191:14 <b>accurate</b> <sup>[8]</sup> - 52:13, 57:19, 57:22, 57:25, 75:17, 131:8, 166:22, 188:10 <b>accused</b> <sup>[3]</sup> - 172:11, 185:8, 185:9 <b>act</b> <sup>[1]</sup> - 180:1 <b>Act</b> <sup>[6]</sup> - 20:22, 127:8, 130:2, 152:2, 170:14, 172:5 <b>Action</b> <sup>[1]</sup> - 138:7 <b>action</b> <sup>[2]</sup> - 47:15, 138:10 <b>actions</b> <sup>[2]</sup> - 72:7, 114:16 <b>actively</b> <sup>[2]</sup> - 62:24, 177:3 <b>acts</b> <sup>[1]</sup> - 191:18 <b>actual</b> <sup>[9]</sup> - 57:11, 61:1, 84:24, 124:14, 129:5, 144:2,
<b>'clearly</b> <sup>[1]</sup> - 155:18 <b>'indicating</b> <sup>[1]</sup> - 155:24		<b>3</b> <sup>[12]</sup> - 18:1, 18:2, 36:18, 64:5, 83:14, 84:17, 84:25, 86:5, 86:22, 86:23, 87:10, 87:14 <b>30</b> <sup>[5]</sup> - 18:5, 18:7, 25:13, 61:13, 102:2 <b>300</b> <sup>[1]</sup> - 2:12 <b>301</b> <sup>[1]</sup> - 198:25 <b>30th</b> <sup>[1]</sup> - 151:16 <b>32</b> <sup>[1]</sup> - 65:10 <b>33</b> <sup>[2]</sup> - 113:20, 138:2 <b>33.2</b> <sup>[2]</sup> - 113:22, 157:18 <b>33.3</b> <sup>[1]</sup> - 138:6 <b>39.14</b> <sup>[1]</sup> - 44:12	<b>7</b> <b>7</b> <sup>[9]</sup> - 1:19, 3:2, 4:2, 87:24, 88:1, 89:14, 90:3, 181:3, 181:9 <b>70</b> <sup>[1]</sup> - 135:16 <b>702</b> <sup>[1]</sup> - 173:10 <b>75</b> <sup>[2]</sup> - 196:3, 196:14 <b>77002</b> <sup>[1]</sup> - 2:13 <b>77469</b> <sup>[2]</sup> - 2:6, 198:25	
<b>/</b>	<b>2</b>	<b>4</b>	<b>8</b> <b>8</b> <sup>[14]</sup> - 1:2, 3:11, 3:14, 9:5, 9:9, 9:18, 46:22, 47:4, 66:19, 101:3, 101:22, 106:14, 142:12 <b>8th</b> <sup>[1]</sup> - 179:1	
<b>/s</b> <sup>[1]</sup> - 198:22			<b>9</b> <b>9</b> <sup>[33]</sup> - 3:11, 3:12, 3:14, 7:22, 8:14, 8:16, 8:18, 13:4, 15:22, 48:18, 101:3, 102:5, 102:19, 107:11, 113:2, 113:6, 113:7, 113:8, 113:9, 113:12, 113:14, 115:9, 138:6, 144:8, 157:17, 157:18, 161:21, 161:22, 161:24, 162:2, 180:16, 180:21 <b>90</b> <sup>[1]</sup> - 3:15 <b>916</b> <sup>[1]</sup> - 174:3 <b>917</b> <sup>[1]</sup> - 2:12 <b>92</b> <sup>[2]</sup> - 3:5, 3:9 <b>96</b> <sup>[1]</sup> - 174:6 <b>9th</b> <sup>[2]</sup> - 155:13, 155:15	
<b>0</b>		<b>5</b>	<b>A</b> <b>ability</b> <sup>[1]</sup> - 116:2	
<b>0.135</b> <sup>[1]</sup> - 186:22 <b>05/09/2024</b> <sup>[1]</sup> - 149:4 <b>09-08-2022</b> <sup>[1]</sup> - 46:21	<b>2</b> <sup>[24]</sup> - 1:7, 3:11, 3:12, 3:14, 3:15, 3:15, 3:17, 3:19, 3:20, 33:7, 33:9, 33:21, 36:3, 36:5, 44:8, 44:9, 61:22, 78:11, 144:23, 148:11, 149:6, 161:20, 198:5, 198:24 <b>2-10-2024</b> <sup>[1]</sup> - 8:20 <b>20</b> <sup>[4]</sup> - 61:12, 130:19, 130:22, 174:5 <b>20-minute</b> <sup>[1]</sup> - 130:17 <b>2000</b> <sup>[1]</sup> - 174:6 <b>2004</b> <sup>[1]</sup> - 171:16 <b>2020</b> <sup>[1]</sup> - 92:17 <b>2022</b> <sup>[7]</sup> - 11:18, 12:5, 12:11, 12:14, 13:1, 46:22, 79:15 <b>2023</b> <sup>[2]</sup> - 13:2, 70:21 <b>2024</b> <sup>[15]</sup> - 1:19, 3:2, 4:2, 11:21, 12:5, 12:9, 15:1, 15:4, 24:9, 31:9, 31:15, 47:1, 69:17, 70:21, 73:4 <b>21.3</b> <sup>[9]</sup> - 169:24, 170:7, 177:25, 179:8, 182:10, 184:24, 185:2, 185:6, 195:16 <b>22-CCR-230111</b> <sup>[4]</sup> - 1:3, 4:4, 64:16, 131:12 <b>23</b> <sup>[2]</sup> - 24:9, 69:17 <b>24070101</b> <sup>[1]</sup> - 2:11 <b>24074189</b> <sup>[1]</sup> - 2:10 <b>24124053</b> <sup>[1]</sup> - 2:5 <b>24132182</b> <sup>[1]</sup> - 2:4 <b>281-341-4460</b> <sup>[1]</sup> - 2:7 <b>29.13</b> <sup>[1]</sup> - 170:14 <b>2938</b> <sup>[1]</sup> - 198:23	<b>4</b> <sup>[19]</sup> - 3:3, 9:4, 28:23, 29:2, 32:10, 38:12, 44:3, 45:15, 49:11, 50:2, 54:8, 63:17, 64:5, 77:6, 78:8, 78:9, 90:1, 142:13, 142:25 <b>4's</b> <sup>[1]</sup> - 83:8 <b>40</b> <sup>[2]</sup> - 61:14, 148:17 <b>40.001</b> <sup>[4]</sup> - 184:25, 185:4, 186:12, 195:14 <b>403</b> <sup>[6]</sup> - 48:25, 49:2, 49:3, 49:16, 55:18, 58:15 <b>404</b> <sup>[3]</sup> - 178:8, 178:24, 191:22 <b>41</b> <sup>[2]</sup> - 3:5, 3:8 <b>494</b> <sup>[1]</sup> - 174:3		
<b>1</b>		<b>6</b>		
<b>1</b> <sup>[12]</sup> - 3:2, 17:21, 17:23, 22:4, 22:16, 32:24, 35:20, 38:13, 38:20, 65:8, 65:9, 85:14 <b>1/31/2026</b> <sup>[1]</sup> - 198:23 <b>10</b> <sup>[6]</sup> - 3:15, 61:12, 90:6, 91:3, 131:1, 148:17 <b>10-14-2022</b> <sup>[4]</sup> - 32:4, 32:22, 36:2, 78:21 <b>10-17-2022</b> <sup>[3]</sup> - 32:8, 36:7, 78:12 <b>11</b> <sup>[13]</sup> - 3:5, 3:8, 3:15, 112:6, 113:4, 113:5, 125:15, 126:15, 126:17, 126:20, 127:3, 130:3, 152:15 <b>113</b> <sup>[2]</sup> - 3:12 <b>119</b> <sup>[2]</sup> - 3:5, 3:9 <b>12</b> <sup>[11]</sup> - 3:17, 128:8, 152:22, 154:1, 154:10, 154:11, 154:17, 160:22, 163:1, 189:5, 190:5 <b>124</b> <sup>[1]</sup> - 171:15 <b>1256</b> <sup>[1]</sup> - 171:15 <b>126</b> <sup>[2]</sup> - 3:15 <b>1275</b> <sup>[1]</sup> - 171:16 <b>13</b> <sup>[9]</sup> - 3:19, 136:9, 137:15, 137:18, 137:20, 196:8, 196:10, 196:13, 197:3 <b>137</b> <sup>[4]</sup> - 3:19, 3:20 <b>139</b> <sup>[2]</sup> - 3:6, 3:8 <b>14</b> <sup>[5]</sup> - 3:20, 136:22, 137:15, 137:19, 137:20		<b>6</b> <sup>[10]</sup> - 41:20, 42:2, 44:18, 44:25, 45:1, 45:25, 101:3,		

<p>184:22, 188:2, 189:1</p> <p><b>add</b> [4] - 96:19, 96:20, 103:18, 133:24</p> <p><b>added</b> [1] - 103:13</p> <p><b>adding</b> [1] - 94:23</p> <p><b>addition</b> [2] - 6:1, 44:10</p> <p><b>additional</b> [13] - 4:22, 67:11, 99:9, 114:21, 134:23, 138:20, 149:12, 158:1, 161:24, 167:7, 168:6, 168:10, 169:1</p> <p><b>additionally</b> [1] - 179:3</p> <p><b>address</b> [3] - 6:23, 10:11, 193:13</p> <p><b>adds</b> [1] - 89:6</p> <p><b>admin</b> [1] - 115:19</p> <p><b>administrative</b> [1] - 58:14</p> <p><b>admissibility</b> [3] - 9:3, 178:9, 186:5</p> <p><b>admissible</b> [13] - 71:15, 175:15, 176:3, 178:12, 179:5, 179:9, 179:10, 179:11, 182:8, 185:23, 186:7, 188:22, 191:23</p> <p><b>admit</b> [5] - 86:22, 87:7, 88:2, 89:14, 90:21</p> <p><b>admitted</b> [30] - 8:15, 8:17, 8:21, 9:17, 9:19, 53:2, 65:8, 83:3, 86:24, 91:4, 101:2, 113:13, 113:15, 126:18, 126:21, 137:19, 137:21, 142:12, 142:25, 144:8, 154:10, 154:12, 157:17, 161:22, 174:25, 176:23, 176:25, 184:7, 189:6, 194:5</p> <p><b>ADMITTED</b> [2] - 3:11, 3:14</p> <p><b>adverse</b> [1] - 100:5</p> <p><b>advise</b> [1] - 117:24</p> <p><b>avisement</b> [1] - 197:2</p> <p><b>affect</b> [5] - 20:3, 48:14, 88:8, 116:19, 121:5</p> <p><b>affected</b> [6] - 51:17, 173:19, 173:21, 183:6, 184:2, 188:18</p>	<p><b>affects</b> [4] - 76:23, 76:24, 76:25, 108:25</p> <p><b>affidavit</b> [5] - 83:15, 84:7, 84:23, 85:16, 85:25</p> <p><b>affidavits</b> [1] - 84:16</p> <p><b>afternoon</b> [2] - 92:5, 92:6</p> <p><b>agencies</b> [8] - 18:9, 19:17, 30:14, 47:23, 52:9, 109:15, 147:15, 148:13</p> <p><b>agency</b> [17] - 18:17, 20:25, 29:12, 30:23, 30:24, 31:5, 31:7, 51:8, 51:13, 52:1, 56:5, 58:2, 58:25, 59:4, 104:19, 141:18, 158:14</p> <p><b>ago</b> [7] - 11:13, 12:4, 13:14, 37:21, 63:3, 63:7, 84:15</p> <p><b>agree</b> [26] - 12:1, 13:1, 14:21, 17:2, 17:7, 20:2, 20:5, 24:24, 25:6, 26:6, 29:3, 29:21, 32:12, 32:25, 35:11, 68:22, 69:16, 70:24, 71:4, 71:21, 77:21, 88:22, 120:25, 159:4, 190:18, 196:12</p> <p><b>agreed</b> [1] - 121:20</p> <p><b>agrees</b> [1] - 70:12</p> <p><b>ahead</b> [13] - 5:2, 10:8, 19:15, 41:8, 67:14, 68:18, 131:7, 133:11, 160:1, 168:22, 169:10, 192:10, 193:12</p> <p><b>aided</b> [1] - 1:24</p> <p><b>albicans</b> [1] - 194:14</p> <p><b>Alcohol</b> [2] - 54:9, 54:16</p> <p><b>alcohol</b> [9] - 61:5, 61:8, 93:19, 94:3, 135:17, 135:18, 141:24, 145:15, 186:21</p> <p><b>alcohol-related</b> [1] - 145:15</p> <p><b>alert</b> [2] - 6:24, 6:25</p> <p><b>allegations</b> [2] - 114:17, 155:22</p> <p><b>allegedly</b> [2] - 33:2, 193:9</p> <p><b>allow</b> [5] - 84:15, 168:2, 176:4, 196:17, 196:21</p> <p><b>allowed</b> [6] - 181:22,</p>	<p>181:23, 182:1, 184:6, 187:2, 194:14</p> <p><b>allows</b> [1] - 67:20</p> <p><b>almost</b> [1] - 133:7</p> <p><b>alone</b> [5] - 166:23, 166:24, 167:3, 186:12, 193:7</p> <p><b>ALPHABETICAL</b> [1] - 3:7</p> <p><b>altered</b> [6] - 36:25, 65:17, 126:12, 137:11, 153:22, 153:23</p> <p><b>Amir</b> [1] - 33:5</p> <p><b>amount</b> [1] - 117:17</p> <p><b>analyses</b> [1] - 135:22</p> <p><b>analysis</b> [22] - 18:3, 18:11, 48:12, 56:11, 66:10, 108:22, 120:16, 142:2, 147:3, 163:11, 176:15, 176:16, 178:23, 182:10, 182:22, 183:15, 184:24, 186:15, 191:4, 191:6, 194:23, 195:15</p> <p><b>Analysis</b> [7] - 145:19, 146:14, 146:17, 146:24, 148:15, 149:1, 163:9</p> <p><b>analyst</b> [67] - 21:20, 28:18, 50:19, 57:1, 57:3, 57:17, 57:21, 57:24, 58:6, 58:7, 58:9, 75:6, 75:16, 93:8, 93:22, 94:3, 94:18, 94:22, 96:23, 101:9, 110:9, 119:16, 120:14, 122:16, 122:18, 122:22, 123:2, 123:9, 123:13, 123:18, 124:2, 124:5, 124:9, 125:3, 125:6, 127:4, 128:1, 146:9, 146:18, 146:20, 146:22, 148:11, 148:12, 148:20, 149:5, 151:6, 154:20, 156:3, 156:8, 160:23, 161:9, 161:12, 162:11, 163:8, 163:16, 164:4, 176:6, 177:1, 183:24, 184:4, 184:12, 189:12, 189:15, 189:18, 189:21, 190:5</p>	<p><b>analyst's</b> [8] - 57:7, 57:10, 89:5, 114:14, 167:16, 184:6, 184:9, 186:18</p> <p><b>analysts</b> [5] - 61:6, 61:8, 119:9, 127:15, 135:14</p> <p><b>Analysts</b> [1] - 127:13</p> <p><b>analyzed</b> [1] - 73:21</p> <p><b>analyzing</b> [6] - 55:4, 101:20, 184:19, 185:5, 185:10, 189:12</p> <p><b>AND</b> [4] - 3:12, 3:16, 3:17, 3:20</p> <p><b>Andrea</b> [3] - 31:23, 143:17, 175:10</p> <p><b>announcements</b> [1] - 4:7</p> <p><b>answer</b> [15] - 28:6, 68:14, 68:23, 69:6, 69:13, 70:11, 70:15, 75:1, 79:4, 79:5, 109:22, 124:13, 132:20, 146:14</p> <p><b>Answer</b> [1] - 21:25</p> <p><b>answered</b> [3] - 35:25, 69:18, 78:19</p> <p><b>anticipate</b> [3] - 170:18, 173:17, 197:2</p> <p><b>apologies</b> [5] - 90:4, 113:8, 180:22, 181:11, 181:17</p> <p><b>apologize</b> [5] - 42:9, 45:10, 54:15, 147:14, 160:16</p> <p><b>APPEALS</b> [1] - 1:4</p> <p><b>Appeals</b> [3] - 174:4, 175:6, 187:22</p> <p><b>appear</b> [8] - 106:16, 125:15, 125:22, 126:11, 129:1, 152:15, 153:20, 153:23</p> <p><b>appeared</b> [1] - 154:6</p> <p><b>appellant</b> [2] - 179:16, 184:7</p> <p><b>Appellant's</b> [5] - 190:22, 191:2, 191:4, 191:6</p> <p><b>applicable</b> [1] - 10:15</p> <p><b>Applicable</b> [1] - 179:1</p> <p><b>Applicant</b> [1] - 187:21</p> <p><b>applied</b> [1] - 47:21</p> <p><b>applies</b> [1] - 85:23</p> <p><b>applying</b> [1] - 186:23</p> <p><b>appreciate</b> [2] - 8:13, 196:2</p> <p><b>approach</b> [19] - 41:24,</p>	<p>43:19, 43:22, 44:4, 66:15, 68:16, 68:19, 100:20, 100:22, 109:25, 112:2, 118:20, 125:11, 128:5, 136:3, 136:6, 152:10, 167:14, 180:20</p> <p><b>appropriately</b> [1] - 40:18</p> <p><b>approval</b> [5] - 97:6, 97:25, 144:24, 145:5, 145:7</p> <p><b>approve</b> [1] - 97:5</p> <p><b>approved</b> [2] - 102:22, 102:23</p> <p><b>approver</b> [1] - 97:23</p> <p><b>area</b> [4] - 111:2, 111:4, 121:22, 158:13</p> <p><b>argue</b> [7] - 90:21, 170:19, 173:18, 185:6, 185:21, 187:10, 195:20</p> <p><b>argued</b> [1] - 187:11</p> <p><b>arguing</b> [2] - 176:19, 188:19</p> <p><b>Argument</b> [2] - 3:21, 3:22</p> <p><b>argument</b> [8] - 89:7, 169:4, 178:14, 192:13, 193:6, 193:13, 193:16, 195:15</p> <p><b>argumentative</b> [6] - 69:6, 71:1, 71:3, 72:1, 79:19, 156:22</p> <p><b>arrived</b> [1] - 6:7</p> <p><b>Article</b> [2] - 44:12, 195:14</p> <p><b>articulate</b> [1] - 88:19</p> <p><b>assessment</b> [7] - 15:14, 15:16, 15:18, 16:2, 105:19, 106:24, 107:22</p> <p><b>assign</b> [6] - 57:2, 57:3, 61:6, 61:7, 61:9, 99:8</p> <p><b>assigned</b> [3] - 57:1, 99:1, 99:13</p> <p><b>assignments</b> [1] - 140:13</p> <p><b>Assistant</b> [1] - 2:5</p> <p><b>associate</b> [1] - 124:14</p> <p><b>associated</b> [12] - 52:12, 59:14, 73:22, 98:6, 105:14, 105:22, 106:20, 107:2, 107:16, 107:23, 143:10, 170:21</p>
--	--	--	---	---

<p><b>assume</b> [2] - 91:11, 138:18</p> <p><b>ASSURANCE</b> [2] - 3:19, 3:20</p> <p><b>assurance</b> [7] - 92:20, 92:21, 96:23, 97:18, 129:18, 129:24, 171:2</p> <p><b>AT</b> [1] - 1:7</p> <p><b>attachments</b> [1] - 84:8</p> <p><b>attack</b> [1] - 191:17</p> <p><b>attacking</b> [1] - 180:9</p> <p><b>attainable</b> [1] - 123:17</p> <p><b>attempted</b> [2] - 83:13, 87:7</p> <p><b>attempting</b> [2] - 24:5, 69:8</p> <p><b>attention</b> [6] - 105:7, 105:14, 107:10, 107:15, 178:25, 184:16</p> <p><b>attorney</b> [14] - 22:22, 35:15, 36:10, 60:15, 70:4, 83:25, 84:4, 85:24, 104:8, 124:4, 138:10, 138:15, 149:17, 176:24</p> <p><b>Attorney's</b> [1] - 66:3</p> <p><b>attorneys</b> [7] - 6:16, 6:19, 7:8, 10:16, 111:3, 159:12, 177:4</p> <p><b>Attorneys</b> [2] - 2:5, 2:12</p> <p><b>August</b> [1] - 46:25</p> <p><b>Augustyn</b> [26] - 11:7, 64:19, 82:11, 84:1, 93:9, 101:11, 118:3, 118:10, 135:4, 140:22, 145:1, 156:12, 164:7, 168:17, 172:2, 172:15, 172:20, 173:1, 177:24, 182:19, 186:10, 187:4, 187:17, 188:13, 193:2, 194:12</p> <p><b>AUGUSTYN</b> [3] - 3:5, 3:8, 11:3</p> <p><b>Augustyn's</b> [9] - 93:25, 116:9, 140:25, 170:16, 182:22, 190:25, 191:5, 191:15, 193:9</p> <p><b>Austin</b> [9] - 12:14, 18:11, 18:12, 19:8, 47:24, 96:24, 96:25, 97:19, 103:17</p> <p><b>authorized</b> [1] - 93:18</p> <p><b>availability</b> [3] - 103:2,</p>	<p>103:7, 133:18</p> <p><b>available</b> [8] - 43:3, 43:11, 43:15, 44:14, 48:7, 77:3, 79:17, 79:22</p> <p><b>aware</b> [28] - 12:13, 15:14, 24:21, 26:17, 27:12, 28:10, 39:14, 43:1, 43:2, 46:11, 46:15, 46:24, 48:1, 60:20, 64:24, 79:25, 81:15, 81:19, 125:6, 144:11, 144:16, 145:25, 147:9, 161:16, 164:6, 164:9, 170:17, 174:11</p> <p><b>awareness</b> [1] - 145:2</p>	<p><b>batches</b> [4] - 61:13, 61:14, 148:16, 149:3</p> <p><b>bearing</b> [3] - 183:14, 187:12, 191:15</p> <p><b>become</b> [3] - 39:3, 151:8, 166:1</p> <p><b>becomes</b> [3] - 155:2, 166:18, 166:24</p> <p><b>began</b> [2] - 53:6, 133:4</p> <p><b>begin</b> [2] - 125:23, 152:17</p> <p><b>beginning</b> [2] - 12:5, 70:21</p> <p><b>begins</b> [1] - 57:13</p> <p><b>behalf</b> [2] - 4:7, 4:12</p> <p><b>belief</b> [1] - 13:15</p> <p><b>believes</b> [1] - 57:22</p> <p><b>below</b> [2] - 158:2, 161:25</p> <p><b>bench</b> [1] - 43:23</p> <p><b>BEND</b> [2] - 1:9, 198:2</p> <p><b>Bend</b> [4] - 1:22, 66:2, 68:8, 198:5</p> <p><b>beneath</b> [1] - 142:19</p> <p><b>benefit</b> [2] - 5:8, 95:18</p> <p><b>benefits</b> [2] - 95:11, 95:13</p> <p><b>better</b> [2] - 131:19, 131:20</p> <p><b>between</b> [14] - 35:13, 74:9, 75:20, 76:19, 89:20, 90:25, 95:5, 99:3, 147:8, 148:11, 148:17, 149:5, 160:25, 163:2</p> <p><b>beyond</b> [1] - 186:15</p> <p><b>bias</b> [1] - 70:25</p> <p><b>biased</b> [3] - 72:8, 72:10, 72:13</p> <p><b>big</b> [1] - 97:4</p> <p><b>bit</b> [7] - 11:16, 60:16, 61:3, 95:8, 109:24, 110:3, 128:19</p> <p><b>blank</b> [3] - 29:24, 30:3, 32:15</p> <p><b>blanks</b> [1] - 31:18</p> <p><b>BLOOD</b> [1] - 3:11</p> <p><b>blood</b> [117] - 9:5, 11:19, 11:23, 13:19, 13:20, 14:14, 15:1, 19:17, 19:19, 25:18, 25:19, 33:3, 35:22, 36:19, 42:6, 42:9, 42:21, 46:6, 46:12, 46:20, 47:8, 50:19, 51:1, 53:8, 55:8, 56:10, 61:1, 61:5, 61:8, 62:5, 62:7, 62:13, 64:21, 65:2,</p>	<p>65:13, 65:24, 66:4, 66:6, 66:10, 66:20, 73:18, 73:25, 76:19, 79:1, 93:19, 94:3, 101:19, 101:25, 102:8, 102:10, 102:12, 105:9, 106:17, 107:12, 107:13, 108:3, 108:4, 108:15, 108:16, 108:22, 109:15, 141:5, 141:24, 142:9, 142:21, 144:21, 145:15, 147:2, 147:8, 147:13, 147:14, 147:18, 147:21, 147:23, 148:1, 148:4, 149:22, 150:4, 150:8, 150:22, 156:18, 156:20, 157:7, 161:8, 175:1, 175:4, 176:9, 182:22, 182:25, 183:1, 183:8, 183:10, 184:3, 184:5, 184:10, 184:19, 186:21, 187:6, 187:8, 187:9, 187:10, 188:10, 189:2, 190:22, 191:4, 191:6, 191:7, 191:15, 193:16, 193:25, 194:4, 194:5</p> <p><b>bodies</b> [2] - 117:25, 134:12</p> <p><b>body</b> [1] - 64:25</p> <p><b>bottom</b> [2] - 107:16, 155:9</p> <p><b>bound</b> [1] - 171:19</p> <p><b>Bourque</b> [4] - 83:15, 83:16, 84:7, 84:10</p> <p><b>box</b> [5] - 13:20, 15:2, 26:3, 54:13, 67:6</p> <p><b>boxed</b> [1] - 65:24</p> <p><b>boxes</b> [8] - 18:13, 18:18, 20:10, 25:19, 73:17, 73:18, 147:8, 147:12</p> <p><b>boxing</b> [1] - 101:25</p> <p><b>Brady</b> [44] - 16:20, 17:3, 17:9, 20:19, 21:12, 24:8, 38:21, 60:6, 68:2, 85:11, 89:8, 110:8, 110:11, 110:16, 127:8, 130:1, 152:1, 154:24, 155:2, 170:5, 172:4, 172:8,</p>	<p>177:7, 178:1, 179:4, 179:6, 179:16, 182:13, 184:1, 184:13, 185:6, 188:6, 189:9, 190:6, 192:3, 192:5, 192:12, 192:13, 192:14, 192:15, 192:17, 193:1, 193:8, 193:10</p> <p><b>breaches</b> [1] - 114:18</p> <p><b>break</b> [4] - 95:7, 130:17, 131:3, 131:8</p> <p><b>breaking</b> [1] - 182:25</p> <p><b>brief</b> [4] - 83:2, 92:18, 101:3, 169:6</p> <p><b>Brief</b> [6] - 50:6, 82:1, 87:20, 88:17, 130:15, 181:15</p> <p><b>briefly</b> [12] - 5:1, 56:19, 69:7, 88:3, 101:14, 101:22, 102:5, 110:4, 112:9, 112:24, 144:19, 181:2</p> <p><b>bring</b> [7] - 69:8, 107:10, 121:10, 186:1, 191:20, 191:22, 193:14</p> <p><b>bringing</b> [3] - 90:24, 148:3, 195:14</p> <p><b>broken</b> [3] - 11:19, 46:20, 105:9</p> <p><b>brought</b> [12] - 65:2, 80:16, 141:15, 141:16, 143:22, 143:23, 161:15, 182:20, 184:6, 187:1, 189:7, 195:9</p> <p><b>bucket</b> [2] - 134:16, 171:9</p> <p><b>buckets</b> [8] - 106:8, 106:11, 111:5, 111:8, 111:9, 114:8, 116:14, 134:19</p> <p><b>built</b> [1] - 115:16</p> <p><b>bullet</b> [2] - 155:21, 156:2</p> <p><b>business</b> [1] - 161:6</p> <p><b>busy</b> [1] - 12:5</p> <p><b>BY</b> [99] - 11:6, 11:12, 14:9, 15:23, 16:13, 16:19, 17:7, 17:22, 18:8, 20:18, 21:9, 22:2, 23:17, 24:14, 24:20, 25:6, 25:10, 26:17, 27:2, 27:17, 28:17, 28:22, 30:12, 30:19, 33:16, 34:3, 34:21, 35:7, 35:20,</p>
	<p><b>B</b></p>			
	<p><b>b</b>) [1] - 178:24</p> <p><b>background</b> [2] - 71:10, 195:10</p> <p><b>backlog</b> [1] - 50:13</p> <p><b>bad</b> [2] - 179:25, 191:18</p> <p><b>bailliff</b> [3] - 6:6, 6:24, 139:13</p> <p><b>balance</b> [1] - 175:19</p> <p><b>Banks</b> [1] - 171:14</p> <p><b>barcode</b> [15] - 34:8, 77:9, 77:11, 77:13, 77:15, 77:17, 141:22, 142:3, 142:6, 142:19, 142:21, 143:5, 143:10, 143:12</p> <p><b>barcodes</b> [1] - 142:8</p> <p><b>based</b> [5] - 88:24, 93:21, 98:16, 133:17, 174:19</p> <p><b>bases</b> [1] - 93:23</p> <p><b>basis</b> [19] - 86:3, 90:23, 177:25, 178:9, 178:10, 179:7, 181:25, 183:17, 184:13, 184:21, 184:24, 185:22, 186:12, 186:13, 187:13, 188:6, 190:15, 191:17, 192:2</p> <p><b>batch</b> [18] - 14:13, 18:2, 18:23, 18:24, 47:19, 47:20, 47:24, 50:17, 55:5, 61:2, 61:12, 76:13, 102:2, 148:17, 148:18, 148:19, 148:24</p>			

36:3, 36:14, 38:10, 38:20, 39:14, 40:6, 40:19, 41:10, 42:1, 44:7, 45:21, 50:8, 58:24, 62:19, 63:21, 64:19, 65:12, 65:23, 66:18, 67:16, 68:10, 68:22, 69:16, 69:25, 70:17, 71:4, 71:20, 72:4, 72:14, 74:10, 75:10, 78:10, 78:22, 79:9, 79:21, 81:19, 92:4, 101:1, 102:17, 109:22, 110:3, 112:5, 113:23, 119:2, 124:8, 124:21, 125:14, 126:24, 128:7, 129:1, 130:13, 131:15, 131:21, 132:13, 132:24, 136:8, 136:20, 138:1, 139:22, 142:15, 151:4, 152:13, 153:14, 154:16, 157:1, 160:3, 160:17, 162:24, 164:2	53:13, 54:3, 54:4, 55:16, 55:24, 56:2, 56:3, 56:5, 56:23, 56:24, 57:11, 57:19, 57:24, 58:7, 58:10, 58:18, 59:20, 59:25, 61:1, 61:16, 61:20, 62:25, 63:23, 66:13, 66:23, 73:12, 73:21, 73:24, 74:8, 74:16, 75:7, 75:18, 75:22, 75:23, 76:2, 76:8, 76:13, 77:17, 77:18, 77:20, 77:25, 79:1, 79:9, 79:25, 81:3, 81:5, 81:15, 81:20, 83:18, 83:20, 84:4, 84:5, 84:13, 85:17, 88:23, 89:4, 89:9, 90:9, 90:10, 90:11, 90:18, 104:19, 106:1, 107:23, 121:2, 122:9, 122:10, 122:25, 123:9, 123:11, 123:21, 140:12, 141:15, 141:17, 141:18, 141:22, 142:18, 143:9, 143:19, 143:22, 148:19, 148:22, 150:12, 150:18, 155:8, 155:12, 155:25, 158:25, 159:21, 159:22, 170:8, 171:16, 173:11, 173:25, 174:4, 174:6, 174:10, 175:1, 175:5, 175:7, 175:10, 175:13, 175:17, 175:20, 175:23, 176:6, 176:22, 178:15, 178:20, 178:21, 178:22, 179:13, 179:15, 179:18, 179:21, 180:1, 182:15, 182:23, 183:13, 183:23, 183:25, 184:8, 184:22, 184:23, 185:2, 185:3, 186:17, 187:18, 188:1, 189:5, 189:7, 189:10, 189:12, 189:14, 190:6, 190:11, 190:16, 190:25, 191:16, 192:15, 192:18, 195:13	<b>case's</b> <sup>[1]</sup> - 57:13 <b>case-specific</b> <sup>[1]</sup> - 150:18 <b>cases</b> <sup>[76]</sup> - 12:23, 13:2, 16:8, 17:11, 17:12, 18:3, 18:4, 18:24, 19:1, 19:2, 19:5, 19:7, 19:8, 19:9, 20:7, 20:14, 20:15, 24:25, 25:7, 25:13, 27:6, 27:12, 38:22, 41:18, 47:18, 47:19, 49:8, 49:17, 49:23, 50:9, 50:10, 50:12, 50:14, 50:18, 51:14, 52:5, 52:9, 52:11, 59:1, 59:5, 59:13, 61:6, 61:8, 61:9, 72:21, 74:9, 85:22, 98:17, 102:8, 102:9, 121:21, 140:10, 140:11, 140:13, 141:10, 141:24, 146:21, 147:1, 147:4, 147:6, 147:7, 148:11, 148:16, 148:17, 148:18, 148:23, 149:6, 156:13, 156:16, 162:16, 174:2, 174:7, 183:18, 195:12, 196:1 <b>casework</b> <sup>[5]</sup> - 57:2, 57:4, 98:19, 161:6, 191:1 <b>catastrophic</b> <sup>[2]</sup> - 98:11, 98:14 <b>catch</b> <sup>[15]</sup> - 14:9, 14:21, 25:16, 25:21, 26:1, 26:2, 26:3, 26:18, 37:7, 76:7, 76:10, 115:23, 162:11, 162:12, 195:6 <b>caught</b> <sup>[13]</sup> - 13:15, 14:1, 25:1, 25:8, 26:7, 26:22, 74:18, 76:14, 108:16, 108:17, 109:18, 161:9, 173:2 <b>CAUSE</b> <sup>[2]</sup> - 1:3, 1:4 <b>central</b> <sup>[1]</sup> - 179:4 <b>certain</b> <sup>[8]</sup> - 61:11, 96:14, 110:11, 110:12, 111:23, 114:2, 170:13, 171:9 <b>certainly</b> <sup>[1]</sup> - 167:8 <b>CERTIFICATE</b> <sup>[1]</sup> - 198:1	<b>Certification</b> <sup>[1]</sup> - 3:22 <b>Certified</b> <sup>[1]</sup> - 1:23 <b>certify</b> <sup>[3]</sup> - 198:6, 198:13, 198:17 <b>cetera</b> <sup>[2]</sup> - 165:8, 166:1 <b>chain</b> <sup>[40]</sup> - 19:25, 20:3, 29:1, 29:3, 32:13, 34:22, 35:8, 37:6, 38:3, 41:13, 51:17, 56:25, 63:4, 63:9, 63:22, 63:25, 64:2, 64:3, 64:5, 72:14, 72:22, 72:25, 73:9, 73:14, 73:23, 74:2, 74:5, 74:10, 76:23, 76:25, 77:16, 77:19, 77:22, 78:13, 170:10, 173:15, 183:6, 194:3, 194:21, 194:22 <b>challenge</b> <sup>[4]</sup> - 182:1, 187:5, 191:5, 191:14 <b>chambers</b> <sup>[1]</sup> - 198:12 <b>chance</b> <sup>[2]</sup> - 9:1, 121:10 <b>change</b> <sup>[7]</sup> - 105:3, 124:16, 182:14, 186:21, 187:3, 188:24, 188:25 <b>changed</b> <sup>[3]</sup> - 104:10, 129:16, 153:21 <b>changes</b> <sup>[1]</sup> - 38:5 <b>Chapter</b> <sup>[2]</sup> - 113:20, 138:2 <b>chapter</b> <sup>[8]</sup> - 40:9, 40:22, 99:22, 112:11, 136:13, 136:15, 136:17, 136:25 <b>character</b> <sup>[3]</sup> - 178:8, 179:24, 191:17 <b>characterized</b> <sup>[1]</sup> - 193:7 <b>charge</b> <sup>[1]</sup> - 97:7 <b>chart</b> <sup>[2]</sup> - 99:16, 100:6 <b>check</b> <sup>[5]</sup> - 18:23, 19:1, 47:17, 55:7, 196:23 <b>checked</b> <sup>[2]</sup> - 14:15, 47:19 <b>chief</b> <sup>[1]</sup> - 110:18 <b>choose</b> <sup>[1]</sup> - 59:22 <b>CHRONOLOGICAL</b> <sup>[1]</sup> - 3:1 <b>Circle</b> <sup>[1]</sup> - 2:6 <b>Circuit</b> <sup>[1]</sup> - 155:13 <b>circuit</b> <sup>[1]</sup> - 155:15 <b>circumstance</b> <sup>[1]</sup> -	86:9 <b>circumstances</b> <sup>[1]</sup> - 84:9 <b>cite</b> <sup>[1]</sup> - 175:23 <b>citing</b> <sup>[2]</sup> - 180:17, 190:7 <b>claim</b> <sup>[16]</sup> - 170:5, 172:9, 177:12, 178:1, 179:4, 179:7, 182:13, 184:1, 184:13, 184:14, 185:6, 185:7, 188:6, 190:3, 195:14, 195:16 <b>claimed</b> <sup>[4]</sup> - 177:23, 184:8, 186:7, 192:2 <b>claims</b> <sup>[2]</sup> - 169:17, 183:5 <b>clarification</b> <sup>[1]</sup> - 79:3 <b>clarify</b> <sup>[3]</sup> - 6:25, 82:6, 111:15 <b>clarity</b> <sup>[1]</sup> - 113:23 <b>CLD</b> <sup>[1]</sup> - 157:12 <b>clear</b> <sup>[10]</sup> - 27:25, 93:7, 104:14, 110:14, 117:2, 118:1, 118:5, 119:23, 168:23, 192:22 <b>clearly</b> <sup>[10]</sup> - 40:15, 86:11, 172:13, 172:14, 175:2, 175:8, 180:5, 181:20, 186:10, 188:22 <b>closing</b> <sup>[1]</sup> - 169:15 <b>Closing</b> <sup>[2]</sup> - 3:21, 3:22 <b>co</b> <sup>[2]</sup> - 167:11, 185:1 <b>co-counsel</b> <sup>[2]</sup> - 167:11, 185:1 <b>code</b> <sup>[1]</sup> - 84:15 <b>Code</b> <sup>[3]</sup> - 44:12, 127:12, 184:25 <b>collaborate</b> <sup>[2]</sup> - 99:11, 145:21 <b>collaborated</b> <sup>[1]</sup> - 99:7 <b>collaboration</b> <sup>[1]</sup> - 146:6 <b>collaborator</b> <sup>[2]</sup> - 45:24, 96:17 <b>collaborators</b> <sup>[3]</sup> - 44:20, 145:6, 145:8 <b>Collaborators</b> <sup>[1]</sup> - 144:25 <b>collateral</b> <sup>[1]</sup> - 185:24 <b>collecting</b> <sup>[1]</sup> - 61:2 <b>collective</b> <sup>[1]</sup> - 8:1 <b>collectively</b> <sup>[1]</sup> - 130:21
<b>C</b>				
<b>calendar</b> <sup>[1]</sup> - 196:7 <b>calibration</b> <sup>[1]</sup> - 184:2 <b>cam</b> <sup>[1]</sup> - 64:25 <b>campus</b> <sup>[1]</sup> - 6:9 <b>candida</b> <sup>[1]</sup> - 194:14 <b>candor</b> <sup>[1]</sup> - 178:20 <b>cannot</b> <sup>[1]</sup> - 179:11 <b>capacity</b> <sup>[1]</sup> - 112:16 <b>care</b> <sup>[2]</sup> - 40:17, 60:7 <b>career</b> <sup>[1]</sup> - 72:7 <b>Carroll</b> <sup>[1]</sup> - 174:2 <b>case</b> <sup>[201]</sup> - 14:14, 14:19, 14:22, 17:1, 17:6, 17:10, 17:25, 20:9, 21:20, 22:13, 22:16, 22:21, 23:4, 23:5, 23:18, 23:22, 25:10, 27:3, 27:7, 27:9, 27:18, 31:4, 31:13, 31:15, 35:22, 36:15, 36:19, 36:25, 37:3, 37:12, 37:13, 37:15, 37:22, 38:2, 38:25, 39:4, 39:11, 39:12, 42:21, 42:23, 44:11, 48:2, 48:12, 48:15, 51:5, 51:17, 51:21, 51:24, 52:17, 52:25, 53:8, 53:10,				

<p><b>Collin</b> [2] - 2:10, 4:8</p> <p><b>column</b> [3] - 32:18, 61:25, 185:12</p> <p><b>coming</b> [1] - 52:16</p> <p><b>commission</b> [1] - 134:14</p> <p><b>Commission</b> [22] - 67:18, 104:24, 114:20, 124:22, 125:4, 125:17, 125:20, 125:24, 128:10, 129:4, 129:6, 129:21, 130:7, 151:9, 151:11, 152:16, 153:15, 156:7, 163:20, 163:23, 164:3, 164:8</p> <p><b>COMMISSION</b> [1] - 3:16</p> <p><b>Commission's</b> [1] - 124:17</p> <p><b>common</b> [1] - 61:12</p> <p><b>communicate</b> [1] - 110:7</p> <p><b>compared</b> [2] - 64:2, 146:21</p> <p><b>comparing</b> [1] - 76:19</p> <p><b>competency</b> [1] - 115:1</p> <p><b>competent</b> [1] - 94:5</p> <p><b>compile</b> [2] - 149:16, 149:18</p> <p><b>compiling</b> [1] - 150:4</p> <p><b>complaint</b> [5] - 111:12, 111:19, 111:20, 164:7</p> <p><b>complaints</b> [2] - 114:16, 114:19</p> <p><b>complete</b> [10] - 44:11, 56:8, 57:19, 57:20, 58:17, 58:18, 74:19, 75:16, 75:20, 143:15</p> <p><b>completed</b> [5] - 56:11, 74:20, 122:13, 145:5, 155:7</p> <p><b>completely</b> [5] - 85:13, 165:20, 165:22, 165:23, 177:24</p> <p><b>completeness</b> [1] - 133:16</p> <p><b>completion</b> [2] - 114:25, 118:9</p> <p><b>compliance</b> [2] - 40:10, 149:22</p> <p><b>COMPLIANCE</b> [1] - 3:12</p> <p><b>Compliance</b> [1] - 138:2</p>	<p><b>complies</b> [2] - 32:11, 36:4</p> <p><b>computer</b> [1] - 150:14</p> <p><b>conceal</b> [1] - 193:9</p> <p><b>concentration</b> [1] - 186:22</p> <p><b>concern</b> [3] - 120:21, 182:24, 183:13</p> <p><b>concerned</b> [2] - 175:10, 192:12</p> <p><b>concerning</b> [3] - 10:20, 118:3, 179:23</p> <p><b>concerns</b> [2] - 101:23, 166:7</p> <p><b>conclude</b> [1] - 179:15</p> <p><b>concluded</b> [2] - 134:4, 197:8</p> <p><b>conclusion</b> [3] - 86:1, 115:2, 186:15</p> <p><b>condition</b> [1] - 112:23</p> <p><b>conduct</b> [8] - 116:14, 140:11, 164:18, 178:12, 179:22, 180:1, 180:8, 181:24</p> <p><b>conducting</b> [1] - 164:3</p> <p><b>confirm</b> [4] - 14:5, 52:4, 126:4, 129:8</p> <p><b>confirming</b> [1] - 183:19</p> <p><b>conjunction</b> [1] - 120:10</p> <p><b>connect</b> [1] - 124:9</p> <p><b>consider</b> [7] - 42:19, 72:10, 72:12, 86:13, 86:17, 100:11, 180:3</p> <p><b>consideration</b> [5] - 86:15, 100:4, 100:5, 187:13, 187:20</p> <p><b>considered</b> [3] - 107:24, 107:25, 145:17</p> <p><b>consistent</b> [1] - 86:15</p> <p><b>consistently</b> [1] - 86:17</p> <p><b>consists</b> [1] - 76:18</p> <p><b>constitutes</b> [1] - 110:16</p> <p><b>constitutionally</b> [1] - 171:19</p> <p><b>consult</b> [1] - 167:11</p> <p><b>contact</b> [1] - 174:22</p> <p><b>contain</b> [2] - 86:6, 124:1</p> <p><b>contained</b> [5] - 117:4, 155:17, 155:22, 190:23, 190:25</p> <p><b>Container</b> [2] - 62:3, 62:11</p> <p><b>contains</b> [1] - 198:6</p> <p><b>contaminants</b> [1] -</p>	<p>155:23</p> <p><b>contaminated</b> [2] - 189:15, 189:19</p> <p><b>contaminating</b> [1] - 189:13</p> <p><b>Content</b> [2] - 54:10, 54:16</p> <p><b>content</b> [3] - 88:12, 90:24, 182:23</p> <p><b>contents</b> [3] - 19:19, 19:21, 65:24</p> <p><b>contest</b> [1] - 185:19</p> <p><b>context</b> [1] - 190:8</p> <p><b>continuation</b> [1] - 4:5</p> <p><b>continue</b> [4] - 64:17, 89:13, 131:12, 140:11</p> <p><b>CONTINUED</b> [1] - 11:5</p> <p><b>contract</b> [1] - 30:22</p> <p><b>contradicting</b> [1] - 35:13</p> <p><b>control</b> [1] - 175:12</p> <p><b>conversation</b> [4] - 12:3, 95:4, 99:2, 123:8</p> <p><b>conversations</b> [3] - 6:17, 6:18, 10:18</p> <p><b>conviction</b> [1] - 180:10</p> <p><b>coordinating</b> [1] - 97:8</p> <p><b>coordination</b> [1] - 141:8</p> <p><b>copies</b> [4] - 8:10, 45:20, 83:5, 195:25</p> <p><b>copy</b> [17] - 8:8, 8:11, 13:8, 28:3, 83:16, 83:17, 87:8, 87:10, 87:13, 87:25, 90:8, 138:3, 154:14, 178:16, 178:17, 183:20</p> <p><b>corner</b> [1] - 33:24</p> <p><b>correct</b> [161] - 4:21, 11:16, 11:17, 12:18, 12:24, 14:23, 15:11, 15:14, 15:24, 16:21, 16:22, 19:25, 20:11, 20:19, 20:22, 22:8, 22:13, 23:6, 23:7, 25:1, 25:8, 25:11, 25:17, 25:19, 25:24, 26:19, 26:20, 27:10, 29:6, 29:24, 30:4, 30:25, 31:13, 33:7, 38:22, 41:16, 44:16, 45:25, 46:4, 46:9, 46:19, 47:9, 48:5, 48:6, 48:9, 48:12, 48:13, 48:16, 48:21,</p>	<p>49:17, 49:18, 50:20, 50:21, 51:4, 51:9, 52:2, 52:4, 52:8, 52:18, 53:9, 53:17, 53:22, 55:5, 55:6, 56:9, 59:8, 59:11, 59:12, 63:5, 64:6, 64:22, 65:4, 65:15, 65:25, 66:4, 66:8, 66:10, 68:5, 68:9, 70:18, 70:22, 71:5, 72:6, 72:15, 73:13, 73:15, 74:5, 76:23, 77:25, 78:14, 81:7, 81:8, 81:11, 81:13, 81:14, 84:3, 88:3, 93:4, 94:1, 94:9, 95:3, 95:9, 95:11, 98:4, 102:20, 104:20, 109:8, 109:12, 115:12, 116:16, 116:21, 120:5, 120:6, 127:5, 127:9, 128:2, 129:19, 129:24, 130:3, 133:16, 133:23, 134:2, 135:5, 135:6, 135:23, 136:1, 140:24, 142:5, 142:19, 142:20, 143:3, 143:4, 144:5, 145:10, 145:11, 149:13, 149:14, 149:17, 150:24, 152:3, 152:6, 153:19, 154:22, 154:25, 155:6, 155:11, 155:14, 155:19, 156:4, 156:14, 158:15, 158:19, 158:23, 159:19, 159:20, 160:9, 160:10, 162:5, 167:24, 193:25, 198:7</p> <p><b>corrected</b> [2] - 73:23, 113:6</p> <p><b>correction</b> [3] - 33:9, 35:3, 116:2</p> <p><b>corrections</b> [4] - 33:17, 58:6, 58:8, 162:17</p> <p><b>corrective</b> [1] - 47:15</p> <p><b>correctly</b> [8] - 12:8, 18:25, 21:15, 23:1, 155:25, 166:16, 175:12, 198:14</p> <p><b>corroborating</b> [1] - 189:24</p>	<p><b>corroborative</b> [3] - 185:24, 188:7, 188:13</p> <p><b>cost</b> [1] - 198:17</p> <p><b>Counsel</b> [7] - 33:24, 39:25, 70:7, 88:11, 88:18, 110:19, 192:1</p> <p><b>counsel</b> [36] - 23:6, 23:12, 23:23, 24:6, 24:11, 35:17, 41:12, 42:10, 49:25, 60:4, 69:8, 70:4, 85:17, 85:18, 87:21, 113:2, 126:14, 137:15, 153:25, 161:23, 167:11, 174:10, 174:13, 177:23, 178:20, 180:4, 183:2, 183:21, 185:1, 186:7, 186:25, 187:23, 189:4, 190:3, 190:10, 198:9</p> <p><b>counsel's</b> [1] - 39:4</p> <p><b>counter</b> [1] - 195:9</p> <p><b>COUNTY</b> [3] - 1:5, 1:9, 198:2</p> <p><b>County</b> [17] - 1:22, 17:25, 22:21, 27:6, 66:3, 68:8, 69:17, 84:6, 84:11, 90:12, 176:24, 192:14, 192:24, 192:25, 198:5, 198:24</p> <p><b>couple</b> [14] - 4:25, 12:3, 13:13, 37:17, 37:20, 38:1, 38:2, 82:23, 102:9, 104:4, 104:6, 133:21, 135:11, 164:14</p> <p><b>course</b> [22] - 7:18, 52:7, 63:7, 125:7, 125:24, 126:8, 127:3, 127:16, 129:3, 151:18, 151:21, 151:24, 152:1, 152:4, 152:17, 152:25, 153:2, 153:4, 153:12, 154:20, 161:5, 196:9</p> <p><b>COURSE</b> [1] - 3:17</p> <p><b>Course</b> [2] - 127:20, 127:23</p> <p><b>COURT</b> [261] - 1:3, 1:4, 1:5, 4:3, 4:11, 4:16, 4:22, 5:2, 5:7, 5:15, 5:17, 5:21, 5:25, 7:6, 7:17, 8:1, 8:4, 8:7, 8:13, 8:19,</p>
---	---	--	---	---

<p>9:7, 9:10, 9:13, 9:16, 9:20, 9:22, 10:1, 10:5, 10:8, 10:22, 10:25, 11:10, 14:7, 16:11, 16:17, 17:5, 18:6, 20:17, 21:5, 21:7, 21:24, 23:15, 24:18, 25:3, 25:9, 26:11, 26:14, 26:25, 27:16, 28:12, 28:15, 30:11, 33:15, 33:23, 35:6, 35:17, 36:1, 36:12, 38:8, 38:16, 38:19, 39:13, 39:25, 40:3, 40:14, 41:5, 41:8, 41:25, 43:21, 43:24, 44:2, 44:6, 44:25, 45:3, 45:8, 45:13, 45:17, 49:25, 50:4, 50:7, 58:21, 60:14, 63:12, 63:16, 63:20, 64:15, 66:17, 67:11, 67:14, 68:7, 68:18, 68:21, 69:4, 69:10, 69:12, 69:22, 70:6, 70:13, 71:3, 71:19, 72:2, 72:11, 74:7, 75:1, 78:5, 78:8, 78:20, 79:3, 79:20, 81:17, 81:21, 81:24, 82:2, 82:5, 82:11, 82:20, 82:25, 83:3, 83:10, 83:23, 83:25, 84:19, 85:1, 85:5, 85:7, 86:4, 86:21, 87:2, 87:4, 87:9, 87:12, 87:17, 87:19, 87:21, 88:1, 88:11, 88:16, 88:18, 89:11, 89:17, 89:20, 90:2, 90:16, 90:20, 91:2, 91:7, 91:10, 91:15, 91:19, 100:14, 100:19, 100:21, 100:24, 102:16, 109:21, 110:2, 112:4, 113:4, 113:12, 118:15, 118:18, 118:22, 118:24, 124:12, 125:13, 126:17, 126:23, 128:6, 128:17, 128:22, 130:14, 130:16, 130:21, 130:25, 131:7, 131:11, 131:17, 131:20, 132:11, 132:19, 132:23, 136:5, 136:7, 136:15, 137:18, 137:22,</p>	<p>138:20, 138:24, 139:1, 139:5, 139:9, 139:13, 139:17, 142:14, 151:1, 152:12, 153:7, 153:13, 154:5, 154:9, 154:15, 156:23, 160:1, 160:15, 162:21, 164:1, 164:14, 164:22, 165:2, 165:4, 165:13, 165:17, 165:25, 166:10, 166:16, 166:21, 167:5, 167:12, 167:21, 167:25, 168:5, 168:9, 168:13, 168:15, 168:22, 168:25, 169:3, 169:7, 169:10, 169:12, 169:14, 169:19, 169:23, 175:21, 175:25, 176:10, 176:13, 177:17, 177:20, 178:18, 180:13, 180:15, 180:18, 180:21, 180:24, 181:4, 181:7, 181:12, 183:22, 187:25, 192:9, 192:22, 193:4, 193:12, 196:2, 196:6, 196:12, 196:16, 196:20, 197:1, 197:7</p> <p><b>court</b> [12] - 69:17, 89:21, 130:23, 135:25, 155:13, 155:16, 171:15, 179:5, 183:21, 187:23, 198:11</p> <p><b>Court</b> [40] - 3:22, 6:23, 86:16, 94:11, 105:21, 107:1, 107:22, 139:24, 174:4, 175:6, 175:14, 176:4, 176:6, 176:14, 178:3, 179:7, 179:8, 179:13, 179:21, 182:8, 182:21, 183:18, 184:23, 185:11, 186:6, 186:12, 186:14, 187:13, 187:22, 188:4, 188:16, 189:11, 189:22, 190:12, 192:4, 192:8, 198:4, 198:5,</p>	<p>198:24, 198:24</p> <p><b>Court's</b> [5] - 167:8, 168:11, 178:25, 184:15, 187:20</p> <p><b>court's</b> [2] - 186:3, 190:17</p> <p><b>courteous</b> [1] - 130:23</p> <p><b>courtesy</b> [12] - 8:8, 8:11, 45:20, 83:4, 87:8, 87:10, 87:13, 87:25, 90:8, 154:14, 181:8, 195:25</p> <p><b>courtroom</b> [6] - 5:4, 5:11, 6:4, 6:6, 6:11, 7:7</p> <p><b>courts</b> [2] - 174:12, 183:16</p> <p><b>covers</b> [1] - 127:7</p> <p><b>crack</b> [1] - 42:9</p> <p><b>cracked</b> [3] - 42:22, 101:19, 187:9</p> <p><b>create</b> [5] - 72:22, 77:15, 141:22, 161:5, 194:15</p> <p><b>created</b> [4] - 56:21, 142:3, 142:4</p> <p><b>creating</b> [1] - 111:4</p> <p><b>credibility</b> [19] - 89:6, 132:3, 132:7, 132:15, 173:7, 173:10, 173:22, 173:24, 174:15, 177:2, 180:4, 180:8, 180:10, 181:6, 182:1, 182:5, 188:14, 190:18, 191:14</p> <p><b>crime</b> [24] - 39:22, 40:7, 40:21, 52:16, 93:3, 93:9, 93:22, 111:22, 112:17, 136:14, 136:18, 137:2, 140:5, 140:17, 141:15, 149:13, 149:21, 157:2, 159:11, 160:24, 162:9, 167:15, 180:10, 189:13</p> <p><b>Criminal</b> [5] - 44:13, 174:4, 175:6, 184:25, 187:22</p> <p><b>criminal</b> [2] - 71:9, 121:2</p> <p><b>criteria</b> [10] - 99:13, 110:15, 111:10, 111:24, 114:2, 114:4, 114:5, 116:15, 116:18, 117:1</p>	<p><b>CROSS</b> [1] - 151:3</p> <p><b>cross</b> [15] - 11:5, 70:10, 173:9, 173:23, 174:12, 177:9, 180:12, 182:4, 188:23, 189:6, 189:15, 189:19, 194:5, 194:25</p> <p><b>Cross</b> [2] - 3:4, 3:7</p> <p><b>cross-contaminated</b> [2] - 189:15, 189:19</p> <p><b>CROSS-EXAMINATION</b> [1] - 151:3</p> <p><b>cross-examination</b> [6] - 11:5, 70:10, 173:9, 177:9, 180:12</p> <p><b>cross-examine</b> [5] - 173:23, 174:12, 182:4, 188:23, 194:25</p> <p><b>cross-examined</b> [2] - 189:6, 194:5</p> <p><b>crossed</b> [3] - 31:24, 32:5, 143:13</p> <p><b>CSR</b> [1] - 198:23</p> <p><b>Ct</b> [1] - 171:15</p> <p><b>cue</b> [1] - 117:20</p> <p><b>cumulative</b> [2] - 85:15, 185:24</p> <p><b>custody</b> [42] - 19:25, 20:3, 29:1, 29:3, 32:13, 34:22, 35:8, 37:6, 38:3, 41:13, 51:17, 56:25, 57:8, 63:4, 63:9, 63:22, 64:1, 64:2, 64:3, 64:6, 66:3, 72:15, 72:22, 73:1, 73:9, 73:15, 73:23, 74:2, 74:5, 74:11, 76:23, 76:25, 77:16, 77:19, 77:22, 78:14, 170:10, 173:15, 183:6, 194:3, 194:21, 194:22</p> <p><b>customer</b> [8] - 115:2, 115:5, 115:11, 115:15, 116:4, 116:7, 158:3, 162:4</p> <p><b>cut</b> [1] - 111:21</p> <p><b>cycle</b> [1] - 127:16</p>	<p><b>database</b> [5] - 14:17, 53:19, 56:23, 56:24, 72:20</p> <p><b>date</b> [13] - 30:3, 32:3, 32:7, 32:20, 35:13, 35:21, 36:5, 46:21, 66:25, 70:1, 78:11, 78:16, 93:12</p> <p><b>DATE</b> [1] - 198:21</p> <p><b>Date</b> [1] - 198:23</p> <p><b>dated</b> [1] - 8:20</p> <p><b>dates</b> [1] - 37:3</p> <p><b>days</b> [6] - 78:22, 79:1, 104:5, 104:6, 194:3, 196:14</p> <p><b>deal</b> [2] - 122:1, 129:5</p> <p><b>dealing</b> [1] - 121:1</p> <p><b>deals</b> [1] - 18:1</p> <p><b>dealt</b> [1] - 107:13</p> <p><b>decide</b> [2] - 173:6, 177:13</p> <p><b>decided</b> [5] - 19:11, 19:16, 110:17, 133:24, 167:1</p> <p><b>decides</b> [3] - 98:25, 166:23, 166:24</p> <p><b>decipher</b> [1] - 90:25</p> <p><b>decision</b> [9] - 119:21, 133:9, 134:21, 166:17, 166:20, 167:4, 171:2, 188:8</p> <p><b>decision-maker</b> [1] - 166:17</p> <p><b>declaring</b> [1] - 171:17</p> <p><b>defeat</b> [1] - 88:13</p> <p><b>defective</b> [2] - 184:18, 186:20</p> <p><b>DEFENDANT</b> [1] - 2:9</p> <p><b>defendant</b> [20] - 20:25, 21:11, 21:15, 21:19, 42:11, 43:16, 90:19, 149:11, 169:25, 171:18, 171:25, 175:8, 179:15, 184:8, 184:20, 185:14, 186:17, 188:5, 189:16, 189:23</p> <p><b>Defendant</b> [3] - 185:21, 188:21, 191:21</p> <p><b>DEFENDANTS</b> [1] - 3:13</p> <p><b>Defendant's</b> [73] - 7:22, 8:14, 8:16, 8:18, 9:4, 13:4, 15:21, 17:20, 17:23, 22:4, 22:16, 28:23, 29:2, 32:10, 38:20, 41:20, 42:2, 43:25,</p>
				<b>D</b>
				<p><b>DA's</b> [2] - 64:21, 158:20</p> <p><b>damage</b> [1] - 48:1</p>

<p>44:8, 45:25, 47:4, 48:17, 54:8, 63:17, 64:5, 66:9, 77:6, 78:8, 78:9, 83:13, 84:17, 86:5, 86:22, 86:23, 87:13, 87:24, 88:1, 89:14, 91:3, 101:2, 101:13, 101:21, 102:4, 102:18, 105:7, 106:14, 107:11, 125:15, 126:15, 126:17, 126:20, 127:2, 128:8, 130:3, 136:9, 136:21, 137:15, 137:18, 137:20, 142:13, 142:25, 152:14, 152:22, 153:25, 154:10, 154:11, 154:17, 160:22, 163:1, 183:9, 183:10, 183:11, 191:6</p> <p><b>defendant's</b> [6] - 170:2, 171:19, 182:12, 184:19, 185:16, 185:18</p> <p><b>defendants</b> [1] - 20:14</p> <p><b>Defense</b> [21] - 4:7, 4:19, 9:2, 38:10, 41:12, 42:10, 60:4, 72:10, 81:13, 82:7, 83:7, 84:13, 85:17, 121:9, 121:25, 137:14, 138:25, 161:23, 168:16, 171:9, 196:9</p> <p><b>defense</b> [25] - 21:13, 22:21, 23:6, 23:12, 23:23, 24:6, 39:4, 60:15, 104:8, 124:4, 149:17, 149:20, 155:19, 159:6, 159:8, 159:19, 174:10, 174:13, 176:5, 176:23, 177:4, 188:18, 193:18, 194:24</p> <p><b>Defense's</b> [3] - 4:6, 9:13, 85:14</p> <p><b>definition</b> [2] - 98:12, 120:4</p> <p><b>definitions</b> [1] - 157:2</p> <p><b>definitively</b> [1] - 123:5</p> <p><b>delaying</b> [1] - 171:6</p> <p><b>deleted</b> [2] - 126:12, 137:11</p> <p><b>delivered</b> [1] - 78:17</p> <p><b>denial</b> [1] - 186:3</p>	<p><b>Denver</b> [3] - 2:3, 4:13, 113:6</p> <p><b>deny</b> [2] - 178:3, 192:8</p> <p><b>department</b> [3] - 53:13, 64:3, 110:7</p> <p><b>Department</b> [9] - 29:6, 32:13, 35:14, 35:21, 66:11, 67:3, 78:16, 92:11, 140:4</p> <p><b>dependant</b> [1] - 103:2</p> <p><b>deprived</b> [1] - 89:9</p> <p><b>describe</b> [5] - 94:10, 96:10, 110:5, 111:8, 114:12</p> <p><b>describes</b> [2] - 112:13, 112:14</p> <p><b>describing</b> [3] - 114:2, 144:17, 144:19</p> <p><b>DESCRIPTION</b> [2] - 3:11, 3:14</p> <p><b>description</b> [1] - 92:18</p> <p><b>deserve</b> [1] - 195:23</p> <p><b>deserved</b> [1] - 184:13</p> <p><b>designation</b> [1] - 105:13</p> <p><b>desire</b> [1] - 6:17</p> <p><b>desk</b> [1] - 159:12</p> <p><b>despite</b> [1] - 186:24</p> <p><b>destroyed</b> [1] - 170:3</p> <p><b>details</b> [1] - 49:4</p> <p><b>detective</b> [1] - 179:18</p> <p><b>determination</b> [3] - 88:21, 134:15, 195:4</p> <p><b>determinations</b> [2] - 19:7, 190:17</p> <p><b>determine</b> [12] - 19:10, 100:7, 108:6, 124:5, 159:2, 163:14, 170:12, 173:10, 179:8, 182:8, 186:6, 190:9</p> <p><b>determined</b> [18] - 19:2, 19:4, 47:21, 51:3, 86:8, 86:14, 86:17, 106:1, 121:18, 134:25, 162:13, 165:21, 166:10, 166:12, 176:15, 190:14, 192:17, 193:1</p> <p><b>determines</b> [1] - 58:9</p> <p><b>determining</b> [4] - 99:13, 121:18, 133:5, 161:12</p> <p><b>developed</b> [1] - 42:14</p> <p><b>developing</b> [1] - 50:13</p> <p><b>dial</b> [1] - 115:8</p> <p><b>diamond</b> [1] - 175:24</p> <p><b>Diamond</b> [3] - 175:5, 175:25, 190:11</p>	<p><b>dictate</b> [1] - 114:13</p> <p><b>difference</b> [3] - 160:24, 161:3, 186:20</p> <p><b>different</b> [29] - 17:24, 33:14, 56:12, 56:14, 56:17, 59:14, 61:7, 70:9, 74:24, 75:14, 80:24, 88:9, 96:8, 96:12, 102:24, 115:20, 120:3, 122:19, 129:21, 132:14, 149:3, 169:17, 174:19, 175:17, 180:23, 186:1, 186:19, 190:2, 196:25</p> <p><b>differentiate</b> [1] - 162:7</p> <p><b>differently</b> [4] - 132:6, 132:14, 173:15, 190:2</p> <p><b>difficulties</b> [1] - 64:12</p> <p><b>diligence</b> [1] - 185:18</p> <p><b>diligent</b> [1] - 146:22</p> <p><b>Dire</b> [2] - 3:4, 3:7</p> <p><b>direct</b> [11] - 9:24, 48:11, 48:18, 59:19, 60:5, 63:2, 131:15, 140:25, 158:16, 160:8, 161:23</p> <p><b>DIRECT</b> [3] - 41:9, 92:3, 139:21</p> <p><b>Direct</b> [2] - 3:4, 3:7</p> <p><b>directly</b> [10] - 6:6, 63:22, 147:22, 158:20, 159:6, 159:8, 159:15, 159:16, 159:19, 168:1</p> <p><b>discharged</b> [1] - 171:21</p> <p><b>disciplinary</b> [1] - 114:16</p> <p><b>discipline</b> [4] - 57:2, 57:3, 61:5, 122:19</p> <p><b>disciplines</b> [1] - 61:7</p> <p><b>disclose</b> [15] - 17:3, 17:14, 20:25, 22:18, 23:3, 42:15, 42:17, 100:13, 117:1, 117:17, 119:19, 132:2, 134:11, 172:10, 192:20</p> <p><b>disclosed</b> [32] - 16:14, 16:21, 20:6, 21:11, 21:13, 22:2, 22:10, 22:23, 23:5, 23:8, 42:11, 60:19, 60:21, 60:22, 60:23, 60:24,</p>	<p>69:20, 84:10, 85:11, 88:8, 117:8, 117:10, 156:8, 157:24, 159:2, 170:8, 172:15, 172:18, 172:20, 174:18, 184:20, 192:14</p> <p><b>discloses</b> [1] - 97:15</p> <p><b>disclosing</b> [2] - 17:15, 70:25</p> <p><b>DISCLOSURE</b> [2] - 3:12, 3:17</p> <p><b>Disclosure</b> [7] - 128:13, 128:15, 128:23, 129:2, 138:2, 151:19, 153:17</p> <p><b>disclosure</b> [47] - 12:16, 16:15, 16:24, 38:21, 40:10, 81:4, 81:6, 84:24, 85:12, 106:4, 106:7, 106:9, 107:8, 110:4, 110:5, 110:6, 111:1, 111:5, 111:13, 111:24, 112:12, 112:14, 113:21, 114:6, 114:14, 114:23, 114:25, 115:7, 116:9, 116:10, 116:22, 116:24, 117:5, 117:9, 117:15, 123:3, 124:1, 131:25, 132:1, 134:19, 138:11, 138:12, 157:23, 171:6, 184:11, 193:7, 193:8</p> <p><b>disclosures</b> [6] - 116:10, 118:10, 118:11, 131:22, 131:23, 138:16</p> <p><b>discover</b> [1] - 185:17</p> <p><b>discoverable</b> [1] - 44:12</p> <p><b>discovered</b> [13] - 18:12, 115:4, 115:10, 115:14, 158:3, 160:5, 162:3, 172:24, 185:9, 185:13, 186:18, 186:25, 189:20</p> <p><b>discovery</b> [23] - 46:6, 46:12, 80:23, 80:24, 81:12, 121:17, 121:21, 122:1, 122:5, 123:17, 140:12, 149:12, 149:22, 149:24, 150:1, 150:5, 150:8,</p>	<p>150:16, 150:23, 158:18, 159:6, 159:18</p> <p><b>discrepancy</b> [4] - 36:9, 37:2, 37:6, 37:10</p> <p><b>discrimination</b> [2] - 111:18</p> <p><b>discuss</b> [3] - 60:3, 84:11, 172:16</p> <p><b>discussed</b> [29] - 7:20, 11:15, 11:18, 11:21, 13:14, 13:22, 15:5, 17:19, 24:22, 25:10, 31:18, 51:5, 68:4, 70:10, 71:21, 72:14, 77:24, 84:14, 90:10, 98:5, 106:14, 118:3, 119:3, 124:21, 131:22, 134:13, 178:5, 178:7, 179:23</p> <p><b>discusses</b> [5] - 84:9, 84:11, 84:12, 112:12, 179:14</p> <p><b>discussing</b> [7] - 7:16, 51:7, 73:4, 131:16, 155:8, 156:10, 162:25</p> <p><b>discussion</b> [5] - 6:11, 120:10, 163:8, 166:5, 166:6</p> <p><b>Discussion</b> [3] - 64:13, 83:9, 113:16</p> <p><b>discussions</b> [1] - 10:19</p> <p><b>disinfecting</b> [1] - 194:8</p> <p><b>disk</b> [1] - 159:11</p> <p><b>disks</b> [1] - 159:14</p> <p><b>Dismiss</b> [1] - 90:13</p> <p><b>DISMISS</b> [1] - 3:15</p> <p><b>display</b> [2] - 63:18, 142:12</p> <p><b>disregard</b> [1] - 89:13</p> <p><b>distinction</b> [2] - 163:2, 183:16</p> <p><b>distinguish</b> [1] - 185:1</p> <p><b>distinguishes</b> [1] - 179:14</p> <p><b>District</b> [3] - 2:5, 66:3, 178:21</p> <p><b>division</b> [9] - 39:22, 40:7, 40:21, 111:23, 114:3, 136:18, 137:2, 157:2, 162:9</p> <p><b>DNA</b> [3] - 93:16, 99:10</p> <p><b>document</b> [27] - 8:4, 8:5, 32:22, 39:21, 40:20, 46:12, 49:6, 54:10, 61:19, 61:25,</p>
--	--	---	---	--

62:15, 64:6, 70:5, 72:25, 90:12, 95:25, 96:1, 99:25, 125:16, 126:12, 128:9, 143:6, 144:11, 144:24, 145:4, 170:15, 184:16 <b>documentation</b> [7] - 49:8, 94:25, 96:16, 96:21, 103:22, 175:13 <b>documented</b> [2] - 101:19, 161:10 <b>documenting</b> [1] - 94:15 <b>documents</b> [10] - 46:6, 46:13, 49:4, 149:16, 150:1, 150:4, 150:8, 150:18, 170:13, 170:15 <b>done</b> [24] - 15:14, 18:20, 36:22, 45:12, 48:1, 57:18, 58:8, 76:17, 95:1, 95:19, 96:21, 103:17, 104:3, 116:18, 117:16, 119:24, 121:13, 124:11, 134:12, 143:19, 161:15, 163:10, 182:18, 182:22 <b>door</b> [1] - 194:6 <b>double</b> [1] - 196:23 <b>down</b> [5] - 95:7, 103:6, 155:9, 189:3, 191:13 <b>downstairs</b> [1] - 6:8 <b>DPS</b> [71] - 7:14, 16:19, 18:17, 28:18, 31:6, 32:21, 32:24, 33:4, 33:7, 33:10, 33:17, 35:9, 35:12, 35:23, 39:15, 44:16, 46:9, 50:15, 53:13, 54:11, 63:4, 63:8, 63:21, 64:6, 78:17, 79:18, 79:22, 92:13, 92:15, 93:3, 93:9, 93:22, 95:11, 95:15, 95:19, 97:25, 98:3, 103:18, 104:17, 104:22, 110:15, 112:17, 119:9, 123:25, 124:19, 129:19, 135:15, 149:12, 149:21, 158:17, 158:24, 159:5, 159:10, 160:24, 166:15, 166:17, 166:22, 166:23,	166:24, 167:2, 167:14, 170:20, 170:22, 171:5, 172:2, 172:3, 175:11, 179:18 <b>DPS's</b> [3] - 42:18, 42:19, 149:15 <b>draft</b> [6] - 57:20, 58:17, 58:18, 74:19, 75:16, 75:20 <b>drafting</b> [1] - 145:25 <b>draw</b> [5] - 105:7, 105:13, 107:15, 150:7, 194:6 <b>drawn</b> [2] - 147:13, 150:21 <b>Dretke</b> [1] - 171:14 <b>drive</b> [1] - 150:14 <b>dropped</b> [2] - 33:2, 35:22 <b>drug</b> [3] - 18:11, 19:8, 47:25 <b>drugs</b> [1] - 93:19 <b>drunk</b> [1] - 190:13 <b>due</b> [6] - 171:13, 171:19, 177:10, 185:17, 185:18, 192:2 <b>duly</b> [3] - 11:4, 92:2, 139:20 <b>during</b> [15] - 12:3, 29:15, 40:23, 60:1, 60:6, 66:10, 75:15, 76:14, 133:19, 134:13, 135:3, 147:2, 174:21, 174:22, 194:23 <b>duties</b> [5] - 93:6, 94:8, 119:4, 140:8, 171:21 <b>duty</b> [4] - 17:9, 145:19, 171:24, 176:20 <b>DWI</b> [1] - 191:20	<b>eight</b> [4] - 134:3, 135:3, 171:1, 172:23 <b>either</b> [9] - 6:5, 77:19, 95:24, 99:3, 117:8, 146:10, 174:10, 187:8, 193:6 <b>electronic</b> [2] - 81:3, 103:20 <b>electronically</b> [3] - 44:23, 46:3, 104:1 <b>element</b> [2] - 60:10, 60:12 <b>elevated</b> [2] - 108:18, 108:21 <b>elicit</b> [1] - 85:19 <b>elicited</b> [2] - 6:8, 183:3 <b>Elmo</b> [7] - 45:7, 45:11, 77:3, 102:15, 106:13, 142:13, 144:9 <b>email</b> [1] - 23:8 <b>emails</b> [1] - 37:24 <b>employee</b> [2] - 17:2, 115:1 <b>employee's</b> [2] - 132:2, 157:23 <b>employees</b> [2] - 35:9, 163:14 <b>employment</b> [3] - 28:11, 28:13, 39:18 <b>Employment</b> [1] - 111:17 <b>encapsulated</b> [1] - 85:13 <b>end</b> [10] - 56:11, 56:15, 70:20, 152:4, 152:7, 176:17, 177:10, 188:24, 188:25, 195:17 <b>ended</b> [1] - 139:3 <b>ends</b> [1] - 89:6 <b>enforcement</b> [3] - 104:18, 158:14, 172:2 <b>engage</b> [2] - 6:18, 10:18 <b>enlightening</b> [1] - 178:23 <b>ensure</b> [4] - 92:22, 119:6, 119:8 <b>ensures</b> [1] - 75:16 <b>ensuring</b> [1] - 93:6 <b>entail</b> [1] - 93:15 <b>enter</b> [4] - 57:19, 58:10, 137:14, 194:14 <b>entered</b> [15] - 56:22, 56:24, 57:6, 57:15, 57:17, 58:19, 58:23, 76:4, 76:5, 76:8,	76:15, 76:16, 76:18, 84:17, 113:25 <b>entertain</b> [2] - 69:23, 169:3 <b>entitled</b> [9] - 1:20, 8:19, 41:20, 90:11, 90:12, 144:24, 151:18, 177:15, 184:16 <b>envelope</b> [1] - 147:25 <b>Equal</b> [1] - 111:17 <b>error</b> [10] - 14:1, 20:2, 20:5, 25:16, 25:21, 26:1, 26:2, 74:17, 186:18, 191:3 <b>errors</b> [5] - 15:17, 21:20, 35:8, 190:23, 191:1 <b>especially</b> [1] - 134:10 <b>essentially</b> [15] - 30:21, 51:3, 92:20, 98:11, 99:5, 100:11, 108:11, 110:6, 115:16, 115:21, 115:24, 119:11, 121:19, 133:9, 134:7 <b>establish</b> [3] - 170:1, 186:2, 188:19 <b>et</b> [2] - 165:8, 166:1 <b>ethical</b> [2] - 114:18, 127:11 <b>ethics</b> [1] - 67:23 <b>Eugene</b> [1] - 2:6 <b>evaluate</b> [1] - 96:5 <b>evaluated</b> [1] - 94:16 <b>evaluations</b> [2] - 12:17, 12:20 <b>EVANS</b> [76] - 109:20, 113:11, 118:16, 118:19, 118:23, 118:25, 119:2, 124:8, 124:21, 125:11, 125:14, 126:14, 126:19, 126:22, 126:24, 128:5, 128:7, 128:21, 129:1, 130:12, 130:13, 130:20, 130:24, 131:6, 131:14, 131:15, 131:19, 131:21, 132:13, 132:24, 136:3, 136:6, 136:8, 136:20, 137:14, 137:24, 138:1, 138:19, 138:25, 139:8, 151:2, 151:4, 152:10, 152:13, 153:14, 153:24,	154:13, 154:16, 157:1, 159:23, 162:22, 162:24, 164:2, 164:11, 168:12, 168:19, 169:2, 169:5, 169:13, 169:16, 169:21, 169:24, 175:24, 176:4, 176:11, 176:17, 181:10, 192:11, 192:25, 193:11, 193:13, 196:4, 196:10, 196:14, 196:19, 196:23 <b>Evans</b> [26] - 2:10, 3:21, 4:9, 27:20, 28:1, 28:3, 64:20, 80:6, 80:22, 89:9, 118:15, 131:12, 131:17, 137:23, 151:1, 162:21, 168:10, 169:1, 169:4, 169:12, 169:14, 175:21, 181:7, 191:19, 192:10, 192:22 <b>Evans's</b> [1] - 185:1 <b>event</b> [12] - 77:15, 117:15, 138:11, 156:21, 157:6, 157:10, 157:25, 158:4, 162:4, 162:14, 166:1, 166:7 <b>events</b> [6] - 113:21, 157:3, 164:18, 164:21, 165:8, 165:13 <b>evidence</b> [114] - 8:17, 9:19, 13:19, 13:20, 14:18, 18:22, 19:17, 21:10, 21:12, 21:14, 26:4, 29:16, 30:7, 30:18, 30:25, 32:21, 33:4, 34:13, 36:15, 36:19, 39:8, 40:12, 47:24, 48:3, 53:13, 54:3, 54:11, 54:23, 54:24, 56:21, 56:22, 57:7, 57:8, 64:22, 65:2, 68:11, 69:8, 70:5, 70:25, 73:3, 76:19, 77:19, 80:16, 84:13, 86:24, 88:7, 89:3, 89:8, 93:18, 110:16, 113:10, 113:15, 113:25, 121:1, 126:21, 137:21, 141:8, 141:18, 141:23,
	<b>E</b>			
	<b>e</b> [1] - 115:9 <b>earshot</b> [2] - 6:20, 10:17 <b>easier</b> [1] - 45:6 <b>edit</b> [1] - 95:2 <b>edits</b> [1] - 143:19 <b>EEO</b> [3] - 111:12, 111:16 <b>effect</b> [7] - 39:8, 41:15, 59:10, 182:18, 183:14, 184:9, 187:16 <b>efficiently</b> [1] - 95:15 <b>effort</b> [1] - 193:9			



<p>142:4, 142:22, 143:6, 154:12, 156:3, 170:1, 170:7, 171:23, 172:10, 172:11, 172:14, 174:18, 175:16, 176:2, 176:8, 177:3, 177:8, 178:8, 179:4, 179:8, 179:17, 179:24, 180:6, 181:21, 182:16, 182:25, 183:7, 184:21, 185:8, 185:13, 185:17, 185:23, 185:25, 186:9, 186:16, 186:25, 188:4, 188:7, 188:11, 188:13, 189:9, 189:15, 189:24, 190:9, 190:19, 190:20, 191:3, 191:4, 191:18, 192:15, 192:20, 193:14, 194:23, 198:8, 198:16</p> <p><b>Evidence</b> [1] - 17:24 <b>evidence-receiving</b> [1] - 53:13 <b>Ex</b> [1] - 187:20 <b>exact</b> [1] - 90:14 <b>exactly</b> [4] - 25:4, 99:19, 126:4, 129:9 <b>EXAMINATION</b> [9] - 11:5, 41:9, 67:15, 92:3, 119:1, 139:21, 151:3, 160:2, 162:23 <b>examination</b> [10] - 4:18, 4:19, 63:2, 64:17, 70:10, 131:13, 173:9, 177:9, 180:12 <b>examine</b> [5] - 173:23, 174:12, 182:4, 188:23, 194:25 <b>examined</b> [3] - 51:1, 189:6, 194:5 <b>example</b> [2] - 50:24, 83:8 <b>excluded</b> [1] - 170:14 <b>exculpatory</b> [3] - 110:8, 110:10, 110:16 <b>excuse</b> [5] - 43:22, 47:4, 65:8, 172:14, 176:11 <b>excused</b> [8] - 82:7, 138:23, 139:1, 164:13, 168:14, 168:17, 168:19,</p>	<p>197:6 <b>exhaustive</b> [1] - 187:19 <b>EXHIBIT</b> [1] - 3:10 <b>Exhibit</b> [93] - 7:22, 8:14, 8:16, 9:3, 9:5, 9:8, 9:18, 13:4, 15:22, 17:21, 17:23, 22:4, 22:16, 28:23, 29:2, 32:10, 38:20, 41:20, 42:2, 43:25, 44:8, 44:18, 45:15, 45:25, 47:4, 48:18, 49:11, 53:3, 54:8, 55:1, 58:16, 61:22, 63:17, 64:5, 65:8, 65:9, 66:19, 77:6, 83:14, 84:17, 84:25, 85:14, 86:5, 86:22, 86:23, 87:14, 87:24, 88:1, 89:14, 91:3, 101:13, 101:21, 102:5, 102:19, 105:7, 106:14, 107:11, 112:6, 113:2, 113:9, 113:12, 113:14, 125:15, 126:15, 126:17, 126:20, 127:3, 128:8, 130:3, 136:9, 136:22, 137:15, 137:18, 137:20, 138:5, 142:12, 142:13, 142:25, 144:8, 152:15, 152:22, 154:1, 154:10, 154:11, 154:17, 157:17, 160:22, 161:21, 161:22, 163:1, 189:5, 190:5 <b>exhibit</b> [7] - 8:24, 9:1, 38:10, 87:6, 90:6, 113:24, 118:21 <b>exhibits</b> [10] - 9:24, 28:20, 38:18, 45:7, 82:23, 83:4, 100:17, 106:12, 198:15 <b>Exhibits</b> [1] - 101:2 <b>EXHIBITS</b> [2] - 3:10, 3:13 <b>existed</b> [1] - 189:25 <b>exists</b> [1] - 165:7 <b>exonerates</b> [1] - 21:15 <b>expand</b> [1] - 147:20 <b>expectation</b> [1] - 119:12 <b>expectations</b> [1] - 6:23 <b>expected</b> [1] - 147:5</p>	<p><b>experience</b> [1] - 148:12 <b>expert</b> [8] - 67:20, 99:5, 145:13, 145:17, 145:18, 193:19, 194:18, 195:9 <b>Experts</b> [1] - 145:9 <b>experts</b> [1] - 95:6 <b>Expiration</b> [1] - 198:23 <b>expiration</b> [1] - 151:16 <b>explain</b> [12] - 49:2, 49:22, 50:8, 60:6, 60:7, 61:3, 98:7, 105:21, 141:12, 143:21, 148:14, 161:3 <b>explained</b> [2] - 102:24, 110:25 <b>explains</b> [3] - 83:19, 83:21, 90:13 <b>eyeballs</b> [1] - 86:19 <b>eyes</b> [1] - 97:1</p>	<p>138:12 <b>falsification</b> [1] - 114:17 <b>familiar</b> [22] - 13:6, 22:21, 39:16, 40:19, 40:21, 93:8, 93:11, 93:24, 112:17, 116:9, 124:23, 124:24, 125:2, 129:14, 130:5, 130:8, 130:9, 137:8, 138:6, 141:9, 146:14, 150:3 <b>far</b> [15] - 16:3, 28:7, 37:7, 82:14, 98:13, 99:17, 123:17, 124:13, 129:6, 130:10, 134:20, 137:10, 175:9, 192:12 <b>fare</b> [1] - 86:10 <b>favor</b> [3] - 71:24, 72:8, 155:24 <b>favorable</b> [14] - 20:13, 21:10, 21:13, 21:14, 21:19, 171:23, 172:11, 172:14, 185:8, 188:4, 188:20, 188:22, 189:23, 190:7 <b>Favorable</b> [1] - 17:24 <b>favorable'</b> [1] - 155:19 <b>favoring</b> [1] - 72:5 <b>February</b> [4] - 15:1, 73:4, 103:12, 133:2 <b>federal</b> [1] - 155:13 <b>felt</b> [1] - 23:2 <b>fermentation</b> [5] - 193:18, 193:21, 194:1, 194:17, 195:7 <b>FESMIRE</b> [104] - 4:13, 7:24, 8:11, 8:18, 8:25, 9:9, 9:23, 10:3, 14:4, 14:8, 16:9, 16:16, 17:4, 20:16, 21:1, 21:22, 24:17, 25:2, 26:9, 26:13, 26:23, 27:14, 28:14, 30:9, 33:11, 35:4, 35:15, 35:24, 36:10, 38:7, 39:5, 39:10, 41:7, 41:10, 41:23, 42:1, 43:19, 43:22, 43:25, 44:4, 44:7, 45:1, 45:6, 45:14, 45:21, 50:2, 50:8, 58:22, 58:24, 62:19, 63:14, 63:17, 63:21, 64:10, 64:18, 64:19, 65:7, 65:12, 65:20,</p>	<p>65:23, 66:15, 66:18, 67:9, 68:19, 68:25, 69:7, 69:11, 69:15, 69:21, 69:24, 70:3, 71:1, 71:17, 72:1, 74:6, 74:22, 78:18, 79:19, 81:16, 82:3, 139:10, 139:16, 139:18, 139:22, 142:11, 142:15, 150:25, 154:2, 156:22, 159:24, 160:3, 160:16, 160:17, 162:20, 164:12, 167:10, 167:13, 167:24, 168:4, 168:7, 168:14, 168:16, 168:20, 197:5 <b>Fesmire</b> [8] - 2:3, 4:13, 41:8, 45:5, 64:16, 82:2, 113:6, 156:11 <b>few</b> [5] - 63:2, 63:7, 67:13, 146:13, 159:24 <b>field</b> [1] - 174:24 <b>fighting</b> [1] - 170:7 <b>file</b> [6] - 28:10, 37:4, 77:17, 77:18, 81:3, 90:11 <b>file-stamped</b> [1] - 90:11 <b>filed</b> [3] - 149:15, 192:15, 192:18 <b>fill</b> [2] - 31:5, 31:6 <b>filled</b> [4] - 29:13, 29:18, 194:11, 194:12 <b>fills</b> [6] - 29:11, 30:6, 30:8, 30:12, 31:7, 96:14 <b>final</b> [10] - 58:12, 75:7, 97:6, 97:23, 97:24, 108:22, 145:4, 145:5, 156:2, 172:22 <b>finalize</b> [4] - 98:3, 103:18, 170:25, 171:1 <b>finalized</b> [25] - 7:13, 17:13, 43:8, 46:17, 46:18, 46:24, 47:2, 48:5, 48:19, 57:22, 58:13, 74:21, 75:8, 81:9, 97:15, 102:6, 102:19, 102:21, 103:9, 103:14, 103:16, 105:3, 118:6, 134:4, 155:2 <b>finalizes</b> [1] - 97:14</p>
<b>F</b>				
<p><b>face</b> [2] - 165:19, 171:13 <b>facing</b> [7] - 43:5, 97:20, 104:2, 104:7, 104:23, 123:16, 124:19 <b>fact</b> [15] - 22:15, 86:9, 88:20, 89:3, 170:17, 173:16, 173:25, 186:16, 188:20, 188:25, 190:17, 191:3, 191:13, 191:21, 195:6 <b>facts</b> [3] - 175:9, 183:24, 184:18 <b>failed</b> [2] - 172:10, 186:17 <b>failing</b> [1] - 18:2 <b>failure</b> [5] - 18:18, 20:10, 185:16, 186:2, 188:10 <b>fair</b> [9] - 15:23, 93:21, 97:11, 97:24, 108:20, 116:13, 116:17, 117:22, 156:15 <b>fairly</b> [1] - 49:6 <b>fall</b> [2] - 163:18, 165:18 <b>fallen</b> [1] - 116:14 <b>falling</b> [1] - 175:18 <b>falls</b> [2] - 134:16,</p>				

<p><b>finally</b> <sup>[1]</sup> - 107:10  <b>finder</b> <sup>[2]</sup> - 88:20, 89:12  <b>findings</b> <sup>[12]</sup> - 57:6, 57:15, 57:17, 58:19, 58:22, 76:3, 76:5, 76:7, 76:15, 76:16, 76:18, 190:17  <b>fine</b> <sup>[2]</sup> - 174:23, 190:15  <b>finish</b> <sup>[3]</sup> - 69:22, 106:12, 133:15  <b>finished</b> <sup>[3]</sup> - 62:21, 118:7, 134:6  <b>finishing</b> <sup>[1]</sup> - 133:16  <b>firearms</b> <sup>[1]</sup> - 93:17  <b>first</b> <sup>[43]</sup> - 14:19, 14:22, 16:1, 18:12, 22:15, 22:20, 26:3, 33:3, 38:21, 41:11, 56:3, 56:5, 56:20, 57:12, 58:18, 74:16, 75:22, 83:20, 84:25, 85:1, 85:8, 91:14, 93:5, 94:24, 101:13, 103:11, 103:14, 111:4, 126:7, 133:1, 140:3, 160:4, 172:12, 172:23, 178:4, 179:8, 180:17, 182:10, 183:19, 184:17, 185:12, 192:11  <b>First</b> <sup>[1]</sup> - 178:21  <b>firsthand</b> <sup>[1]</sup> - 94:24  <b>five</b> <sup>[1]</sup> - 169:8  <b>fix</b> <sup>[3]</sup> - 35:8, 74:4, 74:8  <b>flip</b> <sup>[3]</sup> - 32:9, 34:21, 36:3  <b>flow</b> <sup>[1]</sup> - 72:21  <b>flows</b> <sup>[1]</sup> - 194:21  <b>focus</b> <sup>[1]</sup> - 193:18  <b>folder</b> <sup>[1]</sup> - 150:14  <b>follow</b> <sup>[4]</sup> - 67:13, 71:13, 71:16, 106:8  <b>follow-ups</b> <sup>[1]</sup> - 67:13  <b>followed</b> <sup>[2]</sup> - 119:7, 119:13  <b>following</b> <sup>[10]</sup> - 1:19, 78:14, 92:23, 119:5, 119:9, 143:15, 148:6, 157:22, 157:23, 170:1  <b>follows</b> <sup>[4]</sup> - 11:4, 92:2, 139:20, 194:22  <b>footnote</b> <sup>[1]</sup> - 180:25  <b>footnotes</b> <sup>[1]</sup> - 181:1  <b>FOR</b> <sup>[3]</sup> - 1:14, 2:2, 2:9</p>	<p><b>forced</b> <sup>[1]</sup> - 89:10  <b>foregoing</b> <sup>[1]</sup> - 198:6  <b>foremost</b> <sup>[1]</sup> - 178:4  <b>FORENSIC</b> <sup>[2]</sup> - 3:12, 3:15  <b>forensic</b> <sup>[3]</sup> - 127:4, 140:21, 151:6  <b>Forensic</b> <sup>[27]</sup> - 40:10, 67:17, 104:24, 114:20, 124:16, 124:22, 125:4, 125:16, 125:20, 125:23, 127:12, 128:10, 129:3, 129:6, 129:20, 130:6, 138:2, 151:9, 151:11, 152:16, 153:15, 156:6, 163:19, 163:23, 164:2, 164:8, 166:23  <b>forensics</b> <sup>[1]</sup> - 71:8  <b>forgetting</b> <sup>[1]</sup> - 182:24  <b>forgot</b> <sup>[1]</sup> - 101:25  <b>form</b> <sup>[88]</sup> - 14:15, 26:15, 28:25, 29:3, 29:9, 29:11, 29:13, 29:18, 29:20, 29:23, 30:20, 30:21, 31:2, 31:3, 31:5, 31:6, 31:8, 32:3, 32:13, 33:7, 33:10, 33:17, 35:13, 35:14, 35:17, 36:9, 36:16, 36:24, 39:13, 41:13, 41:14, 53:7, 53:12, 53:16, 55:3, 55:8, 57:9, 63:4, 63:8, 63:22, 76:20, 77:7, 77:9, 77:21, 77:25, 78:10, 81:4, 81:6, 102:11, 106:4, 106:9, 107:8, 108:15, 110:5, 110:6, 111:14, 112:12, 113:21, 114:6, 114:14, 114:23, 114:25, 115:7, 116:11, 116:24, 117:5, 117:9, 117:15, 118:11, 120:25, 123:3, 124:1, 131:25, 132:1, 134:19, 141:16, 142:7, 142:10, 143:3, 143:24, 144:1, 147:23, 148:1, 150:19, 150:21, 157:24, 193:25  <b>Form</b> <sup>[3]</sup> - 183:4,</p>	<p>183:9, 183:12  <b>formal</b> <sup>[2]</sup> - 163:10, 165:11  <b>format</b> <sup>[3]</sup> - 75:2, 180:23, 181:8  <b>forms</b> <sup>[23]</sup> - 13:18, 16:15, 25:24, 38:6, 58:25, 59:4, 74:14, 76:24, 77:1, 106:7, 110:4, 111:1, 111:5, 112:15, 116:22, 144:21, 147:1, 147:11, 147:16, 156:17, 156:20, 157:7, 161:7  <b>FORT</b> <sup>[2]</sup> - 1:9, 198:2  <b>Fort</b> <sup>[4]</sup> - 1:22, 66:2, 68:8, 198:5  <b>forward</b> <sup>[5]</sup> - 5:11, 17:11, 17:12, 17:16, 87:13  <b>forwarded</b> <sup>[1]</sup> - 82:17  <b>fought</b> <sup>[1]</sup> - 170:11  <b>foundation</b> <sup>[1]</sup> - 154:3  <b>founded</b> <sup>[2]</sup> - 114:15, 114:19  <b>four</b> <sup>[5]</sup> - 65:10, 65:20, 135:20, 140:16, 185:11  <b>fourth</b> <sup>[1]</sup> - 185:20  <b>frame</b> <sup>[2]</sup> - 103:1, 157:25  <b>Franklin</b> <sup>[1]</sup> - 2:12  <b>frequently</b> <sup>[1]</sup> - 109:16  <b>Fridays</b> <sup>[4]</sup> - 12:4, 13:13, 37:21, 84:15  <b>front</b> <sup>[11]</sup> - 32:9, 38:11, 44:19, 114:10, 121:10, 157:13, 159:12, 173:24, 183:3, 195:2, 195:19  <b>full</b> <sup>[3]</sup> - 12:16, 86:1, 178:20  <b>fully</b> <sup>[1]</sup> - 194:11  <b>future</b> <sup>[1]</sup> - 49:8</p>	<p><b>gather</b> <sup>[1]</sup> - 146:8  <b>gathering</b> <sup>[1]</sup> - 150:8  <b>Gavin</b> <sup>[2]</sup> - 2:4, 4:13  <b>General</b> <sup>[1]</sup> - 110:19  <b>general</b> <sup>[7]</sup> - 49:6, 72:18, 93:14, 101:6, 111:8, 112:10, 114:12  <b>generally</b> <sup>[5]</sup> - 94:10, 96:10, 98:7, 102:23, 117:8  <b>generate</b> <sup>[1]</sup> - 103:10  <b>generated</b> <sup>[4]</sup> - 56:15, 56:25, 102:25, 143:25  <b>generation</b> <sup>[1]</sup> - 96:9  <b>generically</b> <sup>[1]</sup> - 123:1  <b>Giglio</b> <sup>[1]</sup> - 172:5  <b>given</b> <sup>[16]</sup> - 38:21, 38:24, 56:23, 80:22, 83:17, 85:12, 85:25, 87:16, 107:7, 109:17, 158:20, 159:18, 174:11, 181:9, 186:19, 190:16  <b>glance</b> <sup>[2]</sup> - 15:18, 101:3  <b>gloves</b> <sup>[1]</sup> - 194:7  <b>Gooden</b> <sup>[2]</sup> - 175:10, 190:20  <b>Gooden's</b> <sup>[3]</sup> - 191:1, 191:3, 191:9  <b>gotcha</b> <sup>[2]</sup> - 15:20, 133:19  <b>government</b> <sup>[2]</sup> - 114:18, 171:24  <b>government's</b> <sup>[1]</sup> - 155:25  <b>grab</b> <sup>[2]</sup> - 38:17, 139:12  <b>grand</b> <sup>[1]</sup> - 108:2  <b>grant</b> <sup>[3]</sup> - 192:1, 192:7, 195:24  <b>granted</b> <sup>[2]</sup> - 169:25, 185:7  <b>greatly</b> <sup>[1]</sup> - 121:5  <b>guess</b> <sup>[19]</sup> - 4:25, 55:4, 60:10, 93:5, 94:10, 95:8, 96:10, 97:7, 101:9, 101:14, 104:8, 104:18, 108:24, 111:22, 115:13, 117:1, 143:19, 151:23, 169:9  <b>guides</b> <sup>[1]</sup> - 100:6  <b>guilty</b> <sup>[2]</sup> - 90:13, 90:19  <b>guys</b> <sup>[1]</sup> - 112:12</p>	<p><b>H</b></p> <p><b>habeas</b> <sup>[2]</sup> - 184:14, 190:17  <b>half</b> <sup>[1]</sup> - 140:16  <b>Hampton</b> <sup>[1]</sup> - 179:3  <b>HAND</b> <sup>[1]</sup> - 198:20  <b>hand</b> <sup>[4]</sup> - 184:22, 188:2, 189:14, 189:22  <b>handbook</b> <sup>[1]</sup> - 39:17  <b>handed</b> <sup>[1]</sup> - 141:13  <b>handling</b> <sup>[6]</sup> - 101:1, 125:14, 128:7, 136:8, 136:20, 157:16  <b>handle</b> <sup>[2]</sup> - 36:19, 141:4  <b>handled</b> <sup>[1]</sup> - 36:23  <b>handles</b> <sup>[1]</sup> - 141:7  <b>handling</b> <sup>[2]</sup> - 167:18, 194:23  <b>hands</b> <sup>[3]</sup> - 5:23, 173:3, 194:7  <b>handwritten</b> <sup>[8]</sup> - 31:19, 33:6, 35:12, 36:6, 36:7, 36:8, 36:15, 38:5  <b>hang</b> <sup>[6]</sup> - 45:3, 50:4, 63:12, 87:9, 87:19, 88:16  <b>happy</b> <sup>[1]</sup> - 10:2  <b>hard</b> <sup>[2]</sup> - 98:12, 120:4  <b>harder</b> <sup>[1]</sup> - 173:8  <b>harm</b> <sup>[2]</sup> - 176:14, 176:16  <b>harmful</b> <sup>[1]</sup> - 176:7  <b>head</b> <sup>[3]</sup> - 41:1, 99:20, 165:3  <b>headnote</b> <sup>[1]</sup> - 180:25  <b>headquarters</b> <sup>[1]</sup> - 27:24  <b>hear</b> <sup>[8]</sup> - 7:7, 65:13, 136:15, 153:8, 153:9, 175:23, 187:6, 195:3  <b>heard</b> <sup>[7]</sup> - 1:20, 10:11, 69:7, 168:2, 173:5, 175:23, 193:17  <b>hearing</b> <sup>[13]</sup> - 6:3, 7:18, 9:2, 9:6, 53:3, 55:2, 65:10, 72:15, 77:7, 83:12, 88:25, 170:11, 173:10  <b>hearsay</b> <sup>[1]</sup> - 70:4  <b>heat</b> <sup>[1]</sup> - 194:16  <b>heavy</b> <sup>[2]</sup> - 183:15, 187:12</p>
		<p><b>G</b></p> <p><b>gap</b> <sup>[1]</sup> - 78:22  <b>GAR-2401-01459</b> <sup>[2]</sup> - 148:6, 148:9  <b>Garland</b> <sup>[17]</sup> - 12:9, 49:16, 49:19, 50:10, 50:12, 50:18, 50:19, 52:17, 52:19, 73:20, 111:2, 111:3, 146:21, 147:4, 147:6, 147:7, 156:13</p>		

<p><b>Heimann</b> <sup>[1]</sup> - 2:6</p> <p><b>held</b> <sup>[4]</sup> - 1:22, 155:17, 175:14, 176:6</p> <p><b>help</b> <sup>[9]</sup> - 50:12, 72:9, 95:20, 99:9, 99:23, 105:20, 111:22, 134:23, 178:14</p> <p><b>helped</b> <sup>[2]</sup> - 149:23, 188:17</p> <p><b>helpful</b> <sup>[2]</sup> - 11:11, 45:8</p> <p><b>helping</b> <sup>[1]</sup> - 95:15</p> <p><b>hereby</b> <sup>[1]</sup> - 198:6</p> <p><b>hi</b> <sup>[3]</sup> - 5:21, 139:14, 139:15</p> <p><b>hid</b> <sup>[4]</sup> - 176:21, 176:23, 195:21, 195:22</p> <p><b>hidden</b> <sup>[3]</sup> - 60:10, 60:12, 60:17</p> <p><b>hide</b> <sup>[4]</sup> - 24:5, 60:18, 171:18, 193:2</p> <p><b>hiding</b> <sup>[5]</sup> - 24:15, 68:11, 68:23, 69:19, 177:3</p> <p><b>high</b> <sup>[3]</sup> - 19:5, 85:12, 98:10</p> <p><b>higher</b> <sup>[3]</sup> - 110:17, 117:19, 166:14</p> <p><b>himself</b> <sup>[2]</sup> - 175:19, 186:7</p> <p><b>hold</b> <sup>[4]</sup> - 82:9, 99:17, 130:14, 180:13</p> <p><b>Hold</b> <sup>[1]</sup> - 10:9</p> <p><b>honor</b> <sup>[1]</sup> - 119:11</p> <p><b>Honor</b> <sup>[117]</sup> - 4:15, 7:25, 8:12, 8:18, 9:1, 9:21, 10:4, 14:4, 14:8, 27:14, 39:10, 41:7, 41:23, 43:19, 44:4, 45:2, 45:15, 50:2, 63:18, 64:10, 64:18, 66:15, 67:9, 68:19, 68:25, 69:8, 69:11, 69:15, 69:21, 70:3, 81:23, 82:4, 82:6, 82:10, 84:21, 85:3, 85:10, 85:23, 86:3, 86:20, 86:25, 87:3, 87:5, 87:11, 87:25, 88:15, 90:25, 91:9, 91:20, 112:2, 118:16, 118:20, 118:23, 125:11, 128:21, 131:14, 136:3, 136:6, 137:24, 139:10, 139:18, 142:11, 150:25, 152:10, 153:24, 154:13,</p>	<p>159:25, 162:20, 162:22, 164:13, 167:10, 167:24, 168:4, 168:8, 168:12, 169:5, 169:13, 169:16, 171:16, 175:6, 177:18, 178:5, 178:11, 178:14, 178:17, 178:20, 179:12, 180:14, 180:17, 180:20, 181:3, 181:10, 181:16, 181:19, 182:7, 182:10, 183:21, 183:24, 184:14, 185:12, 186:14, 187:15, 187:18, 187:24, 188:1, 188:15, 189:3, 189:10, 190:10, 191:11, 191:16, 191:23, 191:25, 192:11, 196:10, 197:4, 197:5</p> <p><b>Honorable</b> <sup>[1]</sup> - 1:21</p> <p><b>hope</b> <sup>[1]</sup> - 177:5</p> <p><b>hopefully</b> <sup>[1]</sup> - 82:10</p> <p><b>HOU-2404-05411</b> <sup>[1]</sup> - 149:2</p> <p><b>HOU-2404-05416</b> <sup>[2]</sup> - 149:2, 149:3</p> <p><b>hour</b> <sup>[3]</sup> - 82:13, 130:19, 130:22</p> <p><b>housekeeping</b> <sup>[1]</sup> - 7:10</p> <p><b>houses</b> <sup>[1]</sup> - 150:14</p> <p><b>Houston</b> <sup>[24]</sup> - 2:13, 50:11, 50:14, 52:16, 61:6, 92:11, 92:14, 92:15, 93:9, 97:25, 112:17, 121:22, 129:19, 140:5, 146:21, 147:1, 149:21, 156:16, 158:13, 158:17, 159:11, 167:15, 175:11, 178:21</p> <p><b>human</b> <sup>[1]</sup> - 115:22</p> <p><b>hung</b> <sup>[1]</sup> - 84:12</p>	<p>52:24, 59:19, 98:19, 108:21</p> <p><b>impacted</b> <sup>[1]</sup> - 98:17</p> <p><b>impacting</b> <sup>[1]</sup> - 98:17</p> <p><b>impacts</b> <sup>[1]</sup> - 100:5</p> <p><b>impeaching</b> <sup>[1]</sup> - 185:24</p> <p><b>impeachment</b> <sup>[13]</sup> - 156:3, 177:3, 178:9, 178:10, 178:13, 180:3, 181:22, 186:9, 186:16, 187:2, 190:20, 191:8, 191:12</p> <p><b>impeccable</b> <sup>[1]</sup> - 195:10</p> <p><b>importance</b> <sup>[2]</sup> - 84:13, 183:5</p> <p><b>important</b> <sup>[8]</sup> - 51:16, 71:11, 71:13, 73:8, 121:2, 121:3, 158:24, 194:3</p> <p><b>impossible</b> <sup>[1]</sup> - 170:24</p> <p><b>improper</b> <sup>[5]</sup> - 178:7, 179:23, 184:9, 188:12, 191:17</p> <p><b>improperly</b> <sup>[4]</sup> - 187:11, 187:12, 189:13, 189:15</p> <p><b>improvement</b> <sup>[1]</sup> - 114:22</p> <p><b>Improvements</b> <sup>[1]</sup> - 137:1</p> <p><b>IMPROVEMENTS</b> <sup>[1]</sup> - 3:21</p> <p><b>IN</b> <sup>[1]</sup> - 1:5</p> <p><b>in-person</b> <sup>[2]</sup> - 36:5, 143:15</p> <p><b>inaccurate</b> <sup>[1]</sup> - 188:12</p> <p><b>inadmissible</b> <sup>[3]</sup> - 178:7, 178:11, 180:2</p> <p><b>inadvertently</b> <sup>[2]</sup> - 101:25, 196:21</p> <p><b>inception</b> <sup>[1]</sup> - 141:13</p> <p><b>incident</b> <sup>[103]</sup> - 11:18, 13:15, 13:17, 14:10, 14:11, 14:12, 15:4, 16:6, 16:14, 17:18, 22:20, 31:9, 31:10, 41:20, 42:3, 42:10, 42:15, 46:21, 47:16, 48:10, 48:24, 52:12, 52:19, 52:23, 53:6, 59:18, 73:5, 73:20, 74:13, 75:22, 76:3, 94:11, 94:12, 94:14, 94:20, 94:21, 94:23, 95:22, 96:9, 96:13,</p>	<p>96:15, 101:15, 101:18, 101:24, 103:11, 103:12, 103:13, 105:22, 105:25, 106:20, 107:2, 107:17, 109:11, 111:2, 111:11, 114:14, 116:23, 116:25, 117:6, 117:7, 118:2, 119:24, 120:1, 121:12, 121:14, 122:11, 122:12, 122:14, 122:24, 123:10, 123:11, 123:22, 124:6, 133:2, 133:6, 133:10, 133:12, 133:14, 133:17, 133:20, 133:21, 133:25, 144:16, 144:19, 144:20, 145:16, 145:22, 145:24, 146:3, 160:5, 161:1, 161:4, 161:9, 161:17, 162:16, 163:2, 163:5, 163:10, 163:18, 171:4, 172:24</p> <p><b>Incident</b> <sup>[32]</sup> - 7:13, 7:21, 8:20, 13:5, 15:7, 15:10, 39:1, 42:25, 43:2, 47:8, 48:4, 48:8, 48:19, 79:10, 80:9, 80:11, 80:19, 95:14, 97:15, 97:22, 98:6, 98:8, 102:25, 105:4, 118:6, 144:15, 144:17, 145:13, 145:20, 181:21, 182:5, 183:13</p> <p><b>INCIDENT</b> <sup>[1]</sup> - 3:14</p> <p><b>incidents</b> <sup>[75]</sup> - 7:15, 7:19, 11:21, 14:24, 14:25, 22:3, 22:7, 22:8, 22:20, 24:16, 24:21, 25:11, 28:1, 41:19, 43:8, 43:17, 44:13, 48:22, 60:11, 60:12, 68:24, 69:20, 70:20, 84:23, 92:24, 94:8, 95:9, 95:18, 95:20, 97:9, 101:7, 104:12, 104:25, 109:9, 109:14, 111:24, 114:21, 116:23, 117:16, 120:3, 120:22, 122:4, 122:8,</p>	<p>122:16, 122:17, 122:18, 122:22, 123:2, 123:7, 123:15, 123:19, 123:24, 132:25, 133:1, 134:8, 144:21, 146:5, 147:1, 158:1, 158:8, 161:15, 161:19, 161:24, 162:8, 164:18, 173:19, 177:24, 178:5, 178:6, 180:6, 182:20, 182:21, 182:24, 186:24, 187:14</p> <p><b>include</b> <sup>[6]</sup> - 12:23, 68:1, 124:19, 135:20, 141:17, 150:19</p> <p><b>included</b> <sup>[13]</sup> - 29:23, 31:2, 31:3, 31:4, 46:12, 84:7, 111:3, 113:21, 122:4, 123:25, 147:12, 147:16, 198:9</p> <p><b>includes</b> <sup>[2]</sup> - 76:20, 76:21</p> <p><b>inconsistent</b> <sup>[1]</sup> - 176:24</p> <p><b>inconsistently</b> <sup>[1]</sup> - 195:12</p> <p><b>incorrect</b> <sup>[1]</sup> - 115:3</p> <p><b>incorrectly</b> <sup>[1]</sup> - 162:13</p> <p><b>increase</b> <sup>[2]</sup> - 98:18, 120:15</p> <p><b>INDEX</b> <sup>[3]</sup> - 3:1, 3:7, 3:10</p> <p><b>indicate</b> <sup>[3]</sup> - 62:4, 62:6, 62:12</p> <p><b>indicated</b> <sup>[3]</sup> - 83:11, 86:7, 167:22</p> <p><b>indicates</b> <sup>[2]</sup> - 40:15, 62:5</p> <p><b>indicating</b> <sup>[3]</sup> - 33:25, 34:6, 34:9</p> <p><b>indiscernible</b> <sup>[1]</sup> - 179:25</p> <p><b>individual</b> <sup>[6]</sup> - 29:24, 30:1, 31:19, 95:24, 96:4, 103:25</p> <p><b>individual's</b> <sup>[1]</sup> - 114:6</p> <p><b>individuals</b> <sup>[3]</sup> - 52:11, 59:13, 145:22</p> <p><b>info</b> <sup>[1]</sup> - 77:20</p> <p><b>inform</b> <sup>[1]</sup> - 23:3</p> <p><b>information</b> <sup>[51]</sup> - 7:15, 11:22, 13:14,</p>
<p style="text-align: center;"><b>I</b></p>				
		<p><b>idea</b> <sup>[2]</sup> - 171:11, 172:6</p> <p><b>identified</b> <sup>[1]</sup> - 165:19</p> <p><b>identify</b> <sup>[1]</sup> - 40:4</p> <p><b>immediately</b> <sup>[3]</sup> - 6:24, 50:25, 51:4</p> <p><b>impact</b> <sup>[5]</sup> - 48:10,</p>		

<p>16:20, 17:3, 17:9, 24:5, 29:11, 29:20, 31:3, 32:24, 33:7, 35:12, 36:8, 36:16, 43:14, 49:3, 51:8, 56:24, 57:8, 57:9, 57:18, 57:25, 59:23, 60:20, 74:9, 75:17, 76:19, 94:23, 96:20, 117:18, 122:12, 138:16, 141:17, 141:19, 141:20, 146:8, 146:24, 148:11, 149:5, 149:18, 150:10, 150:13, 171:12, 173:14, 184:11, 186:18, 188:17, 191:9</p> <p><b>Information</b> [4] - 53:21, 54:1, 55:12, 55:24</p> <p><b>initial</b> [1] - 37:18</p> <p><b>initials</b> [5] - 34:2, 34:11, 34:13, 66:24</p> <p><b>initiate</b> [2] - 94:20, 133:12</p> <p><b>initiated</b> [1] - 96:15</p> <p><b>initiation</b> [1] - 96:13</p> <p><b>Innermost</b> [2] - 62:1, 62:10</p> <p><b>innocence</b> [4] - 21:17, 170:2, 179:11, 182:12</p> <p><b>input</b> [1] - 141:20</p> <p><b>inputted</b> [1] - 141:19</p> <p><b>inquired</b> [1] - 180:11</p> <p><b>inquiries</b> [2] - 167:8, 168:11</p> <p><b>INSERT</b> [1] - 198:20</p> <p><b>inside</b> [3] - 13:19, 14:16, 142:1</p> <p><b>insourced</b> [1] - 50:12</p> <p><b>instance</b> [16] - 55:17, 55:18, 101:19, 107:3, 107:24, 108:14, 109:18, 116:24, 117:14, 161:7, 179:14, 179:19, 179:25, 188:2, 190:24, 191:11</p> <p><b>instances</b> [14] - 109:10, 109:14, 114:13, 119:23, 119:25, 131:25, 132:5, 172:25, 178:12, 179:19, 179:22, 180:8, 181:24, 189:5</p>	<p><b>instantaneous</b> [1] - 133:8</p> <p><b>instead</b> [3] - 23:25, 60:17, 171:10</p> <p><b>instruct</b> [3] - 69:5, 107:1, 107:22</p> <p><b>instruction</b> [1] - 10:14</p> <p><b>instructions</b> [1] - 10:23</p> <p><b>instrument</b> [4] - 98:20, 184:3, 187:4</p> <p><b>intake</b> [3] - 141:5, 141:10, 147:10</p> <p><b>intend</b> [2] - 6:21, 8:25</p> <p><b>intended</b> [1] - 10:17</p> <p><b>intending</b> [1] - 182:4</p> <p><b>intent</b> [2] - 180:5, 186:8</p> <p><b>intention</b> [2] - 23:1, 196:17</p> <p><b>intentionally</b> [1] - 170:2</p> <p><b>interest</b> [6] - 177:12, 177:14, 178:1, 192:1, 192:3, 192:6</p> <p><b>interesting</b> [1] - 88:9</p> <p><b>internal</b> [4] - 39:14, 155:18, 171:5, 171:7</p> <p><b>interrupt</b> [1] - 111:15</p> <p><b>intoxicated</b> [2] - 175:3, 175:8</p> <p><b>intoxication</b> [3] - 175:9, 175:16, 176:8</p> <p><b>introduce</b> [8] - 7:21, 8:23, 9:1, 41:3, 83:13, 92:7, 139:23</p> <p><b>introduced</b> [3] - 13:5, 80:5, 80:12</p> <p><b>introduction</b> [1] - 8:2</p> <p><b>investigate</b> [1] - 166:8</p> <p><b>investigated</b> [2] - 165:12, 165:15</p> <p><b>investigating</b> [3] - 134:1, 161:12, 189:17</p> <p><b>investigation</b> [40] - 133:4, 133:19, 134:4, 135:4, 154:21, 155:18, 156:8, 160:23, 160:25, 161:11, 161:14, 161:16, 161:19, 163:3, 163:6, 163:7, 163:10, 163:18, 163:22, 163:24, 164:3, 164:4, 164:19, 164:23, 164:25, 165:20, 166:2, 166:3,</p>	<p>166:18, 166:25, 176:5, 179:18, 179:20, 179:23, 188:3, 189:1, 189:8, 189:21, 190:4, 191:20</p> <p><b>investigations</b> [3] - 167:18, 174:8, 195:11</p> <p><b>investigative</b> [1] - 154:24</p> <p><b>investigator</b> [4] - 64:20, 64:25, 66:2, 188:2</p> <p><b>invoke</b> [2] - 5:5</p> <p><b>invoked</b> [3] - 10:13, 167:20</p> <p><b>involved</b> [28] - 11:19, 11:22, 16:25, 17:1, 20:9, 25:13, 25:18, 25:23, 42:11, 51:8, 52:5, 52:9, 74:13, 95:2, 110:23, 122:9, 122:10, 123:20, 123:22, 124:6, 145:22, 146:9, 161:11, 162:16, 163:16, 166:12, 172:1, 183:5</p> <p><b>involves</b> [3] - 18:2, 48:22, 111:11</p> <p><b>involving</b> [10] - 44:14, 79:11, 110:9, 110:18, 111:12, 122:16, 122:17, 122:18, 122:24, 162:8</p> <p><b>irregularities</b> [1] - 57:10</p> <p><b>Israel</b> [3] - 23:19, 23:21, 85:17</p> <p><b>issue</b> [9] - 17:3, 17:8, 59:7, 88:20, 90:15, 170:10, 172:24, 173:11, 194:19</p> <p><b>issued</b> [16] - 7:20, 13:6, 15:10, 15:24, 43:1, 43:2, 43:16, 46:16, 51:21, 51:24, 58:1, 79:11, 79:12, 108:18, 160:6, 177:6</p> <p><b>issues</b> [13] - 5:1, 38:3, 41:12, 77:25, 83:21, 89:5, 89:12, 160:5, 173:15, 173:23, 174:8, 175:19, 194:22</p> <p><b>issuing</b> [1] - 46:6</p> <p><b>item</b> [1] - 32:16</p> <p><b>items</b> [1] - 132:2</p>	<p><b>itself</b> [6] - 6:11, 102:12, 113:19, 142:9, 193:2, 194:10</p> <p><b>J</b></p> <p><b>Jackson</b> [1] - 198:25</p> <p><b>James</b> [2] - 24:8, 60:6</p> <p><b>JAWED</b> [1] - 1:9</p> <p><b>Jawed</b> [2] - 4:4, 183:9</p> <p><b>job</b> [13] - 28:17, 37:7, 46:9, 71:7, 71:8, 92:19, 93:6, 93:23, 93:25, 94:2, 94:8, 119:3, 137:6</p> <p><b>Johnson</b> [4] - 9:11, 198:4, 198:22, 198:23</p> <p><b>Jonathan</b> [2] - 2:11, 4:8</p> <p><b>Joseph</b> [1] - 187:21</p> <p><b>Jr</b> [2] - 23:19, 23:21</p> <p><b>JTrax</b> [3] - 53:23, 53:24, 55:11</p> <p><b>judge</b> [5] - 46:7, 138:10, 138:15, 149:12, 159:18</p> <p><b>Judge</b> [70] - 1:21, 4:21, 4:24, 9:15, 10:7, 11:2, 15:21, 28:20, 33:14, 38:15, 38:18, 39:6, 40:11, 41:3, 45:10, 67:13, 69:24, 78:4, 82:19, 82:22, 85:20, 87:23, 90:9, 91:9, 91:14, 100:18, 100:23, 102:14, 110:1, 110:5, 113:11, 118:14, 118:17, 126:16, 126:19, 126:22, 130:12, 130:24, 131:5, 131:19, 137:17, 138:19, 139:7, 151:2, 159:23, 163:17, 167:13, 169:2, 169:16, 171:14, 171:22, 172:6, 174:1, 174:7, 176:12, 176:18, 177:10, 177:16, 177:21, 182:15, 182:23, 183:7, 183:15, 186:24, 195:12, 195:17, 195:23, 195:25, 196:5, 196:9</p> <p><b>judgment</b> [1] - 16:23</p> <p><b>jury</b> [18] - 39:8, 84:12,</p>	<p>88:4, 88:10, 89:2, 89:3, 89:11, 90:14, 90:18, 121:10, 170:12, 173:4, 173:24, 183:3, 188:8, 190:1, 195:2, 195:19</p> <p><b>justice</b> [7] - 71:9, 177:12, 177:14, 178:2, 192:1, 192:3, 192:6</p> <p><b>JusticeTrax</b> [2] - 53:24, 53:25</p> <p><b>K</b></p> <p><b>keep</b> [7] - 61:16, 61:19, 72:20, 89:15, 89:24, 128:18, 146:5</p> <p><b>keeps</b> [1] - 95:22</p> <p><b>Kelly</b> [1] - 173:12</p> <p><b>kind</b> [20] - 11:15, 12:16, 93:1, 93:14, 96:20, 98:6, 100:5, 100:6, 107:5, 108:5, 111:8, 114:12, 115:22, 117:21, 122:5, 133:7, 165:13, 171:12, 173:17, 177:8</p> <p><b>KIT</b> [1] - 3:11</p> <p><b>kit</b> [25] - 9:5, 50:20, 51:1, 53:8, 55:8, 55:24, 65:3, 65:13, 65:15, 65:24, 66:4, 66:6, 66:13, 66:20, 76:19, 102:12, 142:7, 142:9, 142:22, 147:18, 148:4, 183:8, 183:11, 193:25</p> <p><b>kits</b> [26] - 11:23, 19:19, 42:6, 47:8, 61:1, 74:1, 101:25, 106:17, 107:13, 108:3, 108:16, 109:15, 141:5, 144:21, 147:2, 147:15, 147:16, 147:21, 147:22, 147:23, 148:1, 156:18, 156:20, 157:7, 161:8, 183:1</p> <p><b>knowing</b> [1] - 78:25</p> <p><b>knowledge</b> [12] - 16:10, 30:10, 43:15, 52:15, 54:12, 64:7, 66:4, 94:24, 99:12, 109:13, 109:23, 110:22</p>
---	---	---	--	---

<p><b>known</b> [3] - 141:21, 170:16, 172:17</p> <p><b>knows</b> [1] - 172:5</p> <p><b>Kristopher</b> [1] - 187:21</p>	<p><b>Laboratory</b> [3] - 53:25, 55:12, 55:24</p> <p><b>labs</b> [2] - 95:15, 115:19</p> <p><b>lack</b> [2] - 154:2, 185:18</p> <p><b>lacking</b> [1] - 194:15</p> <p><b>lacks</b> [2] - 16:9, 30:9</p> <p><b>laid</b> [1] - 180:5</p> <p><b>Lalonde</b> [1] - 187:21</p> <p><b>Lancaster</b> [2] - 51:11, 51:13</p> <p><b>Land</b> [5] - 18:16, 18:21, 42:6, 47:7, 47:13</p> <p><b>LANDERS</b> [119] - 4:8, 4:21, 4:24, 5:3, 7:12, 7:19, 8:3, 8:5, 8:9, 8:22, 9:15, 9:21, 10:7, 11:2, 11:6, 11:12, 14:9, 15:21, 15:23, 16:13, 16:19, 17:7, 17:20, 17:22, 18:8, 20:18, 21:3, 21:6, 21:9, 22:2, 23:17, 24:13, 24:14, 24:20, 25:5, 25:6, 25:10, 26:16, 26:17, 27:2, 27:17, 28:13, 28:17, 28:20, 28:22, 30:12, 30:19, 33:13, 33:16, 34:1, 34:3, 34:21, 35:7, 35:19, 35:20, 36:3, 36:14, 38:10, 38:15, 38:17, 38:20, 39:6, 39:14, 40:1, 40:5, 40:6, 40:11, 40:19, 41:3, 45:10, 67:13, 67:16, 68:9, 68:10, 68:16, 68:22, 69:2, 69:16, 69:25, 70:8, 70:17, 71:4, 71:20, 72:4, 72:14, 74:10, 74:24, 75:10, 78:3, 78:7, 78:9, 78:10, 78:22, 79:9, 79:21, 81:19, 81:22, 82:9, 82:22, 83:12, 83:24, 84:3, 87:6, 87:18, 87:23, 88:3, 88:14, 88:22, 89:15, 89:18, 89:22, 89:24, 90:3, 90:8, 90:17, 91:5, 91:8, 113:17, 131:4</p> <p><b>Landers</b> [12] - 2:11, 4:8, 7:11, 10:6, 11:1, 11:11, 67:12, 68:8, 82:21, 83:10, 87:22, 91:10</p>	<p><b>language</b> [1] - 121:24</p> <p><b>large</b> [1] - 39:3</p> <p><b>last</b> [20] - 5:3, 7:16, 7:19, 22:3, 24:12, 34:21, 44:8, 45:23, 45:24, 58:13, 85:3, 85:8, 90:5, 90:14, 129:11, 134:24, 135:3, 148:25, 151:13, 181:2</p> <p><b>lastly</b> [1] - 191:25</p> <p><b>Law</b> [4] - 2:12, 179:2, 198:5, 198:24</p> <p><b>LAW</b> [1] - 1:7</p> <p><b>law</b> [16] - 69:18, 86:10, 88:20, 89:12, 104:18, 158:14, 172:2, 178:15, 178:22, 185:2, 185:3, 187:18, 190:6, 196:18, 196:22</p> <p><b>laws</b> [1] - 130:2</p> <p><b>lawyer</b> [3] - 70:18, 83:18, 83:20</p> <p><b>lays</b> [1] - 181:20</p> <p><b>lead</b> [1] - 188:7</p> <p><b>leader</b> [1] - 99:4</p> <p><b>leaders</b> [1] - 120:11</p> <p><b>leading</b> [2] - 17:4, 28:14</p> <p><b>leads</b> [1] - 61:7</p> <p><b>learned</b> [7] - 37:13, 37:15, 47:16, 58:25, 59:3, 133:1, 172:18</p> <p><b>least</b> [5] - 4:18, 26:19, 135:10, 170:20, 195:19</p> <p><b>leave</b> [1] - 135:10</p> <p><b>Lee</b> [2] - 23:21, 85:18</p> <p><b>leeway</b> [1] - 85:20</p> <p><b>left</b> [5] - 11:25, 13:13, 32:21, 61:25, 135:9</p> <p><b>legal</b> [6] - 21:1, 71:17, 88:24, 125:7, 125:24, 126:8</p> <p><b>Legal</b> [6] - 128:13, 128:15, 128:23, 129:2, 151:18, 153:17</p> <p><b>LEGAL</b> [2] - 3:16, 3:17</p> <p><b>less</b> [3] - 146:18, 146:20, 156:13</p> <p><b>lessons</b> [1] - 110:12</p> <p><b>letting</b> [1] - 139:6</p> <p><b>level</b> [21] - 98:5, 98:7, 99:1, 99:2, 99:14, 105:14, 105:17, 105:21, 106:2, 106:3, 106:19,</p>	<p>106:22, 107:1, 107:16, 107:19, 108:5, 117:20, 120:5, 134:15, 134:21, 134:24</p> <p><b>levels</b> [4] - 105:13, 110:17, 115:17, 171:7</p> <p><b>license</b> [7] - 67:24, 127:4, 127:16, 127:17, 129:12, 151:14, 152:5</p> <p><b>licensed</b> [7] - 67:17, 125:3, 125:9, 126:3, 129:13, 151:5, 151:9</p> <p><b>licensing</b> [6] - 126:6, 129:5, 129:14, 129:20, 130:6, 130:8</p> <p><b>lie</b> [1] - 23:1</p> <p><b>lies</b> [1] - 171:12</p> <p><b>lieu</b> [1] - 84:16</p> <p><b>life</b> [1] - 121:6</p> <p><b>lifeguard</b> [1] - 28:19</p> <p><b>likelihood</b> [6] - 19:5, 100:3, 105:24, 107:4, 108:1, 109:2</p> <p><b>likely</b> [3] - 100:12, 103:5, 180:1</p> <p><b>likewise</b> [1] - 10:18</p> <p><b>limited</b> [1] - 181:22</p> <p><b>LIMS</b> [10] - 14:17, 53:19, 53:20, 56:22, 72:17, 72:18, 77:12, 77:13, 141:21, 150:22</p> <p><b>line</b> [2] - 135:21, 167:19</p> <p><b>Line</b> [1] - 146:17</p> <p><b>lines</b> [2] - 146:13, 156:11</p> <p><b>link</b> [3] - 127:19, 127:22, 127:25</p> <p><b>list</b> [9] - 18:23, 19:6, 28:11, 44:13, 47:22, 157:22, 165:6, 165:9, 165:11</p> <p><b>listed</b> [13] - 16:4, 16:5, 43:9, 81:7, 96:17, 105:23, 108:9, 116:15, 130:3, 157:23, 158:2, 161:25, 185:11</p> <p><b>listen</b> [1] - 183:7</p> <p><b>lists</b> [1] - 145:9</p> <p><b>literally</b> [1] - 7:14</p> <p><b>litigation</b> [7] - 79:24, 80:15, 80:18, 80:21, 80:25, 81:2, 122:11</p> <p><b>loaded</b> [1] - 45:14</p> <p><b>locate</b> [1] - 62:7</p>	<p><b>location</b> [1] - 32:16</p> <p><b>Location</b> [2] - 62:1, 62:9</p> <p><b>Lockport</b> [1] - 28:19</p> <p><b>log</b> [2] - 77:16, 129:8</p> <p><b>logs</b> [2] - 150:15</p> <p><b>look</b> [35] - 16:1, 33:22, 35:20, 36:18, 55:11, 55:23, 95:23, 97:1, 97:5, 98:9, 99:16, 99:17, 100:1, 101:16, 101:22, 107:21, 108:10, 112:9, 114:11, 121:15, 129:8, 148:21, 152:19, 154:7, 179:2, 179:6, 180:23, 181:2, 183:6, 186:14, 190:8, 196:4, 196:6</p> <p><b>looked</b> [6] - 105:8, 108:10, 152:19, 174:22, 183:16, 190:12</p> <p><b>looking</b> [11] - 33:3, 58:16, 83:7, 95:4, 100:2, 101:13, 105:19, 106:24, 125:1, 127:2, 193:24</p> <p><b>looks</b> [10] - 28:25, 115:20, 128:25, 129:7, 129:9, 130:10, 143:18, 152:24, 179:7, 185:11</p> <p><b>loud</b> [1] - 157:20</p> <p><b>low</b> [9] - 98:10, 105:18, 105:21, 106:2, 106:3, 106:23, 107:1, 107:6, 107:7</p> <p><b>lower</b> [2] - 84:24, 98:22</p> <p><b>lunch</b> [2] - 82:13, 82:14</p> <p><b>lying</b> [1] - 68:11</p>
<b>M</b>				
<p><b>ma'am</b> [8] - 5:12, 5:15, 87:18, 119:3, 128:7, 132:22, 136:8, 139:4</p> <p><b>machine</b> [1] - 1:24</p> <p><b>Magnolia</b> [3] - 158:8, 158:12, 158:13</p> <p><b>mailed</b> [2] - 147:22, 159:15</p> <p><b>mailing</b> [1] - 147:21</p> <p><b>main</b> [2] - 180:5, 186:8</p>				

<p><b>maintain</b> <sup>[4]</sup> - 73:9, 74:10, 116:25, 140:12</p> <p><b>maintains</b> <sup>[1]</sup> - 44:11</p> <p><b>maintenance</b> <sup>[1]</sup> - 150:15</p> <p><b>major</b> <sup>[8]</sup> - 16:5, 16:6, 16:14, 108:1, 108:7, 108:8, 108:9, 135:1</p> <p><b>majority</b> <sup>[1]</sup> - 185:3</p> <p><b>maker</b> <sup>[1]</sup> - 166:17</p> <p><b>malfunctioned</b> <sup>[1]</sup> - 98:21</p> <p><b>Management</b> <sup>[4]</sup> - 53:21, 54:1, 55:12, 55:25</p> <p><b>management</b> <sup>[2]</sup> - 141:21, 150:11</p> <p><b>manager</b> <sup>[16]</sup> - 92:10, 92:12, 92:19, 96:18, 112:17, 129:18, 129:24, 145:23, 146:10, 166:6, 166:14, 167:14, 171:2</p> <p><b>manages</b> <sup>[1]</sup> - 149:21</p> <p><b>mandatory</b> <sup>[2]</sup> - 115:3, 127:3</p> <p><b>Mandy</b> <sup>[1]</sup> - 196:24</p> <p><b>manner</b> <sup>[2]</sup> - 70:25, 140:14</p> <p><b>manual</b> <sup>[11]</sup> - 39:23, 40:8, 40:22, 111:23, 112:18, 112:24, 114:3, 136:19, 137:3, 157:2, 162:10</p> <p><b>mark</b> <sup>[3]</sup> - 54:13, 83:5, 83:6</p> <p><b>marked</b> <sup>[20]</sup> - 39:25, 42:2, 44:8, 49:11, 54:7, 55:1, 58:16, 61:21, 64:4, 66:19, 83:6, 125:15, 128:8, 136:9, 136:21, 152:14, 152:22, 157:16, 160:21, 161:21</p> <p><b>Maryland</b> <sup>[4]</sup> - 20:19, 68:2, 170:6, 172:8</p> <p><b>match</b> <sup>[8]</sup> - 13:19, 14:14, 53:8, 55:16, 66:13, 76:6, 102:11, 108:15</p> <p><b>matched</b> <sup>[3]</sup> - 57:9, 73:18, 183:12</p> <p><b>matches</b> <sup>[4]</sup> - 32:23, 33:6, 55:8, 78:13</p> <p><b>material</b> <sup>[21]</sup> - 89:7, 89:8, 110:8, 110:11, 172:12, 177:11,</p>	<p>179:12, 179:21, 182:13, 183:17, 185:8, 187:14, 188:24, 189:23, 190:9, 190:19, 191:10, 191:13, 191:24, 195:18</p> <p><b>materiality</b> <sup>[11]</sup> - 39:7, 88:6, 88:19, 88:23, 90:18, 174:16, 176:18, 182:9, 188:19, 189:4, 192:5</p> <p><b>materials</b> <sup>[5]</sup> - 149:12, 154:24, 155:17, 155:22, 156:2</p> <p><b>matter</b> <sup>[16]</sup> - 6:12, 6:19, 7:2, 7:12, 10:16, 22:15, 95:6, 99:4, 145:13, 145:17, 145:18, 171:4, 173:20, 174:1, 176:9</p> <p><b>Matter</b> <sup>[1]</sup> - 145:9</p> <p><b>matters</b> <sup>[6]</sup> - 3:3, 7:10, 9:20, 9:22, 10:19, 83:11</p> <p><b>McCollum</b> <sup>[1]</sup> - 1:21</p> <p><b>mean</b> <sup>[16]</sup> - 20:8, 50:9, 68:8, 85:5, 90:22, 95:25, 98:25, 103:21, 111:15, 119:11, 120:21, 123:15, 123:18, 124:18, 145:3, 145:12</p> <p><b>meaning</b> <sup>[1]</sup> - 79:5</p> <p><b>means</b> <sup>[13]</sup> - 6:2, 6:8, 6:12, 6:13, 10:14, 49:22, 72:4, 94:15, 145:4, 146:24, 148:15, 148:17, 171:22</p> <p><b>meant</b> <sup>[1]</sup> - 31:17</p> <p><b>measuring</b> <sup>[1]</sup> - 171:8</p> <p><b>mechanically</b> <sup>[1]</sup> - 40:17</p> <p><b>medium</b> <sup>[7]</sup> - 15:19, 98:10, 98:14, 100:8, 107:20, 107:23, 108:6</p> <p><b>meet</b> <sup>[1]</sup> - 146:10</p> <p><b>meeting</b> <sup>[1]</sup> - 37:21</p> <p><b>meetings</b> <sup>[3]</sup> - 60:2, 134:14, 140:11</p> <p><b>memory</b> <sup>[5]</sup> - 37:24, 40:2, 99:23, 105:20, 106:25</p> <p><b>mentioned</b> <sup>[14]</sup> - 12:8, 14:3, 48:18, 60:4, 63:3, 63:7, 73:8,</p>	<p>84:24, 93:5, 94:7, 102:18, 103:16, 109:1, 115:9</p> <p><b>mere</b> <sup>[3]</sup> - 188:16, 189:8, 190:4</p> <p><b>merely</b> <sup>[1]</sup> - 185:23</p> <p><b>met</b> <sup>[2]</sup> - 27:22, 185:11</p> <p><b>method</b> <sup>[1]</sup> - 6:16</p> <p><b>Michael</b> <sup>[6]</sup> - 20:21, 21:14, 127:8, 130:2, 152:2, 170:14</p> <p><b>microphone</b> <sup>[2]</sup> - 11:11, 131:18</p> <p><b>mid</b> <sup>[1]</sup> - 5:1</p> <p><b>mid-trial</b> <sup>[1]</sup> - 5:1</p> <p><b>might</b> <sup>[19]</sup> - 40:12, 40:22, 89:1, 89:2, 96:2, 96:3, 96:5, 96:11, 100:5, 110:7, 116:1, 123:18, 124:15, 164:21, 165:14, 165:18, 166:8, 177:5, 188:17</p> <p><b>migrating</b> <sup>[1]</sup> - 104:23</p> <p><b>mind</b> <sup>[4]</sup> - 21:19, 68:16, 146:18, 148:7</p> <p><b>minute</b> <sup>[6]</sup> - 65:10, 65:20, 81:25, 104:14, 118:17, 167:11</p> <p><b>minutes</b> <sup>[3]</sup> - 130:19, 130:22, 131:1</p> <p><b>mischaracterizes</b> <sup>[1]</sup> - 74:22</p> <p><b>misconduct</b> <sup>[2]</sup> - 114:17, 114:19</p> <p><b>mismatched</b> <sup>[1]</sup> - 50:19</p> <p><b>misrepresentation</b> <sup>[1]</sup> - 89:8</p> <p><b>missealed</b> <sup>[1]</sup> - 187:9</p> <p><b>missing</b> <sup>[1]</sup> - 97:2</p> <p><b>misstated</b> <sup>[1]</sup> - 69:9</p> <p><b>mistake</b> <sup>[10]</sup> - 14:9, 17:8, 59:3, 76:7, 76:10, 116:1, 119:12, 120:19, 121:9, 186:19</p> <p><b>mistakes</b> <sup>[16]</sup> - 24:25, 25:7, 26:7, 26:18, 26:21, 115:22, 120:15, 120:18, 120:21, 121:2, 121:3, 121:4, 121:5, 177:21, 177:23, 181:13</p> <p><b>mistrial</b> <sup>[1]</sup> - 89:6</p> <p><b>Mitchell</b> <sup>[5]</sup> - 30:2, 30:7, 32:2, 33:5, 143:17</p>	<p><b>mixture</b> <sup>[1]</sup> - 86:8</p> <p><b>MNT</b> <sup>[4]</sup> - 9:5, 9:9, 112:6, 113:9</p> <p><b>moderate</b> <sup>[2]</sup> - 105:23, 107:4</p> <p><b>moment</b> <sup>[7]</sup> - 4:25, 64:11, 106:11, 130:12, 157:19, 168:20, 169:6</p> <p><b>moments</b> <sup>[1]</sup> - 169:8</p> <p><b>Momin</b> <sup>[7]</sup> - 4:5, 4:9, 64:20, 66:20, 174:22, 177:15, 183:9</p> <p><b>MOMIN</b> <sup>[1]</sup> - 1:9</p> <p><b>Momin's</b> <sup>[25]</sup> - 22:13, 27:3, 27:18, 31:12, 31:15, 35:22, 37:12, 37:15, 43:11, 46:12, 46:16, 46:25, 48:5, 48:11, 52:24, 59:19, 59:23, 67:5, 78:25, 79:9, 81:6, 81:10, 88:8, 90:11, 193:15</p> <p><b>Monroy</b> <sup>[10]</sup> - 23:19, 23:21, 23:22, 27:9, 70:18, 84:4, 85:18, 88:5, 89:4</p> <p><b>monroy</b> <sup>[1]</sup> - 23:20</p> <p><b>Monroy's</b> <sup>[1]</sup> - 83:18</p> <p><b>Montgomery</b> <sup>[11]</sup> - 17:24, 22:21, 27:6, 69:17, 84:6, 84:11, 90:12, 176:24, 192:14, 192:24, 192:25</p> <p><b>month</b> <sup>[1]</sup> - 50:11</p> <p><b>months</b> <sup>[6]</sup> - 102:10, 133:21, 134:3, 135:3, 171:1, 172:23</p> <p><b>Morgan</b> <sup>[1]</sup> - 83:15</p> <p><b>morning</b> <sup>[8]</sup> - 5:21, 7:13, 7:14, 102:22, 102:23, 103:9, 118:7, 172:23</p> <p><b>Morton</b> <sup>[7]</sup> - 20:21, 21:14, 127:8, 130:2, 152:2, 170:14, 172:5</p> <p><b>most</b> <sup>[10]</sup> - 29:20, 61:12, 94:24, 96:24, 99:4, 100:12, 102:18, 103:4, 103:8, 121:21</p> <p><b>MOTION</b> <sup>[2]</sup> - 1:14, 3:15</p> <p><b>Motion</b> <sup>[1]</sup> - 90:12</p> <p><b>motion</b> <sup>[24]</sup> - 4:6, 28:23, 83:14, 84:8, 87:24, 121:17, 169:4, 169:18,</p>	<p>177:13, 178:4, 184:17, 185:4, 186:3, 186:8, 186:11, 186:13, 192:2, 192:7, 192:8, 192:9, 192:15, 192:16, 192:18, 195:24</p> <p><b>move</b> <sup>[7]</sup> - 47:3, 48:17, 87:12, 103:3, 104:1, 134:7, 186:14</p> <p><b>moved</b> <sup>[1]</sup> - 32:16</p> <p><b>moves</b> <sup>[1]</sup> - 137:14</p> <p><b>moving</b> <sup>[4]</sup> - 17:11, 17:12, 17:15, 182:7</p> <p><b>MR</b> <sup>[362]</sup> - 4:8, 4:13, 4:21, 4:24, 5:3, 7:12, 7:19, 7:24, 8:3, 8:5, 8:9, 8:11, 8:18, 8:22, 8:25, 9:9, 9:15, 9:21, 9:23, 10:3, 10:7, 11:2, 11:6, 11:12, 14:4, 14:8, 14:9, 15:21, 15:23, 16:9, 16:13, 16:16, 16:19, 17:4, 17:7, 17:20, 17:22, 18:8, 20:16, 20:18, 21:1, 21:3, 21:6, 21:9, 21:22, 22:2, 23:17, 24:13, 24:14, 24:17, 24:20, 25:2, 25:5, 25:6, 25:10, 26:9, 26:13, 26:16, 26:17, 26:23, 27:2, 27:14, 27:17, 28:13, 28:14, 28:17, 28:20, 28:22, 30:9, 30:12, 30:19, 33:11, 33:13, 33:16, 34:1, 34:3, 34:21, 35:4, 35:7, 35:15, 35:19, 35:20, 35:24, 36:3, 36:10, 36:14, 38:7, 38:10, 38:15, 38:17, 38:20, 39:5, 39:6, 39:10, 39:14, 40:1, 40:5, 40:6, 40:11, 40:19, 41:3, 41:7, 41:10, 41:23, 42:1, 43:19, 43:22, 43:25, 44:4, 44:7, 45:1, 45:6, 45:10, 45:14, 45:21, 50:2, 50:8, 58:22, 58:24, 62:19, 63:14, 63:17, 63:21, 64:10, 64:18, 64:19, 65:7, 65:12, 65:20, 65:23, 66:15, 66:18, 67:9, 67:13, 67:16, 68:9, 68:10, 68:16,</p>
--	---	--	---	---

68:19, 68:22, 68:25, 69:2, 69:7, 69:11, 69:15, 69:16, 69:21, 69:24, 69:25, 70:3, 70:8, 70:17, 71:1, 71:4, 71:17, 71:20, 72:1, 72:4, 72:14, 74:6, 74:10, 74:22, 74:24, 75:10, 78:3, 78:7, 78:9, 78:10, 78:18, 78:22, 79:9, 79:19, 79:21, 81:16, 81:19, 81:22, 82:3, 82:6, 82:9, 82:19, 82:22, 83:12, 83:24, 84:3, 84:21, 85:3, 85:6, 85:9, 86:20, 86:25, 87:3, 87:5, 87:6, 87:11, 87:15, 87:18, 87:23, 88:3, 88:14, 88:15, 88:22, 89:15, 89:18, 89:22, 89:24, 90:3, 90:8, 90:17, 90:22, 91:5, 91:8, 91:13, 91:17, 91:20, 92:4, 100:17, 100:20, 100:22, 100:25, 101:1, 102:14, 102:17, 109:20, 109:22, 109:25, 110:3, 112:2, 112:5, 113:1, 113:5, 113:8, 113:11, 113:17, 113:23, 118:13, 118:16, 118:19, 118:20, 118:23, 118:25, 119:2, 124:7, 124:8, 124:10, 124:21, 125:11, 125:14, 126:14, 126:16, 126:19, 126:22, 126:24, 128:5, 128:7, 128:21, 129:1, 130:12, 130:13, 130:20, 130:24, 131:4, 131:6, 131:14, 131:15, 131:19, 131:21, 132:9, 132:13, 132:17, 132:24, 136:3, 136:6, 136:8, 136:20, 137:14, 137:17, 137:24, 138:1, 138:19, 138:22, 138:25, 139:7, 139:8, 139:10, 139:12, 139:16, 139:18,	139:22, 142:11, 142:15, 150:25, 151:2, 151:4, 152:10, 152:13, 153:14, 153:24, 154:2, 154:13, 154:16, 156:22, 157:1, 159:23, 159:24, 160:3, 160:16, 160:17, 162:20, 162:22, 162:24, 164:2, 164:11, 164:12, 167:10, 167:13, 167:24, 168:4, 168:7, 168:12, 168:14, 168:16, 168:19, 168:20, 168:23, 169:2, 169:5, 169:8, 169:13, 169:16, 169:21, 169:24, 175:24, 176:4, 176:11, 176:17, 177:18, 177:21, 178:19, 180:14, 180:16, 180:20, 180:22, 181:1, 181:5, 181:10, 181:11, 181:13, 181:16, 183:23, 188:1, 192:11, 192:25, 193:11, 193:13, 196:4, 196:8, 196:10, 196:14, 196:19, 196:23, 197:4, 197:5 <b>MS</b> [3] - 5:14, 5:16, 5:20 <b>multiple</b> [5] - 21:20, 21:21, 95:10, 120:14, 135:7 <b>murders</b> [2] - 189:17, 189:18 <b>must</b> [5] - 21:13, 165:11, 169:25, 171:18, 179:8 <b>MY</b> [1] - 198:20	92:8, 92:9, 102:10, 124:1, 124:8, 139:25, 145:10, 148:20, 148:22, 170:21, 183:9, 183:10, 183:11, 193:24 <b>named</b> [2] - 93:9, 165:14 <b>names</b> [8] - 5:8, 76:6, 102:8, 124:14, 124:20, 143:12, 144:25, 183:4 <b>necessarily</b> [4] - 63:24, 86:6, 116:18, 117:23 <b>necessary</b> [3] - 16:24, 23:2, 167:13 <b>necessitate</b> [1] - 120:1 <b>need</b> [23] - 8:23, 13:8, 40:16, 58:8, 71:16, 88:12, 90:2, 92:25, 94:15, 95:2, 95:23, 96:5, 96:20, 96:21, 105:20, 106:25, 107:21, 114:11, 134:23, 166:8, 175:3, 193:20 <b>needed</b> [6] - 8:23, 19:16, 58:6, 61:12, 83:11, 192:20 <b>needs</b> [4] - 20:25, 21:10, 161:13, 165:15 <b>negligence</b> [1] - 114:19 <b>net</b> [1] - 115:23 <b>never</b> [1] - 193:16 <b>nevertheless</b> [1] - 191:10 <b>NEW</b> [1] - 1:14 <b>New</b> [1] - 184:17 <b>new</b> [35] - 4:6, 17:15, 24:20, 28:23, 58:25, 59:4, 83:14, 84:8, 87:24, 105:3, 124:18, 169:18, 169:25, 177:13, 177:15, 177:25, 184:1, 184:11, 184:13, 184:21, 185:4, 185:7, 185:17, 185:22, 185:23, 185:25, 186:1, 186:3, 186:11, 186:13, 186:24, 188:11, 191:8, 192:8, 195:23 <b>newly</b> [2] - 185:13, 186:18	<b>next</b> [22] - 19:10, 19:15, 34:7, 44:20, 44:22, 46:2, 46:3, 50:23, 57:1, 57:4, 57:16, 58:4, 58:10, 58:12, 87:6, 87:23, 103:4, 108:5, 139:9, 145:2, 154:23, 180:7 <b>nine</b> [1] - 135:3 <b>NO</b> [9] - 1:3, 1:4, 1:7, 2:4, 2:5, 2:10, 2:11, 3:11, 3:14 <b>nonconformance</b> [5] - 94:12, 96:1, 96:3, 96:4, 160:18 <b>NONCONFORMING</b> [1] - 3:19 <b>Nonconforming</b> [2] - 136:13, 136:18 <b>none</b> [5] - 80:14, 116:14, 162:16, 182:15, 182:16 <b>normal</b> [2] - 147:11, 147:15 <b>normally</b> [2] - 51:14, 104:4 <b>Nos</b> [3] - 137:15, 137:18, 137:20 <b>note</b> [4] - 37:9, 84:14, 87:10, 89:19 <b>noted</b> [2] - 37:3, 57:10 <b>notes</b> [3] - 61:16, 62:24, 158:9 <b>nothing</b> [4] - 138:22, 174:9, 187:3, 197:1 <b>Notice</b> [2] - 17:23, 138:6 <b>notice</b> [3] - 38:24, 83:19, 177:7 <b>noticed</b> [6] - 14:13, 35:8, 37:2, 66:9, 147:3, 148:20 <b>notified</b> [10] - 18:13, 18:17, 18:21, 18:22, 37:19, 38:24, 42:5, 47:7, 47:11, 50:18 <b>notify</b> [1] - 58:7 <b>notion</b> [1] - 186:5 <b>November</b> [9] - 1:19, 3:2, 4:2, 92:17, 151:16, 196:8, 196:10, 196:13, 197:3 <b>number</b> [19] - 9:10, 12:23, 13:2, 50:1, 54:5, 55:24, 56:23, 66:23, 73:22, 82:13, 82:16, 82:19, 99:11, 113:17, 141:18, 141:22, 142:18,	143:9 <b>numbered</b> [3] - 1:20, 180:19, 198:10 <b>numbers</b> [1] - 83:6 <b>numerous</b> [2] - 153:3, 153:8 <b>nurse</b> [1] - 194:5
<b>O</b>				
<b>O'Brian</b> [1] - 3:22 <b>O'Brien</b> [4] - 2:4, 4:14, 91:11, 180:13 <b>O'BRIEN</b> [63] - 82:6, 82:19, 84:21, 85:3, 85:6, 85:9, 86:20, 86:25, 87:3, 87:5, 87:11, 87:15, 88:15, 90:22, 91:13, 91:17, 91:20, 92:4, 100:17, 100:20, 100:22, 100:25, 101:1, 102:14, 102:17, 109:22, 109:25, 110:3, 112:2, 112:5, 113:1, 113:5, 113:8, 113:23, 118:13, 118:20, 124:7, 124:10, 126:16, 132:9, 132:17, 137:17, 138:22, 139:7, 139:12, 168:23, 169:8, 177:18, 177:21, 178:19, 180:14, 180:16, 180:20, 180:22, 181:1, 181:5, 181:11, 181:13, 181:16, 183:23, 188:1, 196:8, 197:4 <b>o'Brien</b> [2] - 91:19, 177:17 <b>oath</b> [3] - 10:10, 132:14, 176:25 <b>object</b> [4] - 86:2, 90:22, 185:15, 191:22 <b>objection</b> [62] - 7:23, 7:24, 8:14, 9:15, 14:5, 16:9, 16:16, 16:17, 17:4, 20:16, 21:1, 21:5, 21:22, 21:24, 24:17, 25:2, 26:9, 26:23, 27:14, 28:14, 30:9, 33:11, 35:4, 35:15, 35:24, 36:10, 38:7, 39:5, 68:25, 69:5, 69:10, 69:13, 69:21, 69:23,				

<p>70:3, 70:14, 71:1, 71:17, 72:1, 74:6, 74:22, 78:18, 79:19, 81:16, 81:21, 87:3, 91:3, 109:20, 113:11, 124:7, 124:11, 126:16, 132:9, 132:12, 132:17, 132:20, 137:17, 138:25, 153:25, 154:2, 154:9, 156:22</p> <p><b>objections</b> [1] - 85:22</p> <p><b>objects</b> [1] - 84:22</p> <p><b>obtain</b> [2] - 127:4, 185:17</p> <p><b>obviously</b> [1] - 188:3</p> <p><b>occasions</b> [1] - 61:11</p> <p><b>occur</b> [3] - 147:4, 193:22, 194:17</p> <p><b>occurred</b> [6] - 49:20, 94:15, 133:21, 174:9, 194:2, 198:11</p> <p><b>occurrence</b> [6] - 100:3, 105:24, 107:4, 108:1, 109:2, 166:1</p> <p><b>occurrences</b> [2] - 165:8, 165:14</p> <p><b>occurring</b> [2] - 10:16, 95:22</p> <p><b>occurs</b> [2] - 48:24, 57:12</p> <p><b>October</b> [2] - 24:9, 69:17</p> <p><b>OF</b> [5] - 1:2, 1:4, 1:5, 198:2, 198:2</p> <p><b>offense</b> [1] - 141:18</p> <p><b>offer</b> [3] - 89:16, 91:5, 198:15</p> <p><b>offered</b> [9] - 8:16, 9:18, 86:23, 113:14, 126:20, 137:21, 154:11, 182:16, 198:16</p> <p><b>OFFERED</b> [2] - 3:11, 3:14</p> <p><b>offers</b> [2] - 113:1, 113:9</p> <p><b>office</b> [6] - 27:24, 64:21, 135:9, 135:10, 135:12, 158:20</p> <p><b>Office</b> [3] - 66:3, 110:19, 111:17</p> <p><b>officer</b> [2] - 148:3, 174:24</p> <p><b>officer's</b> [2] - 174:20, 188:25</p> <p><b>offices</b> [1] - 6:14</p>	<p><b>official</b> [2] - 87:1, 171:21</p> <p><b>OFFICIAL</b> [1] - 198:20</p> <p><b>Official</b> [2] - 198:4, 198:24</p> <p><b>officially</b> [1] - 103:18</p> <p><b>officials</b> [1] - 171:20</p> <p><b>often</b> [1] - 100:3</p> <p><b>OGC</b> [1] - 110:18</p> <p><b>Olsen</b> [4] - 155:10, 183:19, 189:5, 189:10</p> <p><b>olsen</b> [1] - 189:14</p> <p><b>once</b> [12] - 7:8, 76:22, 94:25, 96:21, 97:4, 103:16, 116:7, 127:16, 133:10, 141:24, 146:3</p> <p><b>one</b> [70] - 6:13, 7:8, 7:17, 8:4, 8:5, 8:10, 10:9, 15:5, 17:18, 25:13, 25:18, 36:6, 36:7, 38:15, 43:24, 44:2, 46:5, 46:20, 64:11, 71:25, 72:5, 73:20, 79:14, 79:15, 83:5, 84:8, 87:6, 87:19, 88:2, 93:6, 94:7, 95:13, 97:11, 97:14, 97:21, 98:25, 102:6, 102:7, 102:9, 103:3, 103:4, 106:15, 106:16, 107:12, 108:23, 108:24, 115:8, 115:13, 119:4, 121:24, 130:14, 132:6, 136:1, 142:9, 143:13, 148:3, 149:25, 153:4, 153:11, 154:6, 156:12, 158:8, 158:11, 161:8, 170:14, 170:20, 174:2, 179:25, 183:2, 186:2</p> <p><b>ones</b> [9] - 22:4, 83:7, 100:12, 100:14, 100:15, 123:19, 123:25, 169:22, 173:1</p> <p><b>online</b> [4] - 44:14, 123:24, 151:21, 170:25</p> <p><b>open</b> [4] - 43:5, 65:3, 103:12, 198:11</p> <p><b>open-facing</b> [1] - 43:5</p> <p><b>opened</b> [4] - 66:24, 67:2, 146:4, 148:4</p> <p><b>opening</b> [1] - 76:18</p>	<p><b>operated</b> [1] - 187:4</p> <p><b>operation</b> [2] - 196:18, 196:22</p> <p><b>opinion</b> [7] - 21:2, 71:18, 132:15, 134:17, 155:14, 181:24, 182:3</p> <p><b>Opportunities</b> [1] - 136:25</p> <p><b>OPPORTUNITIES</b> [1] - 3:20</p> <p><b>opportunity</b> [10] - 60:5, 65:3, 85:18, 159:1, 164:15, 173:6, 174:11, 181:18, 188:23, 195:21</p> <p><b>opposed</b> [2] - 115:14, 181:24</p> <p><b>opposing</b> [17] - 85:18, 113:1, 126:14, 137:15, 153:25, 177:22, 178:19, 180:4, 183:2, 183:20, 186:7, 186:25, 187:23, 189:4, 190:3, 190:10, 192:1</p> <p><b>option</b> [1] - 159:16</p> <p><b>order</b> [12] - 46:6, 80:24, 121:20, 121:21, 122:5, 134:8, 149:11, 150:1, 150:5, 150:9, 150:17, 150:23</p> <p><b>ordered</b> [1] - 159:18</p> <p><b>orders</b> [5] - 122:1, 123:17, 140:12, 149:22, 149:24</p> <p><b>ordinarily</b> [1] - 171:20</p> <p><b>ordinary</b> [1] - 161:5</p> <p><b>organization</b> [1] - 83:1</p> <p><b>original</b> [1] - 9:4</p> <p><b>otherwise</b> [2] - 13:23, 45:11</p> <p><b>ourselves</b> [1] - 61:9</p> <p><b>outcome</b> [10] - 81:15, 81:20, 84:12, 85:22, 86:1, 88:8, 174:18, 182:14, 188:18, 190:3</p> <p><b>outcomes</b> [1] - 27:13</p> <p><b>outlined</b> [1] - 127:11</p> <p><b>outside</b> [13] - 6:5, 6:10, 6:19, 7:7, 10:17, 12:13, 18:17, 30:24, 138:12, 147:24, 168:21, 170:11</p> <p><b>overall</b> [2] - 187:3,</p>	<p>187:16</p> <p><b>overcome</b> [1] - 191:2</p> <p><b>overflow</b> [5] - 49:19, 49:22, 49:24, 50:9, 50:14</p> <p><b>overrule</b> [6] - 16:17, 69:4, 70:13, 132:19, 196:17, 196:21</p> <p><b>overruled</b> [15] - 14:7, 17:5, 21:7, 24:18, 26:25, 28:15, 36:1, 36:12, 38:8, 72:2, 74:7, 78:20, 109:21, 124:12, 154:10</p> <p><b>overruling</b> [3] - 21:24, 26:11, 87:4</p> <p><b>overwhelming</b> [4] - 175:16, 175:18, 176:2, 176:8</p> <p><b>own</b> [6] - 45:20, 99:1, 119:16, 146:12, 166:17, 171:6</p>	<p>19:14, 44:21, 47:11, 55:23, 139:11, 139:14, 139:25, 140:2, 142:15, 144:7, 145:1, 151:5, 152:13, 154:16, 160:4, 164:17, 167:6, 189:7</p> <p><b>parker</b> [1] - 5:21</p> <p><b>Parker's</b> [1] - 46:2</p> <p><b>part</b> [44] - 15:13, 26:12, 39:4, 39:18, 47:18, 47:20, 47:24, 57:13, 57:23, 58:13, 60:9, 63:4, 63:8, 63:22, 67:24, 71:24, 80:2, 80:4, 80:8, 80:12, 84:7, 84:24, 122:9, 127:7, 129:7, 137:2, 137:25, 138:9, 145:6, 146:6, 149:2, 150:12, 151:17, 152:24, 154:20, 157:1, 158:7, 165:5, 172:3, 173:17, 175:1, 179:21, 195:22</p> <p><b>Parte</b> [1] - 187:20</p> <p><b>partially</b> [2] - 12:19, 65:13</p> <p><b>particular</b> [9] - 52:23, 59:18, 61:16, 104:19, 145:24, 154:19, 164:18, 165:8, 165:25</p> <p><b>parties</b> [2] - 82:12, 198:9</p> <p><b>Party</b> [1] - 138:7</p> <p><b>party</b> [2] - 71:25, 72:5</p> <p><b>pass</b> [8] - 67:10, 118:13, 138:19, 150:25, 159:23, 162:20, 164:11, 176:14</p> <p><b>passed</b> [1] - 94:5</p> <p><b>past</b> [7] - 22:22, 61:13, 146:25, 148:13, 148:23, 173:16, 195:1</p> <p><b>pattern</b> [2] - 26:7, 26:13</p> <p><b>pause</b> [8] - 50:6, 82:1, 83:2, 83:23, 87:20, 88:17, 130:15, 181:15</p> <p><b>PD</b> [11] - 18:16, 18:21, 27:23, 41:13, 47:7, 51:11, 51:13, 64:22, 158:8, 158:12, 158:13</p>
<b>P</b>				
<p><b>P-a-r-k-e-r</b> [1] - 140:1</p> <p><b>packet</b> [7] - 79:24, 80:15, 80:19, 80:21, 80:25, 81:2, 122:11</p> <p><b>page</b> [13] - 29:8, 32:9, 33:3, 34:22, 54:8, 63:18, 78:14, 84:25, 125:22, 152:15, 152:18, 179:1, 180:7</p> <p><b>Page</b> [21] - 32:24, 33:7, 33:9, 33:21, 35:20, 36:3, 36:5, 36:18, 38:13, 44:8, 44:9, 64:5, 78:11, 144:23, 161:20, 171:16, 180:16, 180:21, 181:3, 181:9, 184:16</p> <p><b>pages</b> [2] - 8:6, 180:18</p> <p><b>paid</b> [1] - 198:19</p> <p><b>paired</b> [1] - 109:2</p> <p><b>paperwork</b> [1] - 99:22</p> <p><b>paragraph</b> [8] - 44:9, 85:2, 85:8, 149:1, 179:2, 180:17, 181:2, 184:17</p> <p><b>paragraphs</b> [3] - 85:4, 85:8, 85:10</p> <p><b>paraphrasing</b> [2] - 83:16, 83:18</p> <p><b>pardon</b> [1] - 49:25</p> <p><b>PARKER</b> [4] - 3:6, 3:8, 5:20, 139:19</p> <p><b>Parker</b> [19] - 5:20,</p>				



<p><b>peer</b> [7] - 57:24, 58:6, 58:9, 75:10, 75:13, 75:16, 75:25</p> <p><b>pending</b> [26] - 22:23, 22:25, 23:3, 23:6, 23:9, 23:24, 24:3, 38:25, 39:3, 81:9, 116:25, 117:6, 117:8, 146:6, 154:21, 154:23, 155:17, 156:7, 160:23, 160:25, 161:13, 161:18, 164:6, 178:6, 179:19</p> <p><b>people</b> [7] - 30:15, 99:11, 110:15, 121:4, 173:2, 177:21, 181:13</p> <p><b>people's</b> [1] - 25:7</p> <p><b>per</b> [7] - 50:10, 164:19, 164:22, 164:23, 164:24, 165:19, 166:25</p> <p><b>perceived</b> [1] - 41:12</p> <p><b>perform</b> [1] - 30:22</p> <p><b>performance</b> [1] - 114:22</p> <p><b>perhaps</b> [1] - 111:21</p> <p><b>perjury</b> [1] - 188:3</p> <p><b>permission</b> [1] - 142:11</p> <p><b>person</b> [19] - 17:8, 30:7, 33:2, 34:14, 35:2, 36:5, 92:20, 96:23, 99:4, 115:20, 143:15, 143:22, 143:23, 144:1, 148:2, 148:4, 167:17, 186:8</p> <p><b>person's</b> [1] - 34:16</p> <p><b>personal</b> [4] - 16:9, 30:9, 110:22, 174:22</p> <p><b>personally</b> [4] - 26:8, 26:18, 46:11, 163:21</p> <p><b>personnel</b> [6] - 28:10, 103:5, 114:17, 135:16, 138:12, 167:18</p> <p><b>personnel-specific</b> [1] - 138:12</p> <p><b>pertain</b> [4] - 101:8, 101:9, 182:21, 182:24</p> <p><b>pertained</b> [2] - 179:17, 184:21</p> <p><b>pertaining</b> [3] - 85:19, 93:3, 94:8</p> <p><b>pertains</b> [5] - 85:17, 101:15, 106:17, 116:9, 123:9</p>	<p><b>phase</b> [4] - 56:20, 57:1, 58:11, 75:16</p> <p><b>phases</b> [7] - 56:12, 56:14, 56:17, 56:18, 96:8, 97:12, 102:24</p> <p><b>PhD</b> [1] - 195:9</p> <p><b>phone</b> [4] - 27:22, 38:1, 82:12, 82:17</p> <p><b>phrase</b> [1] - 53:23</p> <p><b>physical</b> [3] - 55:3, 71:10, 143:18</p> <p><b>pick</b> [2] - 159:13, 159:16</p> <p><b>picking</b> [1] - 159:15</p> <p><b>picture</b> [2] - 97:4, 190:12</p> <p><b>piece</b> [2] - 80:15, 141:23</p> <p><b>pipette</b> [4] - 184:2, 184:9, 184:18, 186:21</p> <p><b>pivotal</b> [1] - 175:1</p> <p><b>place</b> [3] - 36:6, 114:5, 164:21</p> <p><b>placed</b> [10] - 65:14, 104:22, 114:22, 141:25, 142:7, 142:9, 142:21, 143:5, 143:6</p> <p><b>plan</b> [3] - 9:24, 114:23, 168:16</p> <p><b>planned</b> [1] - 189:18</p> <p><b>played</b> [2] - 65:11, 65:22</p> <p><b>playing</b> [3] - 65:7, 65:10, 65:20</p> <p><b>point</b> [24] - 19:4, 55:20, 58:12, 58:15, 62:14, 62:16, 85:14, 85:23, 94:22, 95:3, 95:23, 98:2, 102:11, 108:18, 113:9, 133:4, 133:9, 146:13, 168:24, 175:3, 181:19, 188:24, 193:16, 193:21</p> <p><b>pointed</b> [1] - 78:2</p> <p><b>Police</b> [7] - 29:6, 32:12, 35:14, 35:21, 66:11, 67:2, 78:16</p> <p><b>police</b> [2] - 64:3, 109:14</p> <p><b>policies</b> [5] - 39:15, 92:23, 112:23, 119:5, 119:6</p> <p><b>POLICY</b> [1] - 3:12</p> <p><b>Policy</b> [1] - 138:3</p> <p><b>policy</b> [18] - 35:7, 40:10, 94:14, 95:23,</p>	<p>96:6, 112:14, 113:17, 113:19, 113:20, 119:13, 119:24, 124:13, 138:9, 157:1, 160:11, 160:17, 171:5, 171:7</p> <p><b>portal</b> [3] - 105:1, 124:15, 124:17</p> <p><b>portion</b> [7] - 16:2, 39:22, 40:7, 96:14, 112:18, 114:3, 146:23</p> <p><b>portions</b> [2] - 84:22, 198:7</p> <p><b>portray</b> [1] - 178:14</p> <p><b>position</b> [9] - 9:13, 94:5, 140:6, 140:15, 140:20, 141:3, 187:15, 188:9, 191:10</p> <p><b>possession</b> [2] - 73:3, 74:2</p> <p><b>possibility</b> [3] - 188:16, 190:1, 194:1</p> <p><b>possible</b> [8] - 18:22, 24:24, 26:21, 27:1, 95:16, 120:24, 134:13, 143:25</p> <p><b>possibly</b> [2] - 17:17, 72:10</p> <p><b>post</b> [1] - 90:10</p> <p><b>Potential</b> [1] - 17:24</p> <p><b>potential</b> [6] - 94:14, 108:24, 179:24, 184:10, 189:17</p> <p><b>potentially</b> [4] - 108:21, 184:14, 191:17, 193:21</p> <p><b>practice</b> [6] - 95:24, 149:19, 158:17, 159:5, 159:10, 159:17</p> <p><b>practices</b> [1] - 115:16</p> <p><b>pre</b> [1] - 42:17</p> <p><b>pre-trial</b> [1] - 42:17</p> <p><b>Preliminary</b> [1] - 3:3</p> <p><b>preparation</b> [1] - 198:18</p> <p><b>prepared</b> [2] - 58:7, 75:7</p> <p><b>preparing</b> [1] - 62:15</p> <p><b>presence</b> [2] - 170:12, 190:4</p> <p><b>present</b> [4] - 5:11, 6:20, 14:6, 39:12</p> <p><b>presentation</b> [1] - 152:24</p> <p><b>presentations</b> [1] - 152:8</p>	<p><b>presiding</b> [1] - 1:21</p> <p><b>presume</b> [1] - 171:20</p> <p><b>pretrial</b> [2] - 4:25, 60:1</p> <p><b>pretty</b> [9] - 25:11, 37:17, 82:15, 94:22, 122:2, 124:24, 133:7, 134:20, 171:3</p> <p><b>preventing</b> [1] - 170:3</p> <p><b>previous</b> [6] - 13:25, 22:24, 84:1, 85:21, 147:7, 149:8</p> <p><b>previously</b> [24] - 10:12, 13:22, 47:23, 65:8, 85:12, 86:7, 87:7, 87:16, 88:2, 98:5, 101:2, 103:16, 105:8, 105:12, 106:14, 113:5, 114:8, 118:5, 136:21, 142:25, 144:8, 152:14, 152:21, 161:22</p> <p><b>print</b> [1] - 99:22</p> <p><b>printed</b> [2] - 29:23, 31:18</p> <p><b>prints</b> [1] - 30:1</p> <p><b>prioritized</b> [1] - 117:16</p> <p><b>probability</b> [2] - 174:17, 182:14</p> <p><b>probable</b> [2] - 174:20, 174:21</p> <p><b>problem</b> [3] - 193:3, 194:13, 194:21</p> <p><b>problems</b> [13] - 77:24, 146:18, 146:20, 156:13, 156:15, 170:16, 173:16, 174:25, 177:2, 193:20, 194:6, 194:24, 195:1</p> <p><b>Procedure</b> [2] - 44:13, 184:25</p> <p><b>procedures</b> [4] - 92:23, 119:5, 119:7, 119:9</p> <p><b>proceed</b> [10] - 4:10, 4:14, 4:23, 10:6, 11:1, 91:19, 118:23, 139:16, 169:14, 177:19</p> <p><b>proceeding</b> [3] - 10:20, 85:25, 132:7</p> <p><b>proceedings</b> [6] - 1:19, 6:21, 132:14, 139:2, 198:8, 198:14</p> <p><b>Proceedings</b> [2] - 1:23, 197:8</p> <p><b>process</b> [33] - 51:5, 56:7, 56:10, 57:5, 57:12, 57:13, 57:14,</p>	<p>57:16, 57:21, 61:17, 74:17, 75:6, 76:12, 76:15, 108:16, 108:17, 110:23, 129:15, 141:10, 145:7, 147:3, 147:11, 150:3, 171:13, 171:20, 172:2, 177:10, 187:7, 192:2, 193:20, 194:9, 194:17, 194:25</p> <p><b>proclivity</b> [1] - 155:24</p> <p><b>produce</b> [1] - 188:10</p> <p><b>produced</b> [3] - 79:24, 150:4, 150:22</p> <p><b>production</b> [1] - 170:3</p> <p><b>professional</b> [3] - 125:7, 125:24, 126:9</p> <p><b>PROFESSIONAL</b> [2] - 3:16, 3:18</p> <p><b>Professional</b> [7] - 127:12, 128:13, 128:16, 128:24, 129:2, 151:19, 153:17</p> <p><b>proffered</b> [1] - 191:5</p> <p><b>proficiencies</b> [4] - 93:11, 93:14, 93:16, 94:4</p> <p><b>proficiency</b> [3] - 92:22, 93:6, 114:24</p> <p><b>program</b> [1] - 92:21</p> <p><b>prong</b> [2] - 173:12, 186:11</p> <p><b>prongs</b> [4] - 172:12, 185:11, 185:21, 186:2</p> <p><b>proof</b> [3] - 89:16, 91:6, 198:15</p> <p><b>propensity</b> [1] - 179:25</p> <p><b>proper</b> [1] - 47:21</p> <p><b>properly</b> [7] - 18:2, 18:4, 18:22, 20:10, 25:14, 60:17, 171:21</p> <p><b>proposition</b> [1] - 174:7</p> <p><b>prosecution</b> [8] - 60:19, 68:5, 68:7, 119:4, 121:25, 172:4, 176:22, 192:16</p> <p><b>prosecutor</b> [15] - 23:3, 42:17, 69:20, 73:5, 104:8, 104:18, 122:21, 122:23, 123:6, 123:12, 149:19, 149:20, 159:1, 162:25,</p>
--	--	--	--	---

<p>171:17</p> <p><b>prosecutors</b> <sup>[17]</sup> - 22:11, 22:19, 23:5, 23:11, 23:18, 23:23, 24:2, 37:22, 38:25, 158:18, 172:1, 172:16, 177:4, 192:19, 192:24, 193:1, 195:22</p> <p><b>protocol</b> <sup>[6]</sup> - 20:11, 20:15, 71:13, 71:16, 71:22, 76:22</p> <p><b>protocols</b> <sup>[1]</sup> - 175:13</p> <p><b>prove</b> <sup>[2]</sup> - 179:10, 182:11</p> <p><b>proves</b> <sup>[1]</sup> - 21:17</p> <p><b>provide</b> <sup>[5]</sup> - 49:7, 95:18, 121:19, 122:12, 159:6</p> <p><b>provided</b> <sup>[7]</sup> - 33:3, 64:6, 81:13, 112:11, 159:8, 180:11, 192:16</p> <p><b>provides</b> <sup>[1]</sup> - 30:24</p> <p><b>providing</b> <sup>[4]</sup> - 149:19, 149:20, 158:18, 186:17</p> <p><b>public</b> <sup>[12]</sup> - 17:12, 24:4, 43:3, 97:20, 104:2, 104:7, 104:12, 104:23, 105:4, 123:16, 124:19, 171:20</p> <p><b>Public</b> <sup>[2]</sup> - 92:11, 140:4</p> <p><b>public-facing</b> <sup>[6]</sup> - 97:20, 104:2, 104:7, 104:23, 123:16, 124:19</p> <p><b>publicly</b> <sup>[1]</sup> - 48:7</p> <p><b>publish</b> <sup>[4]</sup> - 98:3, 102:14, 126:22, 154:14</p> <p><b>published</b> <sup>[3]</sup> - 116:3, 116:7, 178:22</p> <p><b>pull</b> <sup>[2]</sup> - 64:11, 126:3</p> <p><b>pulled</b> <sup>[1]</sup> - 189:10</p> <p><b>punish</b> <sup>[1]</sup> - 120:23</p> <p><b>punishment</b> <sup>[1]</sup> - 161:14</p> <p><b>punitive</b> <sup>[1]</sup> - 120:22</p> <p><b>purely</b> <sup>[1]</sup> - 182:4</p> <p><b>purported</b> <sup>[1]</sup> - 179:9</p> <p><b>purporting</b> <sup>[2]</sup> - 175:21, 175:25</p> <p><b>purpose</b> <sup>[6]</sup> - 30:19, 30:20, 30:21, 88:13, 95:9, 180:9</p> <p><b>purposes</b> <sup>[19]</sup> - 6:2, 9:6, 40:3, 53:3, 55:1,</p>	<p>61:8, 61:22, 65:9, 66:19, 95:10, 95:14, 145:13, 178:10, 178:13, 180:4, 181:22, 182:9, 186:9, 187:2</p> <p><b>pursuant</b> <sup>[2]</sup> - 46:6, 150:4</p> <p><b>pushed</b> <sup>[1]</sup> - 173:8</p> <p><b>put</b> <sup>[16]</sup> - 40:12, 54:11, 76:5, 106:4, 106:8, 106:11, 107:8, 108:5, 109:25, 117:15, 117:20, 118:21, 124:15, 171:8, 173:24, 195:18</p> <p><b>puts</b> <sup>[2]</sup> - 97:19, 107:5</p> <p><b>putting</b> <sup>[3]</sup> - 114:13, 124:16, 194:7</p>	<p>97:8, 97:18, 101:7, 101:14, 101:18, 101:24, 104:12, 104:25, 112:16, 116:22, 116:23, 116:25, 117:6, 117:7, 117:15, 119:23, 120:1, 120:3, 120:22, 121:12, 121:14, 122:4, 122:8, 122:10, 122:12, 122:14, 122:15, 122:17, 122:18, 122:21, 122:24, 123:2, 123:7, 123:10, 123:11, 123:15, 123:19, 123:22, 123:24, 124:5, 129:18, 129:24, 133:5, 133:10, 133:12, 133:14, 133:17, 133:25, 134:8, 145:22, 145:23, 145:24, 146:3, 146:5, 146:9, 160:5, 160:25, 161:4, 161:9, 161:17, 161:19, 162:8, 162:15, 163:2, 163:5, 163:17, 166:6, 166:14, 171:1, 171:3, 173:19, 175:12, 178:6, 180:6, 182:21, 182:24, 186:24, 187:14</p> <p><b>Quality</b> <sup>[32]</sup> - 7:13, 7:21, 8:19, 13:5, 15:7, 15:10, 38:25, 42:25, 43:1, 47:8, 48:4, 48:8, 48:19, 79:10, 80:9, 80:11, 80:19, 95:14, 97:15, 97:22, 98:6, 98:7, 102:25, 105:3, 118:6, 144:15, 144:17, 145:13, 145:20, 181:21, 182:5, 183:13</p> <p><b>QUALITY</b> <sup>[3]</sup> - 3:14, 3:19, 3:20</p> <p><b>quarters</b> <sup>[1]</sup> - 194:11</p> <p><b>questioned</b> <sup>[2]</sup> - 163:14, 173:14</p> <p><b>questioning</b> <sup>[2]</sup> - 69:3, 167:19</p> <p><b>questions</b> <sup>[23]</sup> - 4:23, 6:22, 6:25, 7:3, 13:9,</p>	<p>41:4, 67:12, 81:22, 82:3, 85:19, 88:4, 88:10, 123:20, 138:21, 152:7, 159:24, 163:12, 164:12, 164:15, 167:7, 168:6, 168:7, 168:10</p> <p><b>quick</b> <sup>[4]</sup> - 19:12, 28:21, 139:12, 180:23</p> <p><b>quicker</b> <sup>[1]</sup> - 117:21</p> <p><b>quickly</b> <sup>[1]</sup> - 82:15</p> <p><b>quite</b> <sup>[2]</sup> - 109:16, 166:21</p>	<p>189:3</p> <p><b>realm</b> <sup>[1]</sup> - 71:9</p> <p><b>reask</b> <sup>[2]</sup> - 81:17, 160:15</p> <p><b>reason</b> <sup>[10]</sup> - 22:23, 31:2, 72:17, 72:18, 88:5, 89:13, 105:6, 115:13, 177:22, 182:15</p> <p><b>reasonable</b> <sup>[3]</sup> - 174:17, 182:14, 190:1</p> <p><b>reasoned</b> <sup>[1]</sup> - 179:21</p> <p><b>reasons</b> <sup>[3]</sup> - 170:1, 178:4, 192:7</p> <p><b>receipt</b> <sup>[1]</sup> - 147:14</p> <p><b>receive</b> <sup>[2]</sup> - 43:16, 59:14</p> <p><b>received</b> <sup>[6]</sup> - 19:17, 42:7, 52:12, 59:15, 83:19, 141:24</p> <p><b>receives</b> <sup>[1]</sup> - 54:4</p> <p><b>receiving</b> <sup>[7]</sup> - 50:10, 53:13, 54:4, 54:11, 142:4, 142:22, 143:7</p> <p><b>recent</b> <sup>[4]</sup> - 25:11, 102:18, 103:9, 151:15</p> <p><b>recently</b> <sup>[6]</sup> - 22:11, 22:12, 23:10, 102:19, 104:10, 172:19</p> <p><b>recess</b> <sup>[3]</sup> - 64:14, 131:10, 169:11</p> <p><b>recognize</b> <sup>[16]</sup> - 28:24, 29:1, 33:22, 66:22, 66:23, 86:5, 101:4, 102:7, 112:7, 136:10, 136:22, 143:1, 152:22, 153:1, 188:21, 193:23</p> <p><b>recognized</b> <sup>[1]</sup> - 177:6</p> <p><b>recollection</b> <sup>[5]</sup> - 4:16, 4:20, 60:2, 114:11, 157:21</p> <p><b>reconciles</b> <sup>[1]</sup> - 97:19</p> <p><b>reconciliation</b> <sup>[1]</sup> - 103:23</p> <p><b>RECORD</b> <sup>[1]</sup> - 1:1</p> <p><b>record</b> <sup>[17]</sup> - 4:3, 40:4, 40:15, 44:11, 64:13, 64:16, 70:1, 83:9, 84:18, 89:23, 113:16, 117:11, 124:15, 131:9, 131:11, 137:25, 150:13</p> <p><b>Record</b> <sup>[3]</sup> - 198:10, 198:13, 198:18</p>
	<b>Q</b>		<b>R</b>	
	<p><b>QI</b> <sup>[16]</sup> - 15:5, 15:7, 17:15, 20:9, 42:2, 42:3, 42:5, 42:8, 42:12, 42:14, 132:25, 134:24, 156:10, 156:12, 158:7, 172:22</p> <p><b>QI-HOU-2022-0908-BA</b> <sup>[1]</sup> - 41:21</p> <p><b>QIC</b> <sup>[1]</sup> - 179:20</p> <p><b>QIs</b> <sup>[20]</sup> - 22:22, 22:23, 22:25, 23:3, 23:6, 23:9, 23:24, 24:3, 60:3, 60:18, 71:20, 80:17, 81:7, 81:9, 99:15, 170:8, 170:18, 170:22, 170:24, 195:11</p> <p><b>qual</b> <sup>[1]</sup> - 146:4</p> <p><b>qualifications</b> <sup>[1]</sup> - 81:4</p> <p><b>qualified</b> <sup>[1]</sup> - 115:1</p> <p><b>quality</b> <sup>[123]</sup> - 11:18, 17:18, 22:3, 22:7, 24:21, 25:11, 28:1, 31:10, 41:19, 42:3, 42:15, 43:8, 43:17, 44:13, 48:10, 52:12, 60:11, 60:12, 68:24, 69:19, 70:20, 92:10, 92:12, 92:19, 92:20, 92:21, 92:24, 93:1, 93:2, 94:8, 94:11, 94:12, 94:20, 94:21, 94:23, 95:9, 95:18, 95:20, 96:9, 96:13, 96:15, 96:18, 96:23,</p>		<p><b>raise</b> <sup>[1]</sup> - 5:22</p> <p><b>raised</b> <sup>[1]</sup> - 177:12</p> <p><b>random</b> <sup>[1]</sup> - 110:14</p> <p><b>range</b> <sup>[1]</sup> - 107:6</p> <p><b>rather</b> <sup>[1]</sup> - 109:14</p> <p><b>re</b> <sup>[2]</sup> - 82:23, 83:11</p> <p><b>re-urge</b> <sup>[2]</sup> - 82:23, 83:11</p> <p><b>reach</b> <sup>[4]</sup> - 6:6, 6:14, 19:16, 47:23</p> <p><b>reached</b> <sup>[2]</sup> - 58:24, 59:4</p> <p><b>read</b> <sup>[19]</sup> - 31:22, 32:15, 44:9, 44:19, 49:11, 49:13, 53:4, 62:2, 62:10, 70:11, 99:25, 143:13, 144:25, 148:25, 149:9, 155:19, 155:25, 156:4, 157:19</p> <p><b>readdress</b> <sup>[1]</sup> - 164:16</p> <p><b>reading</b> <sup>[5]</sup> - 70:5, 81:24, 146:19, 148:7, 155:3</p> <p><b>ready</b> <sup>[7]</sup> - 4:9, 4:14, 10:5, 58:10, 91:14, 91:15, 169:12</p> <p><b>real</b> <sup>[4]</sup> - 19:12, 28:21, 139:12, 180:23</p> <p><b>realize</b> <sup>[1]</sup> - 88:9</p> <p><b>realized</b> <sup>[2]</sup> - 53:7, 55:15</p> <p><b>really</b> <sup>[19]</sup> - 22:7, 30:15, 40:17, 60:13, 95:1, 95:2, 98:22, 103:2, 103:7, 120:1, 120:4, 120:17, 122:1, 122:20, 123:17, 125:1, 133:17, 135:21,</p>	

<b>records</b> <sup>[1]</sup> - 114:18 <b>RECROSS</b> <sup>[3]</sup> - 67:15, 119:1, 162:23 <b>RECROSS-EXAMINATION</b> <sup>[3]</sup> - 67:15, 119:1, 162:23 <b>redact</b> <sup>[1]</sup> - 86:19 <b>redacting</b> <sup>[1]</sup> - 86:18 <b>REDIRECT</b> <sup>[1]</sup> - 160:2 <b>reduce</b> <sup>[1]</sup> - 116:19 <b>reestablishing</b> <sup>[1]</sup> - 19:25 <b>refer</b> <sup>[2]</sup> - 158:9, 183:18 <b>referenced</b> <sup>[1]</sup> - 7:18 <b>referencing</b> <sup>[11]</sup> - 33:23, 33:24, 44:25, 45:1, 45:5, 45:20, 63:13, 63:14, 78:6, 169:19, 180:15 <b>referred</b> <sup>[1]</sup> - 114:8 <b>referring</b> <sup>[3]</sup> - 104:15, 111:7, 138:5 <b>reflected</b> <sup>[1]</sup> - 109:11 <b>reflects</b> <sup>[2]</sup> - 40:18, 198:14 <b>refresh</b> <sup>[7]</sup> - 37:24, 40:2, 99:23, 105:20, 106:25, 114:11, 157:21 <b>refreshed</b> <sup>[1]</sup> - 100:1 <b>refrigeration</b> <sup>[1]</sup> - 194:16 <b>refrigerator</b> <sup>[3]</sup> - 50:25, 142:1, 150:15 <b>regard</b> <sup>[2]</sup> - 180:7, 181:5 <b>regarding</b> <sup>[5]</sup> - 60:10, 63:15, 85:16, 101:21, 190:21 <b>regardless</b> <sup>[2]</sup> - 122:9, 157:24 <b>regards</b> <sup>[10]</sup> - 85:21, 87:1, 95:8, 95:19, 103:8, 116:22, 178:23, 181:19, 183:16, 185:20 <b>Registration</b> <sup>[3]</sup> - 127:20, 127:23, 127:24 <b>regularly</b> <sup>[1]</sup> - 112:20 <b>relate</b> <sup>[1]</sup> - 132:3 <b>related</b> <sup>[4]</sup> - 7:14, 22:16, 74:13, 145:15 <b>relating</b> <sup>[1]</sup> - 24:15 <b>relationship</b> <sup>[1]</sup> - 84:2 <b>release</b> <sup>[3]</sup> - 50:11, 57:23, 58:10 <b>released</b> <sup>[5]</sup> - 51:25, 52:1, 58:13, 162:12,	162:17 <b>relevance</b> <sup>[21]</sup> - 14:6, 24:17, 26:9, 26:12, 27:15, 38:7, 39:5, 39:10, 69:1, 71:2, 81:16, 81:20, 84:22, 84:23, 85:12, 85:21, 86:3, 90:14, 90:23, 91:1, 154:3 <b>relevant</b> <sup>[16]</sup> - 39:11, 59:25, 77:22, 85:10, 86:7, 86:8, 86:14, 86:15, 86:16, 86:18, 88:6, 132:20, 176:1, 176:16, 191:22, 192:19 <b>reliability</b> <sup>[5]</sup> - 41:15, 59:20, 116:19, 173:19, 173:21 <b>reliable</b> <sup>[1]</sup> - 173:12 <b>rely</b> <sup>[1]</sup> - 137:5 <b>remain</b> <sup>[3]</sup> - 6:5, 10:10, 139:2 <b>remarked</b> <sup>[1]</sup> - 112:6 <b>remarks</b> <sup>[1]</sup> - 169:15 <b>remedy</b> <sup>[6]</sup> - 52:3, 52:7, 73:12, 73:17, 73:20, 74:4 <b>remember</b> <sup>[29]</sup> - 12:6, 12:7, 12:8, 15:19, 18:25, 21:15, 22:25, 23:14, 24:8, 24:19, 28:8, 37:18, 38:4, 38:5, 38:9, 39:19, 40:24, 63:10, 68:12, 73:6, 99:19, 110:24, 152:18, 153:4, 153:21, 154:8, 175:12, 196:15 <b>remote</b> <sup>[2]</sup> - 6:15, 105:24 <b>removal</b> <sup>[1]</sup> - 191:1 <b>removed</b> <sup>[1]</sup> - 6:3 <b>renew</b> <sup>[1]</sup> - 152:5 <b>renewal</b> <sup>[2]</sup> - 127:16, 151:18 <b>renewed</b> <sup>[3]</sup> - 129:11, 151:14, 151:16 <b>repeat</b> <sup>[11]</sup> - 17:6, 21:8, 37:14, 52:6, 56:13, 59:2, 63:6, 70:15, 72:3, 76:9, 160:13 <b>repeatedly</b> <sup>[1]</sup> - 120:20 <b>repercussions</b> <sup>[1]</sup> - 161:14 <b>rephrase</b> <sup>[5]</sup> - 26:15, 73:16, 95:16, 117:7, 156:25	<b>report</b> <sup>[39]</sup> - 13:6, 17:9, 34:22, 37:10, 43:15, 44:10, 51:24, 51:25, 52:4, 52:8, 56:4, 57:22, 58:1, 72:23, 75:7, 78:14, 96:9, 97:19, 102:18, 103:9, 103:10, 104:15, 104:16, 104:17, 105:15, 106:20, 108:18, 109:11, 118:10, 131:22, 133:15, 134:5, 155:1, 160:6, 160:18, 162:12, 172:22, 176:20, 190:23 <b>REPORT</b> <sup>[1]</sup> - 3:14 <b>Report</b> <sup>[19]</sup> - 7:13, 7:21, 8:20, 13:6, 15:8, 15:10, 42:25, 43:2, 47:9, 48:4, 48:8, 48:19, 97:15, 97:22, 98:8, 118:6, 144:15, 144:17, 145:20 <b>reported</b> <sup>[13]</sup> - 1:23, 115:2, 115:5, 115:11, 121:7, 121:8, 121:9, 158:3, 160:8, 162:4, 162:13, 167:16, 198:12 <b>REPORTER</b> <sup>[9]</sup> - 9:12, 24:11, 30:17, 34:18, 62:17, 89:23, 90:7, 113:7, 160:13 <b>reporter</b> <sup>[5]</sup> - 89:21, 130:23, 178:17, 183:21, 187:23 <b>Reporter</b> <sup>[3]</sup> - 1:24, 198:4, 198:24 <b>Reporter's</b> <sup>[4]</sup> - 3:22, 198:10, 198:13, 198:18 <b>REPORTER'S</b> <sup>[2]</sup> - 1:1, 198:1 <b>Reports</b> <sup>[13]</sup> - 39:1, 79:10, 80:9, 80:12, 80:19, 95:14, 98:6, 102:25, 105:4, 145:14, 181:21, 182:6, 183:14 <b>reports</b> <sup>[7]</sup> - 18:3, 39:3, 59:8, 104:11, 118:2, 162:17, 162:18 <b>representative</b> <sup>[2]</sup> - 29:12, 159:12 <b>reputation</b> <sup>[2]</sup> -	181:25, 182:3 <b>request</b> <sup>[8]</sup> - 29:9, 30:23, 31:8, 33:10, 33:17, 35:12, 54:13, 61:11 <b>Request</b> <sup>[3]</sup> - 183:4, 183:8, 183:11 <b>requested</b> <sup>[3]</sup> - 80:22, 150:16, 198:8 <b>require</b> <sup>[2]</sup> - 163:5, 179:4 <b>required</b> <sup>[5]</sup> - 17:3, 94:4, 127:15, 131:22, 172:6 <b>requirements</b> <sup>[4]</sup> - 130:6, 130:9, 131:24, 138:13 <b>requires</b> <sup>[1]</sup> - 138:11 <b>reset</b> <sup>[1]</sup> - 37:17 <b>respect</b> <sup>[3]</sup> - 86:5, 88:19, 165:17 <b>respond</b> <sup>[2]</sup> - 70:6, 150:8 <b>response</b> <sup>[6]</sup> - 69:2, 84:20, 148:10, 149:5, 150:22, 167:25 <b>responsibilities</b> <sup>[1]</sup> - 127:11 <b>responsibility</b> <sup>[8]</sup> - 42:15, 42:18, 42:20, 125:7, 125:24, 126:9, 132:2, 149:16 <b>Responsibility</b> <sup>[7]</sup> - 127:12, 128:14, 128:16, 128:24, 129:3, 151:19, 153:18 <b>RESPONSIBILITY</b> <sup>[2]</sup> - 3:16, 3:18 <b>responsible</b> <sup>[2]</sup> - 46:5, 94:22 <b>rest</b> <sup>[4]</sup> - 80:5, 82:24, 85:16, 91:9 <b>result</b> <sup>[8]</sup> - 73:22, 146:21, 167:8, 168:11, 184:4, 186:1, 187:3, 188:25 <b>resulted</b> <sup>[1]</sup> - 186:19 <b>results</b> <sup>[35]</sup> - 27:12, 41:16, 48:11, 48:14, 51:21, 51:23, 52:4, 52:13, 52:25, 56:15, 59:15, 59:16, 61:1, 108:22, 115:5, 115:10, 115:15, 116:3, 158:3, 162:3, 164:19, 164:23, 164:24, 182:18, 184:6, 184:10,	186:21, 187:6, 187:17, 188:10, 188:12, 189:1, 190:22, 191:15 <b>resume</b> <sup>[2]</sup> - 28:4, 28:9 <b>resumes</b> <sup>[1]</sup> - 28:7 <b>retested</b> <sup>[1]</sup> - 184:5 <b>retesting</b> <sup>[1]</sup> - 115:4 <b>retrieved</b> <sup>[1]</sup> - 75:6 <b>Review</b> <sup>[1]</sup> - 179:1 <b>review</b> <sup>[29]</sup> - 12:24, 39:17, 51:5, 56:7, 57:13, 58:6, 58:9, 58:11, 74:17, 75:5, 75:7, 75:9, 75:13, 75:14, 75:16, 75:21, 76:21, 97:6, 108:16, 108:17, 115:18, 115:24, 115:25, 140:10, 140:12, 149:25, 157:14, 159:1 <b>reviewed</b> <sup>[9]</sup> - 12:17, 23:8, 58:11, 58:14, 75:11, 75:23, 75:25, 112:24, 137:16 <b>reviewer</b> <sup>[2]</sup> - 81:5, 162:11 <b>reviewing</b> <sup>[3]</sup> - 57:18, 65:23, 167:15 <b>reviews</b> <sup>[4]</sup> - 57:24, 115:17, 115:19 <b>revisiting</b> <sup>[1]</sup> - 186:5 <b>Richmond</b> <sup>[2]</sup> - 2:6, 198:25 <b>ricin</b> <sup>[2]</sup> - 189:16, 189:18 <b>ridiculous</b> <sup>[1]</sup> - 172:7 <b>rise</b> <sup>[1]</sup> - 177:25 <b>rises</b> <sup>[1]</sup> - 120:5 <b>risk</b> <sup>[45]</sup> - 15:14, 15:16, 15:18, 16:2, 94:16, 95:4, 98:5, 98:7, 98:9, 98:10, 98:14, 98:18, 98:22, 99:1, 99:2, 99:8, 99:14, 100:8, 105:13, 105:14, 105:17, 105:19, 105:21, 106:2, 106:3, 106:19, 106:22, 106:24, 107:1, 107:6, 107:7, 107:16, 107:19, 107:22, 108:6, 108:19, 108:20, 117:19, 117:23, 120:15, 171:8 <b>RISKS</b> <sup>[1]</sup> - 3:20
--	---	--	---	---

<b>Risks</b> <sup>[1]</sup> - 136:25 <b>Rodney</b> <sup>[1]</sup> - 178:15 <b>role</b> <sup>[6]</sup> - 92:16, 93:22, 95:1, 97:12, 145:25, 146:2 <b>root</b> <sup>[3]</sup> - 163:9, 163:11, 163:15 <b>rug</b> <sup>[1]</sup> - 171:11 <b>Rule</b> <sup>[1]</sup> - 180:11 <b>rule</b> <sup>[10]</sup> - 5:5, 6:2, 10:12, 10:13, 139:2, 167:19, 167:23, 169:23, 171:17 <b>ruled</b> <sup>[2]</sup> - 86:14, 87:2 <b>ruling</b> <sup>[4]</sup> - 87:1, 196:18, 196:22, 197:3 <b>rulings</b> <sup>[1]</sup> - 85:21 <b>run</b> <sup>[1]</sup> - 95:15 <b>running</b> <sup>[2]</sup> - 14:5, 97:8 <b>runs</b> <sup>[1]</sup> - 92:21 <b>rushing</b> <sup>[1]</sup> - 131:2	<b>scanning</b> <sup>[1]</sup> - 53:15 <b>scenario</b> <sup>[3]</sup> - 148:13, 149:7, 175:17 <b>scenes</b> <sup>[1]</sup> - 189:13 <b>schedules</b> <sup>[1]</sup> - 135:13 <b>scheme</b> <sup>[1]</sup> - 108:2 <b>Science</b> <sup>[23]</sup> - 67:17, 104:24, 114:20, 124:17, 124:22, 125:4, 125:16, 125:20, 125:23, 128:10, 129:3, 129:6, 129:20, 130:7, 151:9, 151:11, 152:16, 153:15, 156:7, 163:19, 163:23, 164:2, 164:8 <b>SCIENCE</b> <sup>[1]</sup> - 3:15 <b>science</b> <sup>[1]</sup> - 71:10 <b>scientist</b> <sup>[5]</sup> - 17:1, 71:5, 71:7, 71:9, 140:21 <b>scope</b> <sup>[1]</sup> - 93:7 <b>Scott</b> <sup>[1]</sup> - 178:16 <b>screen</b> <sup>[2]</sup> - 63:19, 154:17 <b>screenshot</b> <sup>[1]</sup> - 129:2 <b>se</b> <sup>[6]</sup> - 164:19, 164:22, 164:23, 164:24, 165:19, 166:25 <b>Seal</b> <sup>[1]</sup> - 62:10 <b>SEAL</b> <sup>[1]</sup> - 198:20 <b>seal</b> <sup>[15]</sup> - 18:2, 18:18, 19:18, 20:10, 47:21, 62:13, 65:13, 65:14, 65:18, 67:1, 101:25, 128:10, 153:15, 182:25, 194:13 <b>sealed</b> <sup>[8]</sup> - 18:4, 18:13, 18:22, 19:3, 19:5, 25:14, 66:25, 147:12 <b>second</b> <sup>[37]</sup> - 10:9, 14:11, 14:12, 26:12, 29:8, 38:15, 43:24, 50:5, 53:10, 54:8, 55:17, 55:18, 58:19, 58:22, 63:12, 63:18, 65:10, 65:21, 76:2, 76:8, 76:10, 76:12, 76:13, 83:23, 87:19, 90:10, 103:12, 103:13, 130:14, 155:21, 156:23, 165:5, 170:5, 172:9, 185:12, 185:16 <b>Section</b> <sup>[2]</sup> - 138:6, 161:24	<b>section</b> <sup>[11]</sup> - 45:24, 61:9, 93:20, 95:25, 140:7, 140:8, 140:11, 141:3, 141:14, 144:24, 145:16 <b>secure</b> <sup>[1]</sup> - 142:1 <b>see</b> <sup>[52]</sup> - 9:23, 14:16, 15:21, 17:20, 18:24, 28:20, 31:19, 32:16, 34:3, 34:22, 34:24, 43:6, 43:25, 45:11, 45:15, 45:21, 47:5, 50:4, 61:23, 68:14, 77:4, 95:21, 96:2, 105:15, 106:20, 107:16, 108:3, 108:4, 125:19, 126:24, 127:3, 127:19, 127:22, 127:25, 128:9, 128:12, 128:15, 128:23, 142:15, 144:9, 147:6, 148:21, 153:14, 154:16, 155:9, 161:25, 183:9, 189:11, 192:12, 194:2, 194:8 <b>seeing</b> <sup>[3]</sup> - 97:4, 148:11, 149:5 <b>seek</b> <sup>[3]</sup> - 171:18, 171:23, 172:7 <b>seem</b> <sup>[1]</sup> - 134:9 <b>seized</b> <sup>[1]</sup> - 93:19 <b>seizing</b> <sup>[1]</sup> - 189:16 <b>selective</b> <sup>[4]</sup> - 111:23, 114:2, 114:4, 116:15 <b>self</b> <sup>[1]</sup> - 115:18 <b>self-review</b> <sup>[1]</sup> - 115:18 <b>send</b> <sup>[9]</sup> - 50:14, 96:22, 98:2, 103:17, 103:20, 103:21, 121:16, 149:16 <b>sends</b> <sup>[2]</sup> - 97:22, 104:17 <b>sense</b> <sup>[9]</sup> - 20:1, 74:12, 86:18, 95:17, 98:9, 101:6, 119:12, 134:11, 156:17 <b>sent</b> <sup>[9]</sup> - 18:3, 18:8, 18:9, 18:11, 19:9, 115:15, 116:3, 145:5, 150:1 <b>sentence</b> <sup>[8]</sup> - 16:1, 146:19, 148:6, 148:8, 148:14, 148:25, 149:8, 154:23	<b>separate</b> <sup>[11]</sup> - 20:15, 63:25, 64:2, 89:15, 89:25, 115:19, 144:21, 147:17, 184:4, 184:5, 184:12 <b>September</b> <sup>[2]</sup> - 46:22, 46:25 <b>serious</b> <sup>[1]</sup> - 170:10 <b>served</b> <sup>[1]</sup> - 191:16 <b>serves</b> <sup>[1]</sup> - 166:17 <b>set</b> <sup>[7]</sup> - 37:13, 37:16, 42:16, 97:1, 102:9, 122:19, 134:20 <b>setting</b> <sup>[1]</sup> - 110:15 <b>several</b> <sup>[1]</sup> - 93:19 <b>severe</b> <sup>[2]</sup> - 119:22, 134:25 <b>severity</b> <sup>[14]</sup> - 15:17, 15:19, 16:4, 16:5, 99:17, 105:23, 107:4, 107:24, 107:25, 108:7, 108:9, 117:13, 134:20, 134:24 <b>shade</b> <sup>[1]</sup> - 155:24 <b>shall</b> <sup>[1]</sup> - 185:7 <b>share</b> <sup>[1]</sup> - 59:22 <b>sheet</b> <sup>[1]</sup> - 49:3 <b>Sherman</b> <sup>[1]</sup> - 174:5 <b>Sherri</b> <sup>[3]</sup> - 113:3, 198:4, 198:22 <b>sherri</b> <sup>[1]</sup> - 198:23 <b>Short</b> <sup>[3]</sup> - 64:14, 131:10, 169:11 <b>short</b> <sup>[2]</sup> - 53:24, 117:17 <b>Shorthand</b> <sup>[1]</sup> - 1:23 <b>shorthand/computer</b> <sup>[1]</sup> - 1:24 <b>shorthand/computer-aided</b> <sup>[1]</sup> - 1:24 <b>show</b> <sup>[12]</sup> - 17:22, 28:22, 39:20, 45:7, 68:17, 78:3, 161:20, 172:10, 179:17, 181:20, 182:17, 186:17 <b>showed</b> <sup>[2]</sup> - 70:25, 194:19 <b>showing</b> <sup>[17]</sup> - 42:1, 44:7, 49:10, 53:2, 54:7, 54:25, 61:21, 64:4, 66:18, 106:13, 112:5, 142:24, 144:7, 152:13, 152:21, 160:21, 161:23 <b>sic</b> <sup>[3]</sup> - 99:5, 144:8, 179:1	<b>sic</b> <sup>[1]</sup> - 112:6 <b>side</b> <sup>[1]</sup> - 167:18 <b>signature</b> <sup>[4]</sup> - 33:21, 33:22, 34:2, 54:18 <b>signed</b> <sup>[5]</sup> - 44:23, 46:3, 46:7, 143:23, 149:11 <b>significant</b> <sup>[10]</sup> - 100:11, 116:6, 134:9, 134:10, 156:21, 157:3, 157:5, 157:10, 158:4, 162:14 <b>similar</b> <sup>[12]</sup> - 13:2, 112:23, 122:2, 134:2, 149:7, 179:19, 180:1, 183:20, 183:24, 185:5, 186:23, 188:2 <b>similarly</b> <sup>[6]</sup> - 86:2, 101:22, 102:4, 106:15, 107:15, 190:24 <b>simply</b> <sup>[1]</sup> - 95:8 <b>single</b> <sup>[2]</sup> - 153:4, 154:8 <b>sit</b> <sup>[3]</sup> - 86:9, 103:6, 191:19 <b>sits</b> <sup>[1]</sup> - 89:12 <b>sitting</b> <sup>[1]</sup> - 159:11 <b>situation</b> <sup>[19]</sup> - 50:22, 50:24, 52:3, 52:8, 73:12, 94:19, 98:23, 117:4, 117:14, 120:2, 120:12, 121:5, 147:24, 148:23, 166:12, 172:21, 194:15 <b>situations</b> <sup>[1]</sup> - 162:15 <b>SLIDE</b> <sup>[1]</sup> - 3:18 <b>slide</b> <sup>[12]</sup> - 153:1, 153:5, 153:21, 154:4, 154:8, 154:19, 155:4, 155:8, 156:6, 160:22, 163:19, 190:5 <b>slides</b> <sup>[3]</sup> - 151:23, 153:3, 153:9 <b>sloppy</b> <sup>[2]</sup> - 155:22, 195:5 <b>Smith</b> <sup>[1]</sup> - 178:16 <b>Soape</b> <sup>[10]</sup> - 24:9, 27:9, 60:6, 68:4, 68:12, 70:17, 81:15, 81:20, 84:5, 90:9 <b>Soape's</b> <sup>[1]</sup> - 83:20 <b>sobriety</b> <sup>[1]</sup> - 174:24 <b>solely</b> <sup>[1]</sup> - 176:1 <b>someone</b> <sup>[10]</sup> - 14:1,
<b>S</b>				
<b>S-o-a-p-e</b> <sup>[1]</sup> - 24:13 <b>S.W.2d</b> <sup>[1]</sup> - 174:3 <b>S.W.3d</b> <sup>[2]</sup> - 174:6, 175:7 <b>SADRUDDIN</b> <sup>[1]</sup> - 1:9 <b>Sadrduddin</b> <sup>[1]</sup> - 4:5 <b>Safety</b> <sup>[2]</sup> - 92:11, 140:5 <b>safety</b> <sup>[1]</sup> - 115:23 <b>sake</b> <sup>[1]</sup> - 113:23 <b>sample</b> <sup>[11]</sup> - 115:4, 115:10, 115:14, 157:5, 157:7, 157:10, 158:2, 162:3, 162:10, 184:19, 190:22 <b>samples</b> <sup>[2]</sup> - 116:20, 156:17 <b>Sara</b> <sup>[2]</sup> - 34:17, 34:18 <b>Saravith</b> <sup>[5]</sup> - 34:19, 34:24, 54:19, 54:20, 54:22 <b>SARAVITH</b> <sup>[1]</sup> - 34:20 <b>sat</b> <sup>[2]</sup> - 88:24, 88:25 <b>Satellite</b> <sup>[1]</sup> - 6:15 <b>satisfy</b> <sup>[1]</sup> - 188:6 <b>saw</b> <sup>[3]</sup> - 66:13, 165:15, 192:20 <b>SBOT</b> <sup>[4]</sup> - 2:4, 2:5, 2:10, 2:11 <b>scanned</b> <sup>[7]</sup> - 53:12, 53:18, 53:19, 54:3, 77:11, 77:13				

<p>46:9, 98:3, 103:17, 119:19, 119:21, 143:25, 175:2, 179:20, 189:9</p> <p><b>sometimes</b> [8] - 34:25, 96:2, 99:8, 99:9, 120:19, 123:6, 147:24</p> <p><b>somewhat</b> [1] - 124:24</p> <p><b>somewhere</b> [2] - 37:3, 165:7</p> <p><b>SOMIYEH</b> [4] - 3:5, 3:9, 92:1, 92:9</p> <p><b>Somiyeh</b> [4] - 5:14, 5:16, 91:17, 92:9</p> <p><b>soon</b> [1] - 134:12</p> <p><b>sorry</b> [23] - 10:8, 14:12, 18:6, 21:6, 21:17, 23:15, 25:14, 30:17, 37:14, 45:4, 58:12, 62:17, 63:6, 64:10, 72:11, 124:10, 128:20, 136:17, 153:7, 155:3, 160:13, 168:22, 193:4</p> <p><b>sort</b> [8] - 37:21, 131:23, 156:19, 161:13, 163:5, 165:19, 176:11, 193:14</p> <p><b>sorts</b> [1] - 174:25</p> <p><b>sound</b> [1] - 105:10</p> <p><b>sounded</b> [1] - 174:23</p> <p><b>sp.ph</b> [1] - 146:4</p> <p><b>special</b> [1] - 61:11</p> <p><b>specialist</b> [1] - 97:18</p> <p><b>specific</b> [28] - 14:14, 17:10, 20:7, 41:19, 70:9, 73:21, 95:21, 96:3, 96:4, 101:9, 106:7, 111:10, 113:20, 123:9, 126:2, 135:17, 138:12, 142:18, 143:9, 150:18, 154:4, 156:11, 178:5, 178:12, 179:22, 180:8, 181:24, 192:18</p> <p><b>specifically</b> [15] - 7:17, 40:24, 88:10, 88:18, 89:4, 94:7, 103:8, 106:19, 108:7, 116:8, 122:15, 122:17, 125:1, 162:2, 185:7</p> <p><b>specimen</b> [11] - 42:11, 42:22, 48:11, 52:24,</p>	<p>53:7, 53:11, 59:14, 59:15, 59:19, 62:3, 62:11</p> <p><b>specimens</b> [1] - 61:3</p> <p><b>speculation</b> [10] - 20:16, 21:23, 25:2, 26:24, 33:12, 35:5, 109:20, 124:11, 132:10, 132:18</p> <p><b>spell</b> [2] - 24:11, 92:7</p> <p><b>spoken</b> [1] - 19:9</p> <p><b>SQA</b> [1] - 103:25</p> <p><b>square</b> [1] - 33:21</p> <p><b>Stafford</b> [11] - 27:23, 29:5, 32:12, 32:20, 35:14, 35:21, 41:13, 64:22, 66:11, 67:2, 78:16</p> <p><b>stage</b> [8] - 57:4, 57:7, 57:8, 57:21, 58:12, 58:17, 74:17, 76:15</p> <p><b>stages</b> [6] - 96:8, 96:11, 96:12, 97:8, 97:12, 102:24</p> <p><b>stamped</b> [1] - 90:11</p> <p><b>stance</b> [1] - 108:11</p> <p><b>stand</b> [4] - 4:17, 53:20, 174:7, 188:15</p> <p><b>standard</b> [8] - 170:10, 181:20, 184:25, 185:3, 185:5, 185:10, 186:11, 187:8</p> <p><b>Standard</b> [1] - 179:1</p> <p><b>standards</b> [2] - 88:24, 114:18</p> <p><b>stands</b> [1] - 42:3</p> <p><b>star</b> [1] - 33:22</p> <p><b>start</b> [3] - 91:13, 103:6, 170:6</p> <p><b>started</b> [3] - 83:13, 111:1, 126:7</p> <p><b>starting</b> [5] - 41:19, 146:17, 148:6, 179:3, 181:5</p> <p><b>starts</b> [3] - 29:2, 96:12, 96:13</p> <p><b>STATE</b> [3] - 1:5, 2:2, 198:2</p> <p><b>state</b> [10] - 20:24, 23:19, 69:25, 72:21, 113:1, 176:1, 179:3, 189:8, 190:11, 190:16</p> <p><b>State</b> [36] - 4:4, 4:12, 4:14, 7:24, 8:22, 40:11, 59:23, 67:21, 72:8, 72:9, 78:2, 82:4, 83:7, 83:17, 84:21, 91:17, 113:9,</p>	<p>139:11, 168:23, 170:18, 171:23, 171:25, 172:10, 173:18, 174:3, 174:5, 175:5, 175:24, 178:16, 183:19, 185:14, 185:18, 185:21, 188:19, 190:18, 192:7</p> <p><b>state's</b> [1] - 9:8</p> <p><b>STATE'S</b> [1] - 3:10</p> <p><b>State's</b> [28] - 9:3, 9:5, 9:18, 45:15, 47:3, 49:11, 53:3, 55:1, 58:16, 61:22, 65:8, 65:9, 66:19, 112:6, 113:2, 113:9, 113:12, 113:14, 138:5, 142:12, 144:8, 157:17, 161:21, 161:22, 175:1, 187:15, 188:9, 191:10</p> <p><b>statement</b> [3] - 24:19, 70:9, 81:3</p> <p><b>statements</b> [1] - 176:25</p> <p><b>states</b> [5] - 54:9, 162:3, 171:17, 180:7, 188:16</p> <p><b>States</b> [1] - 155:9</p> <p><b>stay</b> [2] - 55:4, 73:25</p> <p><b>step</b> [12] - 50:23, 57:16, 58:1, 58:5, 58:13, 94:25, 96:16, 97:6, 103:4, 103:23, 194:24</p> <p><b>steps</b> [2] - 51:6, 51:7</p> <p><b>still</b> [27] - 4:18, 14:6, 18:10, 18:24, 18:25, 19:2, 35:13, 42:22, 44:18, 47:18, 47:20, 52:12, 78:8, 78:9, 85:23, 90:2, 103:12, 116:2, 117:6, 121:13, 140:10, 141:9, 177:11, 190:8, 194:1</p> <p><b>stipulated</b> [1] - 9:3</p> <p><b>stop</b> [1] - 174:21</p> <p><b>stored</b> [2] - 51:1, 64:22</p> <p><b>Stout</b> [2] - 31:23, 143:17</p> <p><b>Street</b> [1] - 2:12</p> <p><b>stuck</b> [1] - 147:25</p> <p><b>stuff</b> [2] - 110:21, 146:11</p> <p><b>stumbling</b> [1] - 175:18</p>	<p><b>style</b> [2] - 175:22, 175:23</p> <p><b>styled</b> [1] - 198:10</p> <p><b>subject</b> [10] - 15:5, 95:5, 99:4, 145:9, 145:12, 145:17, 145:18, 166:2, 166:24, 188:3</p> <p><b>Subject</b> [1] - 62:1</p> <p><b>subject's</b> [1] - 62:7</p> <p><b>subjective</b> [8] - 98:15, 98:24, 134:16, 165:20, 165:22, 165:24, 166:4, 171:7</p> <p><b>subjectively</b> [1] - 167:1</p> <p><b>submission</b> [60] - 13:18, 14:15, 25:24, 28:25, 29:9, 29:15, 31:8, 33:7, 33:10, 33:17, 35:12, 36:6, 36:16, 36:24, 41:14, 52:22, 53:7, 53:12, 53:16, 55:3, 55:8, 57:9, 58:25, 59:4, 63:3, 63:8, 63:22, 74:14, 76:20, 76:24, 77:1, 77:21, 77:25, 78:10, 78:11, 102:11, 108:15, 141:16, 142:7, 142:10, 143:3, 143:14, 143:24, 144:1, 144:21, 144:22, 147:1, 147:2, 147:11, 147:16, 147:23, 148:1, 150:19, 150:21, 156:17, 156:18, 156:19, 157:7, 161:7, 193:25</p> <p><b>Submission</b> [3] - 183:4, 183:8, 183:12</p> <p><b>submissions</b> [1] - 143:16</p> <p><b>submit</b> [3] - 30:16, 30:18, 58:25</p> <p><b>submitted</b> [5] - 18:10, 30:22, 147:18, 148:2, 189:9</p> <p><b>submitting</b> [4] - 29:12, 30:7, 31:18, 148:3</p> <p><b>Subsection</b> [6] - 157:18, 161:24, 162:2, 169:24</p> <p><b>subsequent</b> [3] - 115:3, 138:11, 190:23</p> <p><b>substantial</b> [1] - 162:4</p> <p><b>substantially</b> [1] -</p>	<p>112:23</p> <p><b>sufficient</b> [1] - 190:20</p> <p><b>sufficiently</b> [2] - 86:10, 86:13</p> <p><b>Sugar</b> [5] - 18:16, 18:21, 42:5, 47:7, 47:13</p> <p><b>suggest</b> [1] - 72:8</p> <p><b>suggested</b> [1] - 68:23</p> <p><b>Suite</b> [1] - 2:12</p> <p><b>summarizes</b> [1] - 184:18</p> <p><b>summarizing</b> [1] - 88:4</p> <p><b>supervisor</b> [20] - 19:10, 19:13, 47:11, 51:6, 55:21, 94:18, 99:3, 119:14, 120:12, 135:20, 140:7, 140:9, 140:10, 141:1, 141:4, 145:16, 160:8, 160:19, 163:11, 166:5</p> <p><b>supervisors</b> [4] - 95:5, 120:11, 134:22</p> <p><b>support</b> [1] - 186:3</p> <p><b>supporting</b> [1] - 180:9</p> <p><b>suppose</b> [2] - 122:22, 124:4</p> <p><b>supposed</b> [3] - 16:23, 50:23, 170:22</p> <p><b>supreme</b> [1] - 171:15</p> <p><b>survive</b> [2] - 182:9, 182:11</p> <p><b>suspension</b> [2] - 115:6</p> <p><b>sustain</b> [3] - 26:14, 91:3, 132:11</p> <p><b>sustained</b> [13] - 20:17, 25:9, 27:16, 30:11, 35:6, 39:13, 69:10, 71:3, 71:19, 79:20, 111:12, 111:19, 114:15</p> <p><b>sustaining</b> [2] - 81:21, 85:21</p> <p><b>swap</b> [2] - 73:5, 74:1</p> <p><b>swapped</b> [9] - 31:9, 74:9, 74:14, 107:12, 109:15, 109:19, 187:8, 187:12, 194:20</p> <p><b>swapping</b> [4] - 132:25, 133:20, 134:25, 183:1</p> <p><b>sweep</b> [1] - 171:10</p> <p><b>switch</b> [7] - 14:22, 115:4, 115:10, 115:14, 158:2,</p>
--	---	--	--	--

<p>162:3, 162:10  <b>switched</b> <sup>[16]</sup> - 7:15,  11:22, 13:14, 13:19,  25:23, 52:16, 52:21,  144:22, 147:2,  147:8, 148:12,  149:6, 156:18,  156:20, 161:8,  193:15  <b>switches</b> <sup>[1]</sup> - 157:8  <b>switching</b> <sup>[4]</sup> - 11:22,  157:5, 157:10, 158:7  <b>sworn</b> <sup>[5]</sup> - 5:24, 6:1,  11:4, 92:2, 139:20  <b>System</b> <sup>[4]</sup> - 53:21,  54:1, 55:12, 55:25  <b>system</b> <sup>[19]</sup> - 9:11,  53:18, 53:23, 55:12,  72:17, 72:18, 72:22,  77:12, 77:14, 77:18,  96:22, 96:23,  119:11, 141:21,  146:4, 150:11,  150:22, 171:18,  173:2</p>	<p>42:22, 51:14, 56:5,  114:24, 115:1,  126:6, 127:21,  128:2, 128:14,  128:25, 129:17,  130:10, 152:5,  173:20, 175:1,  184:3, 188:12  <b>tested</b> <sup>[15]</sup> - 13:2,  14:18, 26:4, 36:15,  36:20, 50:17, 51:22,  53:11, 56:2, 74:16,  92:22, 116:20,  126:10, 184:12,  187:11  <b>testified</b> <sup>[16]</sup> - 11:4,  13:23, 27:6, 75:15,  76:3, 92:2, 132:6,  139:20, 156:4,  158:16, 171:2,  172:3, 188:14,  194:18, 195:12  <b>testifies</b> <sup>[1]</sup> - 132:13  <b>testify</b> <sup>[10]</sup> - 6:21,  40:16, 67:20, 75:13,  85:24, 135:9,  135:11, 135:15,  135:24, 182:3  <b>testifying</b> <sup>[9]</sup> - 6:5,  10:12, 24:8, 24:14,  35:16, 36:11, 55:16,  70:4, 135:5  <b>testimony</b> <sup>[33]</sup> - 6:7,  12:21, 13:25, 22:24,  23:2, 60:7, 60:9,  63:15, 68:17, 71:15,  74:23, 83:21, 84:1,  84:16, 85:19, 89:5,  131:21, 154:5,  155:23, 155:24,  167:16, 168:1,  168:3, 174:20,  181:25, 182:3,  182:16, 183:7,  188:11, 190:21,  191:9, 194:10, 195:2  <b>testing</b> <sup>[31]</sup> - 11:23,  12:9, 12:14, 41:16,  53:6, 55:9, 56:10,  56:12, 56:14, 56:16,  57:5, 57:12, 57:14,  59:11, 59:20, 61:3,  61:17, 62:14, 62:19,  62:22, 65:15, 76:16,  76:20, 115:1, 115:3,  125:3, 127:7, 151:8,  173:11, 186:20,  187:5  <b>tests</b> <sup>[1]</sup> - 174:24  <b>Texarkana</b> <sup>[1]</sup> - 174:6</p>	<p><b>TEXAS</b> <sup>[4]</sup> - 1:5, 1:9,  3:15, 198:2  <b>Texas</b> <sup>[34]</sup> - 1:22, 2:6,  2:13, 4:4, 44:12,  67:17, 69:17, 92:11,  104:24, 114:20,  124:22, 125:4,  125:16, 125:20,  125:23, 127:12,  128:9, 129:3, 130:6,  140:4, 151:11,  153:14, 156:6,  163:19, 163:22,  164:2, 164:7,  166:23, 178:16,  183:19, 187:22,  198:6, 198:23,  198:25  <b>THE</b> <sup>[301]</sup> - 1:5, 2:2,  2:9, 4:3, 4:11, 4:16,  4:22, 5:2, 5:7, 5:15,  5:17, 5:21, 5:25, 7:5,  7:6, 7:17, 8:1, 8:4,  8:7, 8:13, 8:19, 9:7,  9:10, 9:12, 9:13,  9:16, 9:20, 9:22,  10:1, 10:5, 10:8,  10:21, 10:22, 10:24,  10:25, 11:10, 14:7,  16:11, 16:17, 17:5,  18:6, 18:7, 20:17,  21:5, 21:7, 21:24,  23:15, 24:11, 24:18,  25:3, 25:9, 26:11,  26:14, 26:25, 27:16,  28:12, 28:15, 30:11,  30:17, 33:15, 33:23,  34:18, 34:19, 35:6,  35:17, 36:1, 36:12,  38:8, 38:16, 38:19,  39:13, 39:25, 40:3,  40:14, 41:5, 41:8,  41:25, 43:21, 43:24,  44:2, 44:6, 44:25,  45:3, 45:8, 45:13,  45:17, 49:25, 50:4,  50:7, 58:21, 60:14,  60:15, 62:17, 63:12,  63:16, 63:20, 64:15,  66:17, 67:11, 67:14,  68:7, 68:18, 68:21,  69:4, 69:10, 69:12,  69:22, 70:6, 70:13,  71:3, 71:19, 72:2,  72:11, 72:13, 74:7,  75:1, 75:4, 78:5,  78:8, 78:20, 79:3,  79:7, 79:20, 81:17,  81:21, 81:24, 82:2,  82:5, 82:11, 82:16,  82:20, 82:25, 83:3,</p>	<p>83:10, 83:23, 83:25,  84:19, 85:1, 85:5,  85:7, 86:4, 86:21,  87:2, 87:4, 87:9,  87:12, 87:17, 87:19,  87:21, 88:1, 88:11,  88:16, 88:18, 89:11,  89:17, 89:20, 89:23,  90:2, 90:7, 90:16,  90:20, 91:2, 91:7,  91:10, 91:15, 91:19,  100:14, 100:15,  100:19, 100:21,  100:24, 102:16,  109:21, 110:2,  112:4, 113:4, 113:7,  113:12, 113:19,  118:15, 118:18,  118:22, 118:24,  124:12, 125:13,  126:17, 126:23,  128:6, 128:17,  128:20, 128:22,  130:14, 130:16,  130:21, 130:25,  131:7, 131:11,  131:17, 131:20,  132:11, 132:19,  132:22, 132:23,  136:5, 136:7,  136:15, 136:17,  137:18, 137:22,  138:20, 138:24,  139:1, 139:4, 139:5,  139:9, 139:13,  139:15, 139:17,  142:14, 151:1,  152:12, 153:7,  153:11, 153:13,  154:5, 154:7, 154:9,  154:15, 156:23,  160:1, 160:13,  160:15, 162:21,  164:1, 164:14,  164:20, 164:22,  165:1, 165:2, 165:3,  165:4, 165:10,  165:13, 165:16,  165:17, 165:23,  165:25, 166:4,  166:10, 166:11,  166:16, 166:19,  166:21, 167:2,  167:5, 167:12,  167:21, 167:25,  168:5, 168:9,  168:13, 168:15,  168:22, 168:25,  169:3, 169:7,  169:10, 169:12,  169:14, 169:19,</p>	<p>169:23, 175:21,  175:25, 176:10,  176:13, 177:17,  177:20, 178:18,  180:13, 180:15,  180:18, 180:21,  180:24, 181:4,  181:7, 181:12,  183:22, 187:25,  192:9, 192:22,  193:4, 193:12,  196:2, 196:6,  196:12, 196:16,  196:20, 197:1,  197:7, 198:2  <b>theatric</b> <sup>[1]</sup> - 89:1  <b>themselves</b> <sup>[2]</sup> - 57:4,  61:6  <b>thereby</b> <sup>[1]</sup> - 157:24  <b>they've</b> <sup>[1]</sup> - 171:7  <b>thinks</b> <sup>[1]</sup> - 191:21  <b>third</b> <sup>[5]</sup> - 25:23,  173:12, 179:2,  185:20, 186:10  <b>Third</b> <sup>[1]</sup> - 138:7  <b>Third-Party</b> <sup>[1]</sup> - 138:7  <b>thorough</b> <sup>[1]</sup> - 183:2  <b>three</b> <sup>[16]</sup> - 18:25,  22:7, 25:11, 26:18,  78:24, 85:3, 85:8,  118:2, 135:21,  135:24, 169:17,  177:24, 178:4,  182:21, 194:3,  194:11  <b>throughout</b> <sup>[3]</sup> -  62:19, 72:21, 121:24  <b>TIFANI</b> <sup>[4]</sup> - 3:6, 3:8,  139:19, 139:25  <b>Tifani</b> <sup>[8]</sup> - 5:20,  19:14, 44:21, 46:2,  139:11, 139:25,  145:1, 189:6  <b>timely</b> <sup>[2]</sup> - 70:25,  140:14  <b>title</b> <sup>[1]</sup> - 54:16  <b>TL</b> <sup>[1]</sup> - 99:10  <b>TO</b> <sup>[1]</sup> - 3:15  <b>today</b> <sup>[27]</sup> - 9:2, 11:7,  12:21, 13:6, 15:10,  15:24, 24:21, 48:19,  80:3, 80:8, 83:22,  85:13, 103:14,  160:6, 167:16,  177:22, 178:7,  179:9, 182:17,  183:8, 183:13,  187:7, 187:13,  188:11, 191:5,  191:11, 191:16</p>
<b>T</b>				
<p><b>tab</b> <sup>[2]</sup> - 77:19, 77:20  <b>talks</b> <sup>[2]</sup> - 113:20,  163:19  <b>taste</b> <sup>[1]</sup> - 89:1  <b>team</b> <sup>[5]</sup> - 61:7, 141:8,  171:25, 172:4,  195:23  <b>tech</b> <sup>[3]</sup> - 34:13, 54:23,  54:24  <b>technical</b> <sup>[11]</sup> - 58:11,  75:5, 75:9, 75:14,  75:21, 75:23, 99:3,  115:18, 120:11,  162:11  <b>Technical</b> <sup>[1]</sup> - 64:12  <b>technician</b> <sup>[4]</sup> - 127:5,  149:23, 149:24,  175:11  <b>telephone</b> <sup>[1]</sup> - 6:15  <b>temporary</b> <sup>[1]</sup> - 191:1  <b>tenable</b> <sup>[1]</sup> - 171:18  <b>tend</b> <sup>[1]</sup> - 179:10  <b>tendency</b> <sup>[1]</sup> - 182:11  <b>tender</b> <sup>[2]</sup> - 153:25,  183:20  <b>tendered</b> <sup>[1]</sup> - 198:15  <b>tendering</b> <sup>[2]</sup> - 126:14,  187:22  <b>tending</b> <sup>[1]</sup> - 170:1  <b>tens</b> <sup>[1]</sup> - 61:10  <b>test</b> <sup>[18]</sup> - 35:22,</p>				

<p><b>together</b> [2] - 73:17, 146:11</p> <p><b>took</b> [6] - 36:6, 51:4, 66:3, 103:10, 126:8, 170:25</p> <p><b>top</b> [11] - 41:1, 54:10, 67:5, 99:20, 117:20, 128:12, 143:6, 153:18, 154:20, 165:3, 180:16</p> <p><b>TopClass</b> [1] - 127:23</p> <p><b>topics</b> [1] - 127:8</p> <p><b>total</b> [1] - 198:17</p> <p><b>totality</b> [1] - 98:23</p> <p><b>touch</b> [1] - 66:6</p> <p><b>touched</b> [1] - 194:6</p> <p><b>tox</b> [1] - 19:8</p> <p><b>Toxicology</b> [3] - 183:3, 183:8, 183:11</p> <p><b>toxicology</b> [11] - 18:11, 29:9, 31:8, 47:25, 104:17, 140:7, 140:9, 141:4, 141:13, 145:16, 149:23</p> <p><b>trace</b> [1] - 93:18</p> <p><b>track</b> [4] - 72:20, 95:20, 146:4, 189:13</p> <p><b>trained</b> [1] - 130:1</p> <p><b>training</b> [13] - 11:15, 16:20, 20:18, 20:21, 21:4, 40:23, 67:23, 68:1, 110:11, 125:2, 136:1, 154:6, 172:4</p> <p><b>training..</b> [1] - 154:4</p> <p><b>transcription</b> [2] - 1:25, 198:7</p> <p><b>transparent</b> [2] - 73:2, 120:24</p> <p><b>trap</b> [1] - 169:24</p> <p><b>trend</b> [1] - 96:2</p> <p><b>trends</b> [1] - 95:20</p> <p><b>trial</b> [77] - 4:6, 5:1, 9:4, 22:11, 22:12, 24:9, 27:21, 28:1, 28:23, 31:16, 37:13, 37:16, 38:13, 42:16, 42:17, 43:12, 43:13, 46:16, 46:18, 46:25, 48:5, 59:24, 60:1, 60:6, 60:8, 61:22, 64:20, 66:7, 66:20, 68:4, 68:12, 70:17, 70:18, 70:22, 79:10, 80:5, 80:12, 81:7, 81:10, 83:14, 84:8, 84:10, 87:25, 88:5, 88:8, 88:25, 89:10, 135:25, 169:18, 169:25, 170:4,</p>	<p>170:9, 172:15, 172:16, 174:18, 177:13, 177:15, 177:25, 184:1, 184:11, 184:13, 184:20, 185:4, 185:7, 185:9, 185:14, 185:22, 186:1, 186:3, 186:4, 186:11, 186:13, 187:1, 191:2, 192:8, 192:21, 195:23</p> <p><b>TRIAL</b> [2] - 1:3, 1:14</p> <p><b>Trial</b> [1] - 184:17</p> <p><b>trial's</b> [1] - 188:18</p> <p><b>trials</b> [4] - 88:9, 135:5, 135:7, 135:8</p> <p><b>tried</b> [1] - 193:2</p> <p><b>trier</b> [1] - 86:9</p> <p><b>tries</b> [1] - 190:3</p> <p><b>triggered</b> [4] - 148:10, 148:21, 149:4, 168:1</p> <p><b>true</b> [6] - 75:17, 98:12, 121:12, 138:9, 185:25, 198:7</p> <p><b>truly</b> [1] - 198:14</p> <p><b>truth</b> [2] - 51:3, 51:4</p> <p><b>try</b> [5] - 77:3, 97:23, 134:12, 189:8, 195:8</p> <p><b>trying</b> [2] - 171:10, 193:4</p> <p><b>tube</b> [12] - 42:10, 42:21, 46:20, 56:10, 62:5, 62:7, 62:13, 101:19, 102:10, 183:10, 194:12, 194:15</p> <p><b>tubes</b> [16] - 14:14, 48:2, 50:19, 51:2, 52:15, 53:9, 66:10, 73:25, 102:8, 107:12, 108:4, 108:15, 109:15, 147:8, 182:25, 183:1</p> <p><b>tunnel</b> [1] - 97:3</p> <p><b>turn</b> [11] - 27:25, 117:21, 122:22, 123:2, 123:13, 131:18, 144:23, 171:24, 178:25, 180:7, 184:15</p> <p><b>turned</b> [3] - 70:21, 144:1, 172:22</p> <p><b>twice</b> [2] - 108:2, 109:7</p> <p><b>two</b> [34] - 7:19, 8:5, 8:10, 11:13, 11:21, 22:3, 22:7, 27:6, 31:17, 48:22, 59:1, 68:23, 69:19, 74:9,</p>	<p>81:9, 83:8, 84:14, 93:16, 102:8, 109:9, 109:10, 132:14, 132:25, 142:8, 143:12, 144:20, 148:18, 149:3, 170:24, 172:12, 174:2, 183:18</p> <p><b>type</b> [3] - 39:8, 88:7, 146:11</p> <p><b>typed</b> [6] - 29:21, 31:19, 31:22, 31:23, 32:3, 32:23</p> <p><b>typed-in</b> [1] - 32:23</p> <p><b>typically</b> [7] - 94:17, 99:2, 100:9, 117:13, 122:8, 126:1, 134:21</p> <p><b>Tyra</b> [1] - 1:21</p>	<p>176:16, 176:25, 177:25, 178:8, 178:11, 179:1, 179:7, 181:20, 182:10, 182:12, 184:25, 185:4, 186:11, 195:14, 195:15, 195:16, 197:2</p> <p><b>undergone</b> [1] - 110:11</p> <p><b>underlying</b> [1] - 174:10</p> <p><b>undermine</b> [2] - 190:21, 191:9</p> <p><b>underneath</b> [2] - 143:12, 145:8</p> <p><b>understood</b> [10] - 10:3, 10:21, 69:11, 86:20, 87:5, 96:7, 102:13, 103:15, 168:4, 192:19</p> <p><b>undisclosed</b> [2] - 188:17, 190:19</p> <p><b>unexplained</b> [1] - 155:23</p> <p><b>unique</b> [4] - 54:4, 56:23, 66:23, 141:22</p> <p><b>United</b> [1] - 155:9</p> <p><b>unknown</b> [1] - 185:13</p> <p><b>unless</b> [8] - 121:16, 125:1, 126:3, 129:8, 130:17, 166:23</p> <p><b>unrelated</b> [4] - 173:25, 175:13, 176:5, 177:24</p> <p><b>unreported</b> [1] - 178:21</p> <p><b>unresolved</b> [1] - 155:18</p> <p><b>unsatisfactory</b> [2] - 114:24, 114:25</p> <p><b>unsealed</b> [3] - 42:6, 47:8, 106:17</p> <p><b>unsee</b> [1] - 86:11</p> <p><b>unusual</b> [1] - 144:4</p> <p><b>up</b> [39] - 16:25, 38:3, 38:6, 55:7, 55:11, 55:23, 57:9, 60:25, 61:15, 64:11, 65:24, 73:14, 76:18, 83:1, 83:21, 92:25, 93:12, 100:17, 102:1, 106:12, 119:16, 121:10, 126:3, 128:18, 130:18, 134:7, 146:11, 154:17, 159:13, 159:15, 159:16, 161:15, 170:6,</p>	<p>182:2, 189:7, 189:10, 191:20, 191:22, 193:14</p> <p><b>upper</b> [1] - 34:7</p> <p><b>ups</b> [1] - 67:13</p> <p><b>urge</b> [3] - 82:23, 83:11, 84:17</p> <p><b>URL</b> [1] - 125:19</p> <p><b>useful</b> [1] - 176:20</p> <p><b>uses</b> [1] - 110:7</p> <p><b>utilize</b> [4] - 11:10, 99:12, 185:3, 189:4</p> <p><b>utilized</b> [2] - 181:23, 190:11</p> <p><b>utilizes</b> [1] - 178:22</p> <p><b>utilizing</b> [1] - 182:5</p>
<b>V</b>				
<p><b>V-o-n-n-e</b> [1] - 34:20</p> <p><b>vacation</b> [1] - 6:9</p> <p><b>vague</b> [3] - 26:10, 26:13, 74:6</p> <p><b>vaguely</b> [1] - 68:6</p> <p><b>value</b> [2] - 191:8, 191:12</p> <p><b>variable</b> [1] - 176:1</p> <p><b>varies</b> [1] - 93:21</p> <p><b>various</b> [1] - 71:20</p> <p><b>vault</b> [1] - 142:1</p> <p><b>vein</b> [1] - 182:12</p> <p><b>verdict</b> [1] - 186:19</p> <p><b>verify</b> [2] - 45:23, 196:9</p> <p><b>verifying</b> [1] - 45:19</p> <p><b>versus</b> [14] - 4:4, 20:19, 68:2, 83:7, 108:11, 163:3, 170:5, 171:14, 172:8, 174:3, 174:5, 175:5, 175:24, 178:16</p> <p><b>vet</b> [1] - 110:21</p> <p><b>via</b> [1] - 144:8</p> <p><b>vial</b> [6] - 11:19, 76:11, 76:12, 193:15, 194:10, 194:18</p> <p><b>vials</b> [7] - 15:1, 25:18, 73:5, 79:1, 105:9, 134:25, 194:20</p> <p><b>video</b> [4] - 38:2, 174:23, 190:14, 194:9</p> <p><b>Video</b> [2] - 65:11, 65:22</p> <p><b>videotaped</b> [1] - 64:25</p> <p><b>view</b> [1] - 64:21</p> <p><b>views</b> [1] - 189:21</p> <p><b>violated</b> [2] - 20:14,</p>				

<p>175:12  <b>violates</b> <sup>[1]</sup> - 186:10  <b>violation</b> <sup>[10]</sup> - 20:11,  76:22, 94:14,  119:25, 170:14,  179:16, 190:6,  192:3, 192:4, 192:5  <b>violations</b> <sup>[1]</sup> - 71:21  <b>vision</b> <sup>[1]</sup> - 97:3  <b>visually</b> <sup>[1]</sup> - 193:23  <b>vital</b> <sup>[2]</sup> - 177:8, 177:9  <b>voices</b> <sup>[1]</sup> - 128:18  <b>Voir</b> <sup>[2]</sup> - 3:4, 3:7  <b>Vol</b> <sup>[3]</sup> - 3:2, 3:11,  3:14  <b>volume</b> <sup>[1]</sup> - 198:9  <b>VOLUME</b> <sup>[1]</sup> - 1:2  <b>VOLUMES</b> <sup>[1]</sup> - 1:2  <b>Vonne</b> <sup>[5]</sup> - 34:19,  36:18, 54:19, 54:20,  54:22  <b>Vonne's</b> <sup>[1]</sup> - 34:24  <b>VS</b> <sup>[1]</sup> - 1:7</p>	<p>66:16, 67:10, 68:17,  69:5, 69:13, 70:10,  75:1, 82:7, 82:23,  91:14, 100:22,  112:3, 118:13,  125:12, 128:5,  130:18, 131:6,  131:13, 132:3,  132:13, 136:4,  138:19, 138:23,  139:9, 150:25,  152:11, 159:23,  162:20, 164:11,  164:13, 167:6,  167:7, 167:22,  168:2, 168:6,  168:14, 180:9, 182:2  <b>Witness</b> <sup>[2]</sup> - 32:11,  36:4  <b>WITNESS</b> <sup>[29]</sup> - 10:21,  10:24, 18:7, 34:19,  60:15, 72:13, 75:4,  79:7, 82:16, 100:15,  113:19, 128:20,  132:22, 136:17,  139:4, 139:15,  153:11, 154:7,  164:20, 165:1,  165:3, 165:10,  165:16, 165:23,  166:4, 166:11,  166:19, 167:2,  198:20  <b>witness'</b> <sup>[3]</sup> - 180:8,  180:10, 181:6  <b>witness's</b> <sup>[2]</sup> - 74:23,  79:4  <b>witnesses</b> <sup>[11]</sup> - 5:4,  5:7, 5:10, 5:24, 6:4,  6:20, 10:11, 168:24,  169:1, 174:9, 174:12  <b>WITNESSES</b> <sup>[1]</sup> - 7:5  <b>witnesses'</b> <sup>[1]</sup> -  174:15  <b>word</b> <sup>[1]</sup> - 60:17  <b>wording</b> <sup>[1]</sup> - 60:13  <b>words</b> <sup>[2]</sup> - 60:16,  70:12  <b>WORK</b> <sup>[1]</sup> - 3:19  <b>workflow</b> <sup>[6]</sup> - 99:15,  103:20, 104:1,  148:7, 148:9, 149:4  <b>works</b> <sup>[3]</sup> - 61:4, 93:8,  172:3  <b>worksheet</b> <sup>[5]</sup> - 57:11,  61:20, 75:8, 80:16,  194:12  <b>world</b> <sup>[1]</sup> - 7:1  <b>wreck</b> <sup>[1]</sup> - 175:20  <b>wrecked</b> <sup>[1]</sup> - 175:2</p>	<p><b>write</b> <sup>[3]</sup> - 30:15,  48:24, 145:19  <b>writing</b> <sup>[1]</sup> - 198:8  <b>written</b> <sup>[3]</sup> - 32:1,  32:7, 92:25  <b>wrote</b> <sup>[1]</sup> - 8:10</p>
<b>W</b>		<b>Y</b>
<p><b>wait</b> <sup>[2]</sup> - 7:7, 104:14  <b>wash</b> <sup>[1]</sup> - 194:7  <b>website</b> <sup>[29]</sup> - 43:5,  44:15, 44:16, 79:18,  79:22, 97:20, 98:3,  103:18, 104:2,  104:7, 104:9,  104:23, 104:24,  117:9, 117:10,  123:16, 123:25,  124:19, 124:22,  124:23, 125:17,  125:20, 126:1,  126:3, 130:9,  152:16, 152:20,  170:21, 170:22  <b>week</b> <sup>[1]</sup> - 7:16  <b>weeks</b> <sup>[3]</sup> - 11:13,  63:3, 63:7  <b>whim</b> <sup>[1]</sup> - 99:1  <b>white</b> <sup>[1]</sup> - 147:25  <b>whole</b> <sup>[6]</sup> - 49:12,  72:21, 107:25,  155:3, 190:8, 190:12  <b>wide</b> <sup>[1]</sup> - 189:12  <b>winding</b> <sup>[1]</sup> - 130:18  <b>wise</b> <sup>[1]</sup> - 17:14  <b>wish</b> <sup>[1]</sup> - 84:16  <b>withheld</b> <sup>[3]</sup> - 89:9,  170:3, 170:9  <b>witness</b> <sup>[46]</sup> - 4:17,  4:23, 10:17, 41:6,  41:24, 43:20, 44:5,</p>		<p><b>y'all</b> <sup>[11]</sup> - 30:24,  45:19, 87:10, 99:12,  110:11, 111:22,  117:1, 139:5,  156:11, 196:6,  196:12  <b>year</b> <sup>[3]</sup> - 12:24, 93:17,  132:25  <b>yearly</b> <sup>[1]</sup> - 12:20  <b>years</b> <sup>[4]</sup> - 21:21,  140:16, 159:10,  182:22  <b>YMCA</b> <sup>[1]</sup> - 28:19  <b>you-all</b> <sup>[4]</sup> - 40:17,  83:4, 121:1, 131:8  <b>yourself</b> <sup>[6]</sup> - 13:16,  26:19, 53:15, 92:7,  105:20, 139:23</p>
		<b>Z</b>
		<p><b>Zach</b> <sup>[13]</sup> - 41:11,  65:12, 101:10,  101:11, 101:20,  101:24, 102:7,  105:25, 107:13,  109:7, 109:18,  160:4, 162:8  <b>ZACHARY</b> <sup>[3]</sup> - 3:5,  3:8, 11:3  <b>Zachary</b> <sup>[6]</sup> - 93:9,  145:1, 161:15,  161:17, 164:7,  168:17  <b>Zalekian</b> <sup>[10]</sup> - 5:14,  5:16, 5:17, 5:18,  91:18, 92:5, 92:9,  101:1, 102:17,  113:24  <b>ZALEKIAN</b> <sup>[6]</sup> - 3:5,  3:9, 5:14, 5:16, 92:1,  92:10  <b>zoom</b> <sup>[1]</sup> - 50:3  <b>Zoom</b> <sup>[2]</sup> - 37:25, 38:2</p>



## EXHIBIT F



CAUSE NO. 22-CCR-230111

STATE TEXAS	§	IN THE COUNTY COURT
	§	
V.	§	AT LAW NUMBER TWO (2) OF
	§	
JAWED SADRUDDIN MOMIN	§	FORT BEND COUNTY, TEXAS

**ORDER ON DEFENDANT'S MOTION FOR NEW TRIAL**

ON THIS DAY, the Court considered Defendant JAWED SADRUDDIN MOMIN's *Motion for New Trial* filed in the above-styled and numbered cause. The motion was timely filed and presented to this Court. Further, after the Court's consideration of evidence in a hearing conducted on October 25, 2024, and thereafter recessed and continued November 7, 2024, and consideration of argument by both parties, the Court makes the following findings:

1. There is no evidence or accusation of prosecutorial misconduct in the State's failure to disclose, prior to trial of this cause, evidence regarding the Texas Department of Public Safety's investigation into issues surrounding the handling of evidence under the control of the lab.
2. The timely disclosure of the Texas Department of Public Safety's investigation surrounding the handling of evidence under the control of the lab may have been used by Defendant JAWED SADRUDDIN MOMIN in trial as mitigation or exculpation.
3. The now known existence of investigation into issues surrounding the handling of evidence under the control of the Texas Department of Public Safety's lab may have been considered by the Court acting as the finder of fact and law in the consideration of the requested suppression of evidence under the control of the lab.


4. The Defendant JAWED SADRUDDIN MOMIN's inability to proffer evidence of the Texas Department of Public Safety's investigation surrounding the handling of evidence under the control of the lab may have resulted in a violation of the Defendant JAWED SADRUDDIN MOMIN's rights under due process of law under the Fourteenth Amendment to the U.S. Constitution, and due course of law under the Texas Constitution.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Defendant JAWED SADRUDDIN MOMIN's Motion for New Trial is **GRANTED** in the interest of justice based in law as indicated above.

SIGNED THIS THE 12<sup>th</sup> OF November, 2024.



Tyra Jones McCollum, Presiding Judge  
County Court at Law No. 2  
Fort Bend County, Texas

  
COUNTY CLERK  
FORT BEND COUNTY TEXAS  
LC/MP

2024 NOV 13 PM 1:50

FILED

## EXHIBIT G



### **33 Forensic Disclosure and Compliance Policy**

#### **33.1 General Requirements**

- A. Laboratory personnel comply with General Manual Chapter 5 section *Documentation, Preservation and Disclosure of Evidence*, General Manual Chapter 7A *Complaint Investigation and Review Procedures*, related legal cases, and state laws including the Michael Morton Act (Texas Code of Criminal Procedure Article 39.14).
- B. The information disclosed is provided in accordance with Brady, Giglio, and Michael Morton requirements and is intended for prosecutor evaluation.

#### **33.2 Personnel-Specific Disclosure**

- A. Personnel-specific disclosure reporting responsibility falls entirely on the employee. The employee discloses items concerning the employee that relate to the employee's credibility as a witness in the proceeding.
- B. In accordance with General Manual Chapter 5, Laboratory personnel distribute the Statement of Qualifications (SOQ) and Disclosure Form (DF) in lieu of the Biographical Datasheet maintained by Human Resources.
- C. Because the majority of work performed by the Crime Laboratory Division occurs without Laboratory interaction with a prosecutor's office, the SOQ and DF are disseminated to the law enforcement representative as follows:
  - 1. For forensic testing services:
    - a) *Analyst SOQs are located on the DPS website.*
    - b) *The DF for the reporting scientist is automatically attached to each testing report.*
  - 2. For active Breath Alcohol technical supervisors, the SOQ and DF are posted on the DPS Breath Alcohol website.
  - 3. In addition, the employee discloses copies of the SOQ and DF to prosecutors during pre-testimony conference meetings and during court appearances, when possible.
- D. A Statement of Qualifications is completed by all Laboratory personnel, including contract employees, regardless of position.
  - 1. For current Laboratory personnel, the SOQ is reviewed and updated by the employee at least on an annual basis or if there is a significant change in job duties, education, or training.
  - 2. The SOQ is reviewed and updated by the employee prior to separation from the Laboratory.
- E. A Disclosure Form (formerly Disciplinary History Form) is completed for all Laboratory personnel by the employee, including contract employees, regardless of position.
  - 1. The DF is reviewed and updated by the employee prior to separation from the Laboratory.
- F. The main purpose of the DF is to communicate potential impeachment material including but not limited to significant nonconformances, breaches of law, or ethical standards as these may adversely affect a current case or a previously issued report or testimony.
- G. Employees are required to disclose any qualifying incident that occurred while working for a previous employer.





- H. The following is listed on an employee's DF, and thereby disclosed, regardless of the timeframe of the event:
1. Sustained/Founded disciplinary actions while employed with the Department to include the date of the disciplinary action and a brief description of the incident;
    - a) *Examples of disciplinary actions may include:*
      - i. *Formal written reprimand*
      - ii. *Time off without pay*
      - iii. *Demotion*
      - iv. *Discharge from employment*
  2. Sustained complaints against Laboratory personnel, sustained allegations of misconduct, or sustained violations of Department policy (General Manual Chapter 7A);
  3. Violations of the Discrimination, Sexual Harassment and Unprofessional Conduct Policy (General Manual Chapter 18.25.00);
  4. Founded allegations of falsification of government records;
  5. Breaches of ethical standards;
  6. Crimes involving lack of integrity or truthfulness including misdemeanor offenses whether or not they led to conviction if the incident occurred within the last 10 years;
  7. Other crimes, including those older than 10 years, which may affect witness credibility and thus require disclosure;
    - a) *Such incidents are communicated by the employee to the supervisor for review and interpretation by the Office of the Director and Office of General Counsel.*
  8. Quality incidents and corrective actions that are determined to be significant quality events if the incident occurred following implementation of the Quality Action Plan process in 2005 and while employed with the Department; and
  9. Additional incidents as listed below:
    - a) *Performance improvement plans, if related to the individual's technical ability;*
    - b) *Unsatisfactory proficiency test, interlaboratory comparison, or intralaboratory comparison with a Class I or II error inconsistency (refer to [Chapter 36](#));*
    - c) *Unsatisfactory completion of a competency test by a qualified employee following an extended absence or in an effort to remain authorized to conduct work;*
    - d) *Testing conclusion reported to the customer found to be incorrect upon subsequent testing or mandatory retesting;*
    - e) *Sample switch, if discovered after results are reported to the customer;*
    - f) *Suspension of work for cause; and*
    - g) *Founded complaints of negligence or misconduct investigated by the Texas Forensic Science Commission.*
- I. If an expunction order has been granted, the DF is updated accordingly.
1. The DF is updated to remove wording associated with the arrest, charges, details of the charges, or other related legal information. However, the associated sustained



disciplinary action listed on the form remains with revision to align with the letter of reprimand, while meeting the terms of the expunction order.

2. A person who acquires knowledge of an arrest while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if they knowingly release, disseminate, or otherwise use the records or files (Texas Code of Criminal Procedure Article 55.04).
  3. The person arrested or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged (Texas Code of Criminal Procedure Article 55.03).
- J. If there are no incidents to disclose, the employee will indicate "None" on the DF.
- K. The employee ensures the DF contains current and accurate information.
- L. The DF is reviewed by the Laboratory Manager or above, as appropriate, and is maintained electronically.
- M. If an employee has separated service, a form may be prepared or updated utilizing information available to the Laboratory on a case-by-case basis. The DF is updated and reviewed by the Laboratory Manager, approved by the respective Assistant Laboratory Director, and retained electronically.
1. As a courtesy, the Department attempts to notify former employees of updates made to the DF on their behalf using the last known email or mailing address maintained by Human Resources.
  2. Documentation of the notification attempt to the former employee is noted on the employee's DF prior to archival.
- N. If an event is added to the DF, a good faith effort is employed to disseminate the updated document to all relevant District and County Attorneys' Offices accomplished by:
1. Reviewing the counties of offense in the LIMS record for all reports released by the individual for casework;
  2. Reviewing investigating agencies in the CODIS LIMS; and
  3. Identifying the counties which are assigned to the technical supervisor in Breath Alcohol.
  4. It is the Laboratory Manager's responsibility to disseminate the information.
  5. If the DF is associated with a Laboratory Manager, it is handled by the office of the Laboratory Director.
  6. The notification letter and associated notification emails, as applicable, are archived.

### 33.3 Notice of Third-Party Action

- A. At times, a judge or attorney may take action that requires subsequent disclosure, but the event falls outside of the personnel-specific disclosure requirements.
1. Examples of an action include:
    - a) *Notification by a prosecutor's office that an individual has a Code of Criminal Procedure Article 39.14(h) disclosure issued by the prosecutor's office;*
    - b) *Exclusion of an individual's testimony by a judge (based on the work performed); and*





*c) Other actions following consultation with the Office of General Counsel.*

- B. It is the responsibility of the employee to notify the Laboratory Manager when an action is taken.
- C. Third-party actions are not listed on the DF; instead, an Explanatory Notice of Third-Party Action containing details of the event is drafted and disseminated by the Laboratory Manager.
  - 1. The notice is reviewed by the relevant Assistant Laboratory Director prior to dissemination.
  - 2. The Office of General Counsel is consulted as needed.

### **33.4 Disclosure Required by Code of Criminal Procedure Article 39.14**

- A. The purpose of discovery is to release and disclose all records related to a criminal action which includes relevant Laboratory case records, CODIS records, and/or calibration records.
  - 1. Examples include:
    - a) *Contents of applicable Laboratory record, including images;*
    - b) *All case-related communications;*
    - c) *Chain of custody information, if applicable;*
    - d) *Batch records, if applicable;*
    - e) *QI/QAPs; and*
    - f) *Deviations.*
- B. Discovery includes any exculpatory information in the possession, custody, or control of the Laboratory.
- C. Due to the potential of attorney work product being captured in records of communication, discovery materials are only released to the office of the prosecuting attorney (refer to [Chapter 55](#)).

### **33.5 Disclosure of Laboratory Nonconformances**

- A. Nonconformances associated with the quality system are captured through the QI/QAP process and those records are posted publicly on the Texas Forensic Science Commission website.
- B. Notification to the accrediting bodies occurs within 30 days when the expected result is not attained during any examiner assessment activity (refer to [Chapter 36](#)).
- C. Nonconformances associated directly with a case are disclosed through the discovery process.

### **33.6 Disclosure of Significant Events and Nonconformances to Accrediting Bodies**

- A. According to the Texas Forensic Science Commission, a significant irregularity involves "facts that if true, would indicate the existence of negligence or misconduct such that the integrity of the forensic examination, the individual forensic examiner, or the laboratory as a whole would be called into question."
- B. Examples of significant events requiring disclosure to the accrediting bodies include:
  - 1. Sustained allegations of misconduct that would substantially affect the integrity of the results of laboratory work activities;
  - 2. Missing submitted or recovered test items (examples include, but are not limited to, submitted evidence, any trace evidence recovered, and retained stains);
    - a) *Items submitted for destruction only are not considered test items.*





3. Missing individual characteristic database samples that were not able to be recollected and/or entered into CODIS;
  4. Evidence or individual characteristic database samples destroyed without authorization which impacted the CODIS entry or adjudication process;
  5. Incorrect results reported to the customer which impacted the adjudication process;
  6. Unsatisfactory proficiency test, interlaboratory comparison, or intralaboratory comparison;
  7. Complaint received by an accrediting body (must notify the other accrediting bodies) that results in establishment of an investigative panel; and
  8. Other items at the discretion of the Laboratory Director.
- C. A significant event is disclosed to the relevant accrediting body within 30 calendar days of occurrence or immediately upon becoming aware of the issue if discovered more than 30 calendar days after the occurrence. Disclosure occurs through direct communication to accrediting bodies from the office of the Laboratory Director.
- D. The System Quality Manager, or designee, drafts a letter which includes:
1. A summary with relevant details about the quality incident and date when the incident was identified as significant;
  2. Cause Analysis;
  3. Customer communication/affected stakeholders;
  4. Immediate correction(s) taken and corrective actions performed or planned to prevent recurrence; and
  5. If associated with a criminal case, known details such as case/cause number, court, and adjudication status.
    - a) *If the disclosure involves a pending criminal matter(s), certain Public Information Act exceptions may apply.*
- E. All of the above listed elements may not be available or completed at the time of the initial disclosure; ongoing disclosure may be necessary as information becomes available.
- F. The Laboratory Director or designee reviews and approves the letters for release to the accrediting bodies.
- G. The distribution of disclosure letters and/or records is made by the Laboratory Director, or designee, to the following parties:
1. ANAB;
  2. Texas Forensic Science Commission;
  3. Deputy Laboratory Director;
  4. System Quality Manager;
  5. Quality Manager;
  6. Laboratory Manager; and
  7. Assistant Laboratory Director(s).
- H. If follow-up communication is necessary, it is provided by the Laboratory Director or designee.
- I. System QA reconciles appropriate attached documentation with the QI/QAP workflow and archives the records.

## EXHIBIT H

## Augustyn, Zachary

---

**From:** Schrock, Madison [REDACTED]  
**Sent:** Friday, September 13, 2024 1:06 PM  
**To:** Augustyn, Zachary  
**Subject:** RE: Question about DX

**CAUTION:** This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.  
If you believe this to be a malicious and/or phishing email, please send this email as an attachment to [SPAM@dps.texas.gov](mailto:SPAM@dps.texas.gov).

For a QI (quality incident?) to be finalized, is there an internal investigation? Or what is that process?

---

**From:** Augustyn, Zachary [REDACTED]  
**Sent:** Friday, September 13, 2024 12:52 PM  
**To:** Schrock, Madison [REDACTED]  
**Subject:** [External] RE: Question about DX

Neither  
It should be in the discovery order

---

**From:** Schrock, Madison <[REDACTED]>  
**Sent:** Friday, September 13, 2024 12:50 PM  
**To:** Augustyn, Zachary <[REDACTED]>  
**Subject:** RE: Question about DX

**CAUTION:** This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.  
If you believe this to be a malicious and/or phishing email, please send this email as an attachment to [SPAM@dps.texas.gov](mailto:SPAM@dps.texas.gov).

Ok, Thanks for letting me know! I will write up a motion for that those not be brought up. For the breaking of the blood tube, that's a QI that is already in your proficiency exams? Or disclosures?

//MS

---

**From:** Augustyn, Zachary [REDACTED]  
**Sent:** Friday, September 13, 2024 12:20 PM  
**To:** Schrock, Madison [REDACTED]  
**Subject:** [External] RE: Question about DX

**CAUTION:** This email originated from outside of Montgomery County, Texas! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

---

So,  
For retrograde extrapolation, the only information I need to estimate is:  
Time of last drink  
Time of stop  
Resulting BAC from my analysis

Your second dark bullet point question is fine with how you worded it.  
(you don't need to include the Moscow mules, because that irrelevant)

As far as bad questions...  
He will address QI's that I have under my name

One of which, a blood tube was broken under my possession, and I had to use the second tube for my analysis.

I also have other QI's that are currently being processed that occurred in the beginning of 2024, he should not be aware of these as they are not complete and finalized yet, so they shouldn't be brought up yet.

But one involves blood tubes being switched prior to submission to the lab.

One instance occurred with an agency from the DFW area, the other occurred with an agency from Montgomery Co. I failed to catch that the names on the blood tubes did not correspond to the name on the submission form since all other information matched.

(this was an external and internal problem) Agency mixed up the blood kits and blood tubes, and myself (the analyst didn't catch it)

The other QI in process was that I forgot to properly seal a batch of 30 cases after reports were released.  
So essentially, 30 cases that were complete were not sealed back up properly and returned to their respective agency.

**Again**, these QI's are not finalized so they shouldn't have record of them yet, but its wise for you to be aware of them.

Other Questions I can see him asking for this case.

The baseline for the case specific chromatograms isn't completely flat

- This is not a problem because this does not affect the area under the peaks (measuring sticks) for the compounds of interest (ethanol and n-propanol), it just looks ugly is all.

They have focused on ghost peaks before in the past, there seems to be one or two, They call this contamination

- Its not contamination, even if it was, it does not influence the peak of ethanol or n-propanol.
  - o If it did influence either, we would see a difference in the 2<sup>nd</sup> column chromatograms, which it was not observed in this case

Theres more, but I just cant remember off the top of my head.

I will be sending you another email with more information for Amanda as well as those science articles I had mentioned earlier.

---

**From:** Schrock, Madison [REDACTED]

**Sent:** Friday, September 13, 2024 11:10 AM

**To:** Augustyn, Zachary [REDACTED]

**Subject:** Question about DX

**CAUTION:** This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

If you believe this to be a malicious and/or phishing email, please send this email as an attachment to [SPAM@dps.texas.gov](mailto:SPAM@dps.texas.gov).

If I ask you this on direct examination, is this correct?

- What information do you need to calculate retrograde extrapolation?
  - Time of last drink
  - When blood draw performed
  - Food
  - Amount of alcohol consumed over what time period.
  - Time of driving
- If the defendant had last eaten at 2pm, started drinking at 6pm, stopped drinking at 10 pm, and the blood draw was at 12:15am resulting in a BAC of .182, what would the defendant's BAC concentration be at the time he was pulled over by the police at 11:15 pm?
  - BAC estimated to be 0.192-.212

Also, Do I need to include the 4-5 moscow mules in the factors in the second question or is that irrelevant?

And are there any bad facts you know of that we need to address before Bourque hits them on cross-examination?

//MS



**Madison Schrock**  
Assistant District Attorney

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]