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NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

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STATE OF NORTH CAROLINA) TRANSCRIPT
)
 versus) From Forsyth
) 86 CRS 018809
MERRITT WILLIAMS,) 86 CRS 031738
) Defendant.)

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TRANSCRIPT OF HEARING, Volume 2 of 4

Wednesday, June 5, 2019

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June 4, 2019, Setting of the
North Carolina Innocence Inquiry Commission
The Honorable Thomas H. Lock, Judge Presiding

Commissioners Attending:

John Boswell, Commissioner
Luther Johnson Britt, III, Commissioner
Robin Colbert, Commissioner.
Seth Edwards, Commissioner
Kevin Frye, Commissioner
Rick Glazier, Commissioner
Dr. Frank Perry, Commissioner.
Ashley Welch, Commissioner (Alternate)

1 APPEARANCES:

2 Lindsey Guice Smith, Director

3 Beth Tanner, Assistant Director

4 Catherine Matoian, Grant Staff Attorney

5 Brian Ziegler, Staff Attorney

6 NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

7 Post office box 2448

8 Raleigh, North Carolina 27602

9

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Testimony by Catherine Matoian

1 WEDNESDAY, JUNE 5, 2019 (9:02 a.m.)

2 **JUDGE LOCK:** All right. Everyone is in
3 place.

4 Ms. Guice Smith, are there any housekeeping
5 matters we need to discuss before we resume?

6 **MS. SMITH:** No housekeeping matters.

7 **JUDGE LOCK:** All right. Then you may
8 proceed, please.

9 **MS. SMITH:** I will recall Grant Staff
10 Attorney Catherine Matoian.

11 **JUDGE LOCK:** All right. The witness remains
12 under oath.

13 (Catherine Matoian recalled.)

14 EXAMINATION

15 BY MS. SMITH: (9:03 a.m.)

16 Q. Ms. Matoian, I am going to just turn your
17 attention back to where we left off yesterday talking about
18 Darren Johnson. At the end of the day, we finished watching
19 the video of his interview with the Winston-Salem Police
20 Department.

21 Do the Winston-Salem Police Department reports
22 that you received indicate how Mr. Johnson came to be
23 interviewed in his apartment?

24 A. Yes. The reports indicated that the police
25 department first tried to interview Mr. Johnson at the

Testimony by Catherine Matoian

1 center where he receives mental health care treatment. The
2 reports and recordings indicate that once they started
3 talking to him, he indicated he wanted a lawyer and they
4 terminated the interview at that point and began traveling
5 back to Winston-Salem.

6 On their way back to Winston-Salem, Mr. Johnson
7 called them again and agreed to speak to them at his
8 apartment, and that became the interview that we watched
9 yesterday.

10 Q. Did the report from -- that the Commission
11 received from the Winston-Salem Police Department indicate
12 whether they had any additional contact with Mr. Johnson?

13 A. Yes, they did.

14 The reports indicated that on April 8, 2019,
15 Mr. Johnson left a message for the Winston-Salem Police
16 Department. In that message, he again expressed his
17 willingness to turn himself in for this crime. He did ask
18 them to give him the time up until the Commission's
19 deposition date that was scheduled for May 2 to get his
20 affairs in order but did again express his willingness to
21 cooperate and turn himself in.

22 The reports don't indicate that the police
23 department called him back.

24 Q. Has the Commission received any additional
25 documentation from the Winston-Salem police department since

Testimony by Catherine Matoian

1 they first provided that information?

2 A. Last week, we requested any additional discovery
3 that the police department had since they produced the first
4 round on April 29, 2019. We received that on last Friday,
5 May 31, 2019. The reports that they turned over at that
6 time didn't indicate any additional contact with Mr. Johnson
7 or Mr. Carmichael.

8 Q. Has the Commission had any additional contact with
9 Darren Johnson?

10 A. We have.

11 On May 7, 2019, the Commission contacted Darren
12 Johnson by phone to see if he would voluntarily come to this
13 commission hearing to testify. Mr. Johnson indicated that
14 this was now a police matter and he didn't want to speak
15 with us anymore and preferred to deal with the police. He
16 stated he would only come to the hearing if subpoenaed.

17 Q. And did commission staff subpoena him for this
18 hearing?

19 A. No, we didn't.

20 Because Mr. Johnson lives out of state and the
21 legal challenges with respect to having a North Carolina
22 subpoena enforced in South Carolina in conjunction with the
23 time frame for having this hearing, the Commission did not
24 subpoena Mr. Johnson or seek a material witness in order for
25 his presence.

Testimony by Catherine Matoian

1 **MS. SMITH:** Commissioners, do you-all have
2 any additional questions about Darren Johnson?

3 **MR. GLAZIER:** I just want to make sure my
4 notes are clear.

5 So on the 8th of April, there was a memo to
6 either Winston-Salem or the file that information you got --

7 (Reporter clarification.)

8 **MR. GLAZIER:** On April 8, there is a memo
9 that you got that suggests or that codifies that he called
10 Winston-Salem Police Department on his own and indicated a
11 willingness to turn himself in.

12 Is that what I understand you to say?

13 **THE WITNESS:** That's correct. And there is a
14 recording of the voice message as well.

15 **MR. GLAZIER:** Okay. And then there is no
16 information you have received back from Winston-Salem that
17 they have taken him up on his offer?

18 **THE WITNESS:** That's correct.

19 **MR. GLAZIER:** Thanks.

20 **JUDGE LOCK:** Yes, sir, Mr. Britt.

21 **MR. BRITT:** You said that the initial
22 interview with the Winston-Salem police began at the mental
23 health facility where Mr. Johnson receives treatment?

24 **THE WITNESS:** Correct.

25 **MR. BRITT:** Do we know the nature of

Testimony by Catherine Matoian

1 Mr. Johnson's mental health disorder?

2 **THE WITNESS:** We have his DPS records that
3 include mental health records. That was handout -- I forget
4 which handout number that was.

5 During our --

6 **MR. BRITT:** It shows the long list?

7 **THE WITNESS:** Uh-huh.

8 And during our interview of Mr. Johnson, he
9 indicated that he was currently taking medication and that
10 his current diagnosis is schizoaffective disorder.

11 **MS. SMITH:** That's Handout 14,
12 Commissioners -- the DPS summary.

13 **JUDGE LOCK:** Any other questions?

14 (No response.)

15 Q. Ms. Matoian, I want to turn your attention now to
16 the evidence in this case, the physical evidence.

17 Did the Commission collect physical evidence in
18 the case?

19 A. We did.

20 Q. Can you tell the commissioners what we collected?

21 A. On November 2, 2017, the Commission collected
22 several cassette tapes from the Winston-Salem Police
23 Department that had been located in a box labeled "Blanche
24 Bryson Homicide" in the WSPD evidence room.

25 The Commission had initially asked WSPD to make

Testimony by Catherine Matoian

1 copies of these tapes; however, after the police department
2 indicated they wanted the Commission to sign a form
3 accepting responsibility if there was damage to the tapes
4 during this process due to their age, the Commission
5 collected those tapes and turned them over to the crime lab
6 and the crime lab made digital copies of the recordings for
7 the Commission.

8 Q. What else did you collect?

9 A. On February 7, 2018, the Commission collected all
10 evidence remaining at the Winston-Salem Police Department
11 including the Blanche Bryson homicide box which, as
12 mentioned earlier, contained additional records related to
13 this case.

14 The items collected from the police department
15 included items from the victim's car, which was costume
16 jewelry, a black shawl from the back seat, china plates, a
17 camera, cigarette butts from the ashtray, and an overnight
18 bag. It also included items from the victim's home, which
19 is a lampshade, carpet samples, a pencil and catalog that
20 had been found under the victim's body, the black floor mat,
21 the brown makeup bag, and a front door key to the deadbolt.

22 There were also items collected from
23 Mr. Carmichael -- that is the costume jewelry in the bags.

24 And the Commission later determined -- sorry --
25 this item contained the velour bags mentioned in

Testimony by Catherine Matoian

1 Mr. Carmichael's WSPD reports.

2 From the autopsy, we collected fingernail
3 scrapings, costume jewelry. And from Williams' apartment on
4 Ninth Street, they collected -- and we collected fiber
5 samples and a wallet belonging to Mr. Williams.

6 Q. Did the Commission collect any additional evidence
7 from the Winston-Salem Police Department?

8 A. We did.

9 The Commission confirmed with the police
10 department that latent prints were stored in a separate area
11 and collected the latent prints from the victim's home and
12 her car on February 23, 2018.

13 Q. Did the Commission locate any other evidence of
14 other agencies in this case?

15 A. The Commission contacted the Clerk's office for
16 the evidence that had been introduced at Mr. Williams' trial
17 in this case, and they indicated they did not have any
18 evidence related to the Bryson case.

19 The Commission conducted an evidence search of the
20 Clerk's office on February 7, 2018, and did not locate any
21 evidence related to this case.

22 Q. What does this mean?

23 A. This means that all items entered into evidence at
24 Mr. Williams' trial had not been located.

25 Q. And what items are those?

Testimony by Catherine Matoian

1 A. Those items include the toboggan found at the
2 crime scene, the hairs from that toboggan, the toboggan
3 collected from Mr. Williams at jail, Mr. Williams' head hair
4 standards, paint samples from Mr. Williams' 25th Street
5 apartment, glasses from the living room floor, a left brown
6 glove from near the victim's body, an electrical cord from
7 the victim's neck and a lamp with the cord missing, a right
8 brown glove from the dining room chair, the victim's
9 pocketbook, a blue robe found near the victim's car, gloves
10 from Mr. Williams' apartment, lampshades and stands from
11 Mr. Williams' apartment, and the victim's clothing from the
12 autopsy.

13 Q. Did the Commission learn anything else about the
14 toboggan that was located in the victim's home?

15 A. We did.

16 From the Police Department file, we were able to
17 determine that investigators had confirmed that the victim
18 had gone to her hairdresser that afternoon. The police
19 department also spoke to Bernice Black, who was one of the
20 people who found the victim. She indicated that the victim
21 never wore a hat because of her hairstyle and that, to her
22 knowledge, the toboggan did not belong to the victim.

23 The police department also spoke to Helen Penn.
24 The victim had been at Helen Penn's house immediately before
25 returning home on the night of the murder, and Mrs. Penn

Testimony by Catherine Matoian

1 indicated that the victim had definitely not been wearing a
2 hat that evening due to her hairstyle.

3 The police department interviews of Emma Harper,
4 who was also one of the people to find the victim's body, do
5 not indicate she was asked about the toboggan specifically;
6 however, she did say that the victim was wearing the same
7 clothing when she was found that she had been wearing at
8 Mrs. Penn's house earlier that evening.

9 Q. Did the Commission interview Ms. Harper?

10 A. We did. On May 3, 2019.

11 **MS. SMITH:** Commissioners, Ms. Harper has no
12 criminal record.

13 Q. Was that interview recorded and transcribed?

14 A. It was recorded; however, due to the soft voice
15 with which she spoke and the TV in the background, it was
16 unable to be transcribed.

17 Q. What did Ms. Harper say?

18 A. Mrs. Harper is currently 92 years old. She
19 indicated that the victim did have hats but she could not
20 recall whether the victim was wearing a hat that night or
21 not.

22 Q. Did Ms. Harper say anything else about the murder?

23 A. She did.

24 She recalled seeing three men leaving the victim's
25 house on foot when she pulled -- when her and her husband

Testimony by Catherine Matoian

1 pulled up. This is inconsistent with her previous
2 statements to police, where she only indicated seeing the
3 car leaving the victim's driveway and driving down 27th
4 Street.

5 I read her handwritten statement to her, and
6 Mrs. Harper confirmed that she would've told the truth in
7 her statement to police and would have told them if she had
8 seen three people leaving on foot.

9 Q. Did the Commission learn any additional
10 information about the toboggan?

11 A. We did. During the Commission's deposition of
12 former Winston-Salem Police Department Assistant Chief Mike
13 McCoy, who was a sergeant at the time, he indicated that he
14 had been on the scene the night of the murder and that the
15 toboggan stood out to him due to the victim's hairstyle and
16 because he didn't think that the victim seemed like the type
17 of lady who would have worn a hat like that.

18 Q. Do we have any photographs of the toboggan?

19 A. No, we do not. Those were entered at trial and
20 none of the crime scene photos provided to the Commission by
21 the police department depict the toboggan.

22 Q. And the Clerk's office no longer has the photos?

23 A. That's correct.

24 Q. Would the Commission have conducted DNA testing on
25 that toboggan if we had been able to locate it?

Testimony by Catherine Matoian

1 A. Yes. We would have tested several of the items
2 that could not have been located from the clerk's office,
3 including the toboggan from the crime scene, the hairs from
4 the toboggan, the electrical cord found around the victim's
5 neck, the lamp that was missing a cord, and the robe that
6 was outside the car, which both Johnson and Carmichael have
7 indicated they used some kind of cloth to wipe fingerprints
8 off of the car after the accident.

9 Q. Can you remind the commissioners what the evidence
10 was related to the toboggan at the time of the trial?

11 A. Yes.

12 During the trial, there was testimony from the
13 crime lab that several hairs from the toboggan were found to
14 be microscopically consistent with the hairs of
15 Mr. Williams, and there was also some testimony from the
16 crime lab as to some consistencies in the fibers found on
17 the toboggan from the crime scene and the toboggan that was
18 turned over from Mr. Williams.

19 **MR. BOSWELL:** Did we ask Darren Johnson if he
20 was wearing a toboggan?

21 **THE WITNESS:** I can't recall if I asked him
22 specifically or the police department asked him specifically
23 but one of us did, and he indicated he didn't remember what
24 he was wearing that night.

25 **MR. BOSWELL:** Okay.

Testimony by Catherine Matoian

1 **MR. BRITT:** Was there a destruction order in
2 the clerk's file?

3 **THE WITNESS:** No. There was no documentation
4 related to destruction so we do not know what happened to
5 that evidence.

6 **SHERIFF FRYE:** So not just the toboggan, the
7 cord that was used -- none of that has been located?

8 **THE WITNESS:** Correct.

9 **MS. WELCH:** Did you check the Catawba County
10 Clerk's office too?

11 **THE WITNESS:** We checked the Catawba County
12 Clerk's office related to the Wilson case. There was never
13 any trials in Catawba County related to the Bryson case.

14 **MS. WELCH:** Okay.

15 **MR. GLAZIER:** I just want to make sure on the
16 cord. There's -- is there evidence in the initial file of
17 the Court -- and I think there is; I'm just trying to remind
18 myself -- that there was a cord found by the victim?

19 **THE WITNESS:** There was what appeared to be a
20 lamp cord wrapped around the victim's neck, and they also
21 found a lamp in her home that had the cord missing from it.

22 **MR. GLAZIER:** Right. Okay. But now we don't
23 know where the cord is?

24 **THE WITNESS:** That's correct. Or the lamp
25 the cord may have been taken from.

Testimony by Catherine Matoian

1 **MR. GLAZIER:** Thank you.

2 **MS. COLBERT:** I have a question, please.

3 What is the normal process for how long law
4 enforcement is supposed to keep evidence? Is there -- like
5 we have -- in my ignorance about how we do things as far as
6 retention schedules -- we have a retention schedule.

7 Is there some sort of statute or law that
8 says how long evidence is supposed to be kept and what type
9 of evidence is kept?

10 **THE WITNESS:** There is a statute related to
11 evidence retention currently. I believe that law has
12 changed since the time period that this case was actually
13 tried, and I don't know what their policies were. The
14 clerk's office in Forsyth County specifically, we don't know
15 what their policies were at the time of the trial and
16 shortly after, and no one at the clerk's office currently
17 was able to tell us what the policies would've been back
18 then.

19 **MS. COLBERT:** And Mr. Britt asked something
20 about a destruction memo.

21 Could you -- can anybody explain to me what
22 that means?

23 **THE WITNESS:** Sure.

24 In a lot of cases, you will find in the court
25 file a destruction order where either the district

Testimony by Catherine Matoian

1 attorney's office or the police department has sought
2 permission from the Court to destroy the evidence and a
3 judge will sign off on it.

4 In the Commission's case, if there is a
5 destruction order but not a final disposition that it was
6 actually turned over and destruction was witnessed, we will
7 typically ask more questions and possibly do a search. But
8 sometimes you will find documentation like that.

9 **MR. BRITT:** So I --

10 (Overlapping speakers.)

11 **MR. BRITT:** Could I follow up on that?

12 The clerk can also ask for a destruction
13 order --

14 **MS. MATOIAN:** Right.

15 **MR. BRITT:** -- for items that are introduced
16 into evidence if they give notice to both sides or both
17 parties about their desire to have the evidence destroyed.

18 And if you can -- and if a party wants to
19 retain their exhibits, then they can go to the clerk's
20 office, take custody of those as opposed to having them
21 destroyed.

22 I will tell you our practice -- or my
23 office's practice was, in major cases, we didn't destroy
24 evidence. The clerk didn't destroy evidence. I mean,
25 there's stuff from the early '70s still in our clerk's

Testimony by Catherine Matoian

1 evidence vault that's from cases that were tried.

2 **MS. COLBERT:** So if I could -- so there would
3 have to be some entity outside of law enforcement in order
4 for them to destroy or -- evidence?

5 So it had to be somebody like a court to
6 say -- and they had to get permission, in other words?

7 No? It was a retention schedule in a
8 statute?

9 Excuse my ignorance around this process.

10 **JUDGE LOCK:** If I may interject. That's
11 quite all right, and that is a very good question. And I
12 don't think any of us really should be testifying while
13 we're on the subject.

14 **MS. COLBERT:** Okay. I'm sorry.

15 **JUDGE LOCK:** No, I understand.

16 It has been my experience that, back in those
17 days, there were no uniform practices across the state and
18 some clerks' offices -- I'm not saying that happened in this
19 case -- but some clerks' offices would simply destroy
20 evidence on their own without seeking permission of the DA
21 or any law enforcement agency or the resident superior court
22 judge. They would just decide to purge their evidence
23 locker when it -- or their evidence room when it got too
24 full.

25 **MS. COLBERT:** Okay.

Testimony by Catherine Matoian

1 **JUDGE LOCK:** It's a very good question, in
2 fact.

3 **MS. COLBERT:** So what I think I'm hearing is
4 that that has changed now, that there is some sort of
5 statute that says that there is a retention schedule -- or
6 no? Because you mentioned it had changed.

7 **THE WITNESS:** There is a statute now with
8 requirements for keeping evidence.

9 **MS. SMITH:** Commissioners, Appendix F in your
10 brief was a chart of all forensic testing in this case prior
11 to the Commission's involvement. That chart is on 1596 of
12 your brief. However, Handout 16 in your notebooks, which
13 you were provided prior to the hearing but also find in the
14 notebook, is an updated version of that chart that includes
15 the testing conducted at the request of the Commission.

16 We will have an expert testify just after
17 Ms. Matoian and she's going to walk us through that chart,
18 but you may find that useful as well as Ms. Matoian is
19 testifying.

20 Q. Ms. Matoian, can you explain for the commissioners
21 what we did with the fingerprints in this case.

22 A. The Commission collected the two latent
23 fingerprints in this case, one being a latent print from a
24 candy dish in the victim's home and one being from the
25 passenger-side door of the victim's car.

Testimony by Catherine Matoian

1 The fingerprint from the car was the one that was
2 identified to Robbin Carmichael back in 1988. The
3 fingerprint from the broken candy dish lid remained
4 unidentified.

5 Due to the wording of Detective Bishop's report
6 which stated that Johnson and Carmichael's prints had been
7 compared to the latent prints from the crime scene singular,
8 the Commission was not sure whether Mr. Johnson and
9 Mr. Carmichael had been compared to the fingerprint from the
10 broken candy dish lid from the victim's home.

11 Also, when we collected that item, we opened the
12 envelope that it had been contained in and inside there was
13 a list of names of individuals who had been compared to that
14 print from the candy dish lid. That list did not have
15 Mr. Carmichael and Mr. Johnson's names on it.

16 We submitted that print from the candy dish lid to
17 the crime lab in 2018 and asked them to compare Mr. Johnson
18 and Mr. Carmichael. The crime lab issued a report on
19 June 8, 2018, indicating that there were no identifiable
20 fingerprints on that print card.

21 Q. What does that mean?

22 A. It means that the crime lab determined that that
23 fingerprint was not of suitable value for comparison.

24 Q. Did commission staff follow up with the crime lab?

25 A. We did.

Testimony by Catherine Matoian

1 We contacted the crime lab on June 18, 2018, and
2 asked if there was an explanation as to why the police
3 department had been able to make comparisons to the print
4 back in the '80s and that the crime lab now determined it
5 was not of sufficient value.

6 Karen Morrow, the forensic science manager analyst
7 in the latent print section at the crime lab, indicated that
8 there were several characteristics present in that latent
9 print, including some ridge detail, but hardly anything was
10 there.

11 Ms. Morrow stated a lab with more liberal
12 standards might make the comparison, but by today's
13 standards, it was not suitable. She said that senior people
14 within the lab had concurred with her evaluation of this
15 print.

16 Q. Did commission staff do anything else related to
17 the latent print from the candy dish?

18 A. We did.

19 During the Commission's deposition of former
20 Detective Ken Bishop, the Commission asked about this print.
21 Detective Bishop indicated that at the time he made the
22 request for the fingerprint comparison, if you requested for
23 someone to be compared to latent prints from a case, they
24 would be compared to all prints from the case. You could
25 not specify which prints they would be compared to.

Testimony by Catherine Matoian

1 He also indicated that the list found in the
2 envelope containing that print from the candy dish lid may
3 not have been the record-keeping method used by the time
4 these comparisons were done in 1988.

5 He was confident that both Mr. Johnson and
6 Mr. Carmichael had in fact been compared to the print.

7 Q. Did the Commission do anything else related to the
8 fingerprint?

9 A. Based on the 2018 analysis by the crime lab, the
10 Commission's deposition of Detective Bishop, and DNA
11 results, the Commission determined that it did not need an
12 independent expert to evaluate those prints.

13 Q. And can you remind the commissioners whether or
14 not Mr. Williams, Merritt Williams, was compared to the
15 print on the candy dish?

16 A. He was.

17 The reports indicate he was compared to that
18 latent print with negative results. And Mr. Williams' name
19 also appears on those lists that were in the envelope.

20 **MS. SMITH:** Commissioners, do you have any
21 questions about the fingerprints?

22 **MS. COLBERT:** I do have.

23 So when you say "Detective Bishop," you're
24 talking about K.W. Bishop?

25 **THE WITNESS:** That's correct.

Testimony by Catherine Matoian

1 **MS. COLBERT:** Okay.

2 Q. Ms. Matoian, did the Commission have any DNA
3 testing conducted in this case?

4 A. We did.

5 The Commission had DNA testing done on several
6 items. This includes the victim's fingernail scrapings, a
7 black glove from the northeast bedroom of the victim's home,
8 the overnight bag from the victim's car, the black shawl
9 from the victim's car, the jewelry bags collected from
10 Robbin Carmichael, two plates from the victim's car,
11 cigarette butts from the victim's car, and a makeup bag from
12 the victim's home.

13 Q. And were there any items that the Commission
14 conducted testing on that did not result in a DNA profile
15 being developed?

16 A. Yes.

17 The black shawl was tested in two pieces on the
18 advice of the lab. Because low levels of male DNA were
19 detected on the black shawl, the Commission, in conjunction
20 with the advice of lab personnel, decided not to move
21 forward with testing on the item.

22 The Commission also did not move forward with
23 testing on the two china plates and four cigarette butts
24 from the victim's car because no male DNA was detected on
25 those items.

Testimony by Catherine Matoian

1 Q. And why didn't the Commission move forward with
2 those items?

3 A. Because the victim was female and Mr. Carmichael,
4 Mr. Johnson, and Mr. Williams are males, the Commission
5 determined it did not need to move forward with testing on
6 any items where no or low male DNA was detected.

7 Further, regarding the cigarette butts, the
8 victim's sister was interviewed by law enforcement and she
9 indicated she had been smoking in the victim's car prior to
10 the murder and that the brand of cigarettes in the ashtray
11 were the type of brand she smoked.

12 Q. For the items for which the Commission got the
13 results, did the Commission have the unknown DNA profiles
14 compared to any individuals?

15 A. We did. We had them compared to Merritt Williams,
16 Darren Johnson, and Robbin Carmichael.

17 Q. Did you have them compared to anyone else?

18 A. We did.

19 The Commission had also obtained voluntary DNA
20 samples from two of the individuals named by Merritt
21 Williams in the Bryson case for comparison, and those people
22 are Terry Smith and Lester Davis.

23 Q. And did the Commission have a DNA standard for the
24 victim to do comparisons?

25 A. We did not. No standards from the victim appear

Testimony by Catherine Matoian

1 to have been collected during her autopsy and no items that
2 remained at the police department would have been suitable
3 for developing a profile we could be confident was the
4 victim's.

5 Again, we were unable to locate all items that had
6 been entered into evidence at trial, and that includes her
7 clothing from the autopsy and the cord that had been wrapped
8 around her neck.

9 **MS. SMITH:** Before I call the DNA expert, are
10 there any additional questions for Ms. Matoian?

11 **MR. BRITT:** Who were the two individuals you
12 just named?

13 **THE WITNESS:** Terry Smith and Lester Davis.

14 And we'll have some testimony about those
15 individuals later, but they were named by Mr. Carmichael.
16 Terry Smith was named in his first confession in the Bryson
17 case and Lester Davis was named in his second confession.

18 **SHERIFF FRYE:** They were named by Merritt
19 Williams; correct?

20 **THE WITNESS:** That's correct.

21 **SHERIFF FRYE:** Not Carmichael.

22 **THE WITNESS:** Oh, I'm sorry. Yes.

23 **MR. BRITT:** Terry Smith was the "Godfather"
24 figure?

25 **JUDGE LOCK:** Yes.

Testimony by Meghan Clement

1 **SHERIFF FRYE:** That's according to --

2 **MR. BRITT:** -- Mr. Williams.

3 **SHERIFF FRYE:** Yes.

4 **MR. BOSWELL:** I thought I remembered there
5 being some testimony earlier that there were -- there was
6 DNA from Mr. Carmichael or somebody on the cigarette butts.

7 **THE WITNESS:** I'm sorry if that was
8 confusing.

9 Four of the cigarette butts had no male DNA
10 and we didn't go forward with testing on those. Two did
11 have male DNA present, and we did move forward with testing
12 those, and one of those included Mr. Carmichael.

13 **MR. BOSWELL:** Okay. All right. Got it.

14 **MS. SMITH:** Okay. At this time, I will have
15 Ms. Matoian step down and we will call Meghan Clement.

16 (Witness stands down, 9:30 a.m.)

17 * * * * *

18 Thereupon, MEGHAN CLEMENT, a witness having been called by
19 the Commission, was sworn and testified as follows:

20 EXAMINATION

21 BY MS. SMITH: (9:31 a.m.)

22 Q. Good morning.

23 A. Good morning.

24 Q. Can you please state your name for the Commission.

25 A. My name is Meghan Clement.

Testimony by Meghan Clement

1 Q. And how are you employed?

2 A. I am self-employed as a forensic DNA consultant.

3 Q. Did you recently provide the Commission with a
4 copy of your CV?

5 A. I did. Yes.

6 MS. SMITH: Commissioners, that is Handout 17
7 in your hearing in handout notebooks, and that was provided
8 to you prior to the hearing.

9 Q. Can you give us an approximation of how many times
10 you've testified as an expert.

11 A. It's somewhere over 375 times, I believe, maybe
12 376.

13 Q. And have you testified for both the prosecution
14 and the defense?

15 A. Yes, I have.

16 Q. Have you previously testified before the
17 Commission?

18 A. I have. Yes.

19 Q. Can you tell us a little bit about your
20 educational background.

21 A. Yes.

22 I have a Bachelor of Science in Biology from
23 Westfield State College in Massachusetts and a Master of
24 Science in Forensic Sciences from the University of New
25 Haven in Connecticut.

Testimony by Meghan Clement

1 I have also attended graduate-level courses at the
2 University of New Mexico in Albuquerque as well as obtained
3 graduate-level credits from the University of Virginia
4 through courses that I actually took at the FBI Academy in
5 Quantico, Virginia.

6 Q. Okay. And can you tell us just a little bit about
7 your work history.

8 A. Yes.

9 I started in forensics in 1985 in Albuquerque, New
10 Mexico. This was before DNA was being used. I was
11 analyzing blood and body fluids, blood alcohols, processing
12 crime scenes.

13 I worked in Albuquerque for approximately six
14 years. The last two years of that time we were setting up a
15 DNA laboratory.

16 In 1990, I left Albuquerque and moved to Fort
17 Worth, Texas, where I began employment at the Tarrant County
18 Medical Examiner's Office. I worked in their forensic
19 biology laboratory doing both serology, testing the blood
20 and body fluids, as well DNA testing at that time.

21 I worked in Texas until November of 1994, when I
22 moved to North Carolina and began working for what was
23 originally called Roche Biomedical Laboratories, which
24 became Laboratory Corporation of America, LabCorp. I worked
25 with LabCorp here in North Carolina until 2012. In 2011,

Testimony by Meghan Clement

1 they had purchased a company in Texas, so they relocated me
2 to Texas in mid-2012 to work for the laboratory there which
3 they had branded Cellmark Forensics. I was in Texas -- in
4 Dallas, Texas, for three years.

5 LabCorp purchased another company in Virginia
6 called Mobility Technology Group. They then relocated me to
7 Virginia, and I was there for a couple of years. And I
8 retired from the corporate world in April of 2017 and
9 started doing independent consulting.

10 Q. Thank you. Do you have any board certifications?

11 A. Yes. I am board certified in molecular biology
12 through the American Board of Criminalistics.

13 **MS. SMITH:** Your Honor, at this time I would
14 ask that Ms. Clement be qualified as an expert in forensic
15 biology.

16 **JUDGE LOCK:** That tender is allowed.

17 Q. Have Bode Cellmark Forensics, DNA Lab
18 International, and Sorenson Forensics, all conducted testing
19 in the Bryson homicide?

20 A. Yes, they have.

21 Q. Have you had an opportunity to review all of the
22 testing done by those labs?

23 A. I did. Yes.

24 Q. Are you comfortable testifying about that?

25 A. I am.

Testimony by Meghan Clement

1 Q. Have you also completed some comparisons of your
2 own in this case?

3 A. Yes.

4 Q. Did you submit a report to the Commission about
5 those comparisons?

6 A. I actually submitted two reports.

7 Q. Okay. Will you briefly describe for the
8 commissioners, as an educational piece, what STR testing is.

9 A. Yes.
10 STR testing is the most common type of DNA testing
11 that is used in the forensic community today. It is the
12 testing that is based on the DNA that we inherit from both
13 our mothers and our fathers. More than 99 percent of our
14 DNA is the same in everybody, but there are specific areas
15 that have been identified where there are differences
16 between individuals. We all have a specific site but we
17 have different expressions at that site.

18 So the STR testing looks at these specific areas,
19 and depending on which commercial kit is used, it's anywhere
20 from 20 to 27 different locations.

21 At these locations, we would expect no more than
22 two characteristics or two alleles -- one that we inherit
23 from our mothers and one would that we inherit from our
24 fathers. So once we test a particular item of evidence, we
25 can test a reference sample and we can make comparisons to

Testimony by Meghan Clement

1 determine whether there are similarities or differences and
2 either include or exclude someone.

3 Q. And was that type of testing conducted in this
4 case?

5 A. Yes, it was.

6 Q. Can you also describe for the commissioners what
7 Y-STR testing is.

8 A. Yes.

9 Y-STR testing is DNA testing that looks only at a
10 Y chromosome, and only males have the Y chromosome. With
11 Y-STR testing, it is a single -- the whole chromosome is
12 inherited from a son by his father. And so the testing
13 is -- they would be the same. So Dad's Y-STR profile is the
14 same as the son's Y-STR profile. It would be the same as
15 the grandfather's Y-STR profile. If there are two brothers
16 by the same father, the brothers will have the same Y-STR
17 profile.

18 So it's not as unique as the traditional STR
19 testing but there are still differences amongst males in the
20 population and specifically amongst various paternal
21 lineages in the population.

22 Q. Can you explain for the Commissioners what a DNA
23 mixture is.

24 A. Yes.

25 A DNA mixture is simply a result which indicates

Testimony by Meghan Clement

1 there is more than one DNA donor to a particular sample.

2 Q. And do different labs handle mixtures specifically
3 with Y-STR testing differently?

4 A. Yes.

5 I mean, different laboratories will handle
6 mixtures with Y-STR testing differently and even traditional
7 STR testing differently, but specifically with Y-STR testing
8 differently, yes.

9 Q. What type -- was the Y-STR testing also a type of
10 testing used in this case?

11 A. Yes, it was.

12 Q. Okay. Can you also describe for the Commissioners
13 how DNA might be left on an item.

14 A. Just use your imagination. I mean, really, it's
15 almost in any way DNA can be left. It's left if somebody's
16 bleeding. It's left -- it can be left in seminal fluid. It
17 can be left, I mean, literally, just from talking -- we have
18 microscopic spittle that is being disseminated around us.
19 It can be from touching something. It can be from sweat
20 dripping off of your body. It can be -- I mean, virtually
21 almost any way something can come into contact with another
22 item, it can be transferring DNA.

23 Q. Can you specifically describe what we're talking
24 about when you say "touch DNA"?

25 A. Yes.

Testimony by Meghan Clement

1 Touch DNA typically is referred to the DNA that is
2 deposited when an item is touched. In the forensic field,
3 it has sort of taken on a secondary definition of smaller
4 amounts of DNA. So anything that might have a small amount
5 of DNA, people will say, "Well, I'm testing for touch DNA."

6 You don't necessarily have to touch an item for
7 your DNA to get on that item. If I shake hands with an
8 individual and then they touch a doorknob to go out, my DNA
9 could be on the doorknob even though I didn't touch it.
10 So -- but it would be that small amount of DNA that we would
11 be looking for that is referred to as touch DNA.

12 Q. You kind of touched on this, but what are some of
13 the factors that affect the amount of DNA left behind from
14 touch DNA?

15 A. There are numerous factors which will affect how
16 much DNA is left behind. Some people shed skin cells more
17 readily than others. They are considered higher shedders.
18 So it depends on if a person sheds skin cells more readily
19 than another individual.

20 How long you hold something -- if I have a pen
21 that I use every day at my desk, I would expect there to be
22 more of my DNA than if a coworker came along and picked it
23 up and then put it down.

24 It depends on the surface area. If I am touching
25 something that is a cloth, I may not have as many cells

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1 deposited on the cloth as I would, say, on a hard surface
2 such as a pen or a clean surface such as a table.

3 How long -- I think I said how long you hold it.

4 The force with which you hold it. If I am in a
5 tug-of-war, I would expect more of my cells to be deposited
6 on a rope than if I just touch it and move it to one side.

7 So there's various factors which will determine
8 how much of your DNA could be deposited.

9 Q. And is there any way to date when someone's DNA
10 was left on an item?

11 A. No. There's not.

12 There is no way to really date when the DNA is
13 left or, unless somebody is physically present, how it's
14 left. You really don't know. You just test an item to
15 determine whether the DNA is possibly there.

16 Q. And can you tell the commissioners what factors
17 might affect whether DNA is degraded.

18 A. DNA will always degrade. The minute a biological
19 fluid or cell is deposited outside of its natural
20 environment, it begins to break down. So the rate of
21 degradation -- how fast it breaks down -- can be influenced
22 by humidity, heat, direct sunlight, chemicals that it might
23 come into contact with. So there's a variety of different
24 exterior influences which could speed up the rate of
25 degradation.

Testimony by Meghan Clement

1 Q. When we talk about degraded DNA, what does that
2 look like when we're seeing a profile for -- if DNA is
3 degraded?

4 A. The DNA that we test for -- as I said, there are a
5 certain number of areas that we test for, and what we're
6 actually looking at is segments of DNA that we have
7 identified where these differences are. Some of these
8 segments are fairly small. They may only be, let's say, 150
9 base units of DNA. And others are larger. They can be
10 upwards of 300, 350 base units of DNA.

11 The larger the segment of DNA, the more
12 susceptible to degradation it is. So we're going to see
13 degradation in those larger sections before we see
14 degradation in the smaller sections. And when we're looking
15 at the final result of DNA, it's very clear to us by the
16 look of the peak heights when degradation is observed.

17 Q. Okay. I believe you have in front of you the
18 forensic testing chart for this case.

19 A. I do. Yes.

20 Q. And are you familiar with that, had an opportunity
21 to review it before your testimony today?

22 A. I have.

23 **MS. SMITH:** Okay. Commissioners, that is at
24 Handout 16 in your hearing handout notebooks. You will
25 definitely want to refer to that as Ms. Clement testifies as

Testimony by Meghan Clement

1 she is going to kind of walk us through that for each item.

2 Q. Ms. Clement, I'm going to just ask you to go
3 through each item on there. We will start with the
4 fingernail scrapings.

5 If you will describe testing that was conducted,
6 what the results are, and what they mean. And then within
7 each of those, I may have some specific questions for you.

8 A. Okay. So I will start with just the DNA testing?

9 Q. Yes.

10 A. Okay. In 2018, Bode Cellmark Forensics tested the
11 fingernail scrapings, and they used a traditional STR
12 methodology. They developed a profile which was a mixture
13 consistent with two individuals that included at least one
14 male. The way they know that is because, in the traditional
15 STR testing, there is one location that looks for the X and
16 the Y chromosome. So if they see a Y chromosome, they know
17 a male has to be present.

18 So they identified that there was at least one
19 male, and they excluded Merritt Williams and Robbin
20 Carmichael as contributors to that DNA.

21 In September, the North Carolina State Crime
22 Laboratory uploaded the profile and did a moderate database
23 search to determine if they could match it to anybody in the
24 database and they got not results on that so there were no
25 matches.

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1 Q. I want to ask you a few questions about that.

2 Did you have an opportunity to talk with the CODIS
3 administrator at the State Crime Lab, Cortney Cowan?

4 A. I did. Yes.

5 Q. And she described to you what they did for that
6 search?

7 A. Yes.

8 Q. Okay. Can you just tell the commissioners a
9 little bit more about why you wouldn't get a hit even if
10 Darren Johnson was in CODIS.

11 A. Yes.

12 The moderate stringency search requires that every
13 single allele or characteristic at each one of the sites
14 that was uploaded for search had to be included within the
15 profile.

16 And in this particular case, there was one
17 location where one of Darren Johnson's alleles was not
18 detected at Bode. It did not meet the reportable threshold
19 to be reported. And so when they performed the search --
20 and the specific -- there's a location called the Penta D.
21 Darren Johnson had a 12 allele. The profile for the
22 fingernails only had 8, 9, and 10. And so because there was
23 no 12, it did not hit to Darren Johnson.

24 Q. Ms. Clement, you've also had an opportunity to
25 look at the electropherograms from Bode's testing --

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1 A. I did. Yes.

2 Q. -- on that particular profile?

3 A. Yes.

4 Q. I'm going to put that on the screen. I've got two
5 versions.

6 A. Yes.

7 MS. SMITH: Commissioners, this is Handout
8 18.

9 Q. And you can walk us through that. There's three
10 pages to each; so if you want to direct us to which page you
11 mean.

12 A. Sure.

13 Q. If you can start with that to just explain that
14 process.

15 A. Right.

16 So this is what the final result of a DNA test
17 looks like. So this is the area that looks at the X and the
18 Y chromosome, and each box is a different location of DNA.

19 So each one of these boxes represents a different
20 location of DNA.

21 When we talked before about degradation, you can
22 see how the smaller segments are on the left side. So these
23 are DNA fragments that are about 100 to 180, 190 bases.

24 Over here, these are about 388 to 400 bases on the right.

25 And you can see how these are much stronger. And as you get

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1 further to the right, the peak heights get smaller and
2 smaller. We call this the "ski slope effect" which
3 indicates that degradation is actually occurring.

4 So this particular area right here -- this
5 particular location is the Penta D location. This the
6 furthest one on the right. And you can see there is an 8, a
7 9, and a 10, and you can barely see the peaks based on this
8 scale, and that's why, at this particular location,
9 Mr. Johnson was a 10 and a 12, and we're not seeing the 12.
10 So when they ran that in CODIS, they did not get a hit.

11 Q. And when you looked at that profile in 2019, you
12 were able to include Darren Johnson in this profile from the
13 fingernail scrapings; is that correct?

14 A. It is.

15 When I looked at the profile that Bode had
16 reported, I did see that there was no 12. And I went back
17 to Bode and I asked them to provide an electropherogram,
18 which basically zooms in. What it does, it actually makes
19 this -- it makes this axis much smaller so that I could see
20 if there was any activity at this location that was there
21 but just not meeting reporting standards.

22 Q. Would the zoomed-in version help you illustrate
23 your testimony?

24 A. Yes.

25 **JUDGE LOCK:** We have one question here from

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1 Commissioner Britt.

2 MS. SMITH: Yes, sir. Want me to go back?

3 MR. BRITT: Yes.

4 Are we looking at Darren Johnson's profile?

5 THE WITNESS: No.

6 This profile is the mixture profile from the
7 fingernail scrapings. And we said it was mixture. Again,
8 the very first location, we see three peaks. And as I said,
9 with this type of testing, each person is going to inherit
10 one characteristic from mother and one characteristic from
11 father. So the minute we see three peaks, we know there has
12 to be at least two people here.

13 And in this location, we see four peaks.
14 Here we see four peaks. Here we see three peaks and so on.
15 So we know that there has to be at least two individuals in
16 this particular profile.

17 So this is the fingernail scrapings, and we
18 know that there are two people. When I compared Darren
19 Johnson's reference, at every single location I was seeing
20 his alleles except I did not see his 12 at the Penta D
21 location.

22 Q. Okay. So if you will move to the zoomed-in
23 version.

24 A. Yes.

25 So this is the zoomed-in version. And I don't

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1 know if you remember the other chart, the non-zoomed-in,
2 this scale was at 15,000. Now, we were at about 150-, which
3 just shows you how zoomed in it is.

4 And here is the Penta D. And you can see the 8,
5 the 9, the 10, and then you do also see another peak here
6 which was not labeled because it didn't meet that threshold
7 to be labeled by the software but it is clearly a peak which
8 is present, and it's in the 12 location.

9 You can see by the spacing -- 8, 9, 10 -- there is
10 a spot where an 11 would be, but there is clearly another
11 peak there. It just did not meet the reporting threshold.
12 It did not amplify enough to reach that level of criteria.

13 So because I did see the 12, albeit it was not
14 labeled, I, therefore, did include Darren Johnson as a
15 contributor to that two-person mixture.

16 Q. And as you've explained, the reason that you're
17 not seeing the 12 there is because this is a larger --

18 A. Yes.

19 Q. -- area?

20 A. This is the largest --

21 Q. Where you often see dropout when DNA is degraded?

22 A. Exactly.

23 When DNA is degraded, these are -- the largest
24 peaks are going to be the ones that are more affected first.
25 And, again, that is also the largest segment even within the

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1 Penta D location.

2 Q. And with this profile -- this is the fingernail
3 scrapings from the victim --

4 A. Yes.

5 Q. -- were you able to make a comparison to the
6 victim?

7 A. No. We did not have the victim's reference
8 profile to be able to subtract what came from her
9 fingernails so we were just comparing Darren Johnson to the
10 entire mixture.

11 Q. And if you will go back, then, to the chart and
12 explain to the commissioners the statistics that were put on
13 that comparison with Darren Johnson.

14 A. Yes. Even though I did see Darren Johnson's
15 alleles at the locations, I only used locations where all of
16 the alleles were above -- and it's called a stochastic
17 threshold. So it is a conservative way of knowing that
18 you're not -- there aren't other minor alleles within the
19 mixture. It's hard to explain.

20 The stochastic value is a value where you know all
21 of the peaks that you're seeing are real peaks and not just
22 arbitrarily occurring from the testing process itself.

23 And so even though I saw Darren Johnson's alleles
24 at more locations, I only selected locations that were above
25 the stochastic. So you have an analytical threshold and

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1 then you have a stochastic threshold, which is higher. So I
2 only selected the locations that were above the stochastic,
3 which included 12 locations.

4 Q. So is that just a more conservative statistic?

5 A. It is. It's a more conservative statistic. And
6 it's based on recommendations by the Scientific Working
7 Group in DNA Analysis.

8 And so the statistics that I calculated were that
9 the probability of randomly selecting an unrelated
10 individual to be included as a contributor to the mixture
11 would be approximately 1 in 2,500,000,000 for the Caucasian
12 population; 1 in 71 million for the African-American
13 population; and 1 in 580 million for the Hispanic
14 population.

15 Q. Can you explain just a little bit about that
16 statistic and what that means.

17 A. Yes.

18 What that means is that I would expect to have to
19 test about 2.5 billion Caucasians before I would find
20 someone who would also match or be included as a possible
21 contributor to that mixture. Likewise, I would test
22 approximately 71 million additional people -- if I were to
23 take the first African-American that I saw and tested them,
24 there would be a 1-in-71 million chance that they would
25 arbitrarily also be included. Or I would have to test

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1 approximately 71 million African-Americans to find another
2 person who would be included. You could say it one of two
3 ways.

4 **MS. SMITH:** Commissioners, do you-all have
5 questions about the fingernail scrapings profile and
6 testing?

7 **MR. BOSWELL:** What is it about this that
8 indicates it's Darren Johnson? Is it the numbers in the
9 box?

10 **THE WITNESS:** Yes.

11 If you -- what I do is I have an
12 electropherogram that looks very similar to this except it
13 has no more than two peaks, and that's his reference
14 profile. And I compare the peaks that he has in his
15 reference profile to the peaks that I see in the fingernail
16 profile. And if I see the peaks that he possesses in his
17 reference in the mixture, then I cannot exclude him.

18 If he had different peaks that were not seen
19 in the mixture, I would exclude him. And that's why the 12
20 at the Penta D -- when I didn't see the 12 at Penta D, it
21 could be enough to exclude someone, especially if it were a
22 smaller location. But after I zoomed in and saw -- or asked
23 them to zoom in and provide the electropherogram, I could
24 clearly see that there is a peak there. It's just not
25 labeled.

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1 **MR. BOSWELL:** So what are these boxes that
2 have numbers in them that are below the peaks?

3 **THE WITNESS:** So the boxes that have the
4 numbers -- the boxes below -- the first number of each box
5 is the actual allele call. So that's the actual
6 characteristic of that particular peak. So if you look
7 at -- as I said, in the very top, the X and Y, the first one
8 is the X chromosome, the second one is the Y, the second
9 number in the box is how high that peak is, and it's -- it
10 represents relative fluorescent units. So it is based on
11 fluorescence. And so that tells you how strong or how high
12 the peak is. And then the third number is how many DNA base
13 units make up that particular segment.

14 So the X chromosome here is very high, it's
15 over 14,000 fluorescent units, and it's about 81 base units
16 DNA. So that's a very small segment of DNA versus, under
17 the Penta E, you have -- this is a 5, so it is the allele
18 number 5, it is only 122 fluorescent units high, so it's
19 fairly small, and it's about -- looks like 368 base units.
20 So it is a much larger segment. The X is 80. This is 368
21 bases long. And so that's what those three numbers mean.

22 So you can see, as you move from left to
23 right, the middle number, the fluorescence number, goes
24 from, on the second line, 6,000, down to 134. So you can
25 see that huge difference in the peak heights with the

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1 fluorescence.

2 **MR. BOSWELL:** So somebody else's DNA would
3 have peaks in these same locations but the peaks would be of
4 different heights with different fluorescent numbers?

5 **THE WITNESS:** Correct.

6 **MR. BOSWELL:** So the numbers in the box would
7 be different?

8 **THE WITNESS:** Correct.

9 **MR. BOSWELL:** And so you're comparing the
10 numbers in the box between individuals?

11 **THE WITNESS:** I'm comparing the first number,
12 the actual allele call.

13 So what happens is, at each one of these
14 locations, the numbers are really -- represent repeat units.
15 So, for instance, at the D8, the numbers are 14, 16 -- 14,
16 15, and 16. And what that means is these areas have been
17 identified because there are repeat units and it may be in a
18 four base AAGC, AAGC, AAGC. And what the 14 means is
19 there's 14 of those AAGCs in a row in one particular
20 characteristic.

21 The second one is 15, and then the third one
22 would be 16.

23 So if somebody had a 14/16, because I see a
24 14, 15, and 16, I would include them at that particular
25 location. If they had a 14/19, I'm not seeing the 19, I

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1 would exclude them.

2 So anybody who has a 14/15/16 combination,
3 whether it's 14/15, 14/16, 15/16, I would include them as a
4 possible contributor.

5 Then you look at the next location, and that
6 one has a 13/14/15/16.3. So somebody would have to have a
7 combination those four to also be included. And you just go
8 location to location to location. And if you see that
9 somebody is included at each one of those, you include them
10 as a possible contributor to the mixture.

11 **MR. BOSWELL:** Right. So as you go along, if
12 anybody has a different number, they get kicked out.

13 **THE WITNESS:** Yes.

14 **MR. BOSWELL:** And you go through these 12
15 spots and if you haven't been kicked out by 12 spots, it's
16 probably you?

17 **THE WITNESS:** Correct. Except they tested --
18 it's actually 27 that they tested, including the X and the
19 Y. So 26 with the actual numbers.

20 And if they haven't been excluded, yes, then
21 they are included. And then when it came to the statistics,
22 I just applied the higher standard even though I saw them --
23 or saw the characteristics included in the lower.

24 **MR. BOSWELL:** I understand. Thank you.

25 **MR. EDWARDS:** Could you explain the

Testimony by Meghan Clement

1 difference between the term "cannot be excluded" --

2 **THE WITNESS:** Yes.

3 **MR. EDWARDS:** -- and then the term "match" as
4 far as a DNA match?

5 **THE WITNESS:** Yes. And that varies depending
6 on the laboratory or the individual.

7 I use "match" when I have a single profile
8 that matches a single profile. Or if there was a major
9 profile -- let's say there was someone who had contributed
10 90 percent of the DNA and another person who had contributed
11 10 percent, you would see a huge difference in the peak
12 heights. And if I could say "This particular individual's
13 reference matches the major profile," I would be comparing
14 basically a one-to-one.

15 I use "cannot be excluded" when you get
16 something like this, where there isn't a clear major, but
17 within the realm of all of the characteristics or alleles
18 that I'm seeing, they can be included because I'm seeing all
19 of their characteristics within that mixture.

20 So "match" is usually when you're either
21 comparing a single profile to a single profile or a single
22 reference profile to a major profile that can be deduced
23 from a mixture.

24 **MS. COLBERT:** Now, based on that question, if
25 you had had information about the victim --

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1 **THE WITNESS:** Yes.

2 **MS. COLBERT:** -- then that would have helped
3 you --

4 **THE WITNESS:** -- quite a bit.

5 **MS. COLBERT:** Okay.

6 **THE WITNESS:** Yes.

7 If we have the victim's -- that's a very good
8 point.

9 If we have the victim's reference profile, we
10 could subtract what the victim's contributions were, and
11 then what is remaining, we could compare and potentially
12 say, "This is matching what is foreign to the victim even
13 though it's not a major." But because we didn't have the
14 victim, we can only compare to the entire mixture.

15 **MR. BOSWELL:** Can I ask two other quick
16 questions not necessarily related to this?

17 If this DNA hadn't been 30 years old, would
18 all of the peaks be higher?

19 **THE WITNESS:** Yes. I would expect them all
20 to be much higher if it wasn't -- because age degrades DNA.

21 **MR. BOSWELL:** Okay. And if there had been
22 four or five people mixed into this DNA, would you have more
23 peaks at each of these spots or does it become a problem
24 where you just can't use it anymore?

25 **THE WITNESS:** If there are a lot of

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1 contributors -- when you're getting upwards of four, yes, it
2 gets very -- you have a lot of masking because three people
3 could have one peak in common and then you have other
4 extraneous peaks. So it does get more difficult the more
5 people that you see.

6 Even if there were three -- if we had tested
7 this with this technology, if this was deposited two weeks
8 ago, and we tested it and we saw more individuals, I
9 wouldn't expect -- even if we did see a third or a fourth
10 person, I would still expect the percentages to be
11 approximately the same. So I would expect the major -- I
12 mean, I'm guessing one of the major contributors is the
13 victim simply because -- I mean, I don't know that I've ever
14 not seen the victim in their own fingernails when we tested
15 those.

16 **MR. BOSWELL:** Right.

17 **THE WITNESS:** So we're assuming one is the
18 victim, we just don't know what it is.

19 I wouldn't expect a third or fourth person to
20 all of a sudden be very high given what we're seeing today,
21 30 years later.

22 **MR. BOSWELL:** Do we know that this is only
23 two people and not three or more?

24 **THE WITNESS:** There is no indication there is
25 a third or fourth person. We are only seeing peaks of

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1 either three or four at any one given location, and so there
2 is nothing to indicate there's more than two people in this
3 mixture.

4 **MR. BOSWELL:** Thank you.

5 **JUDGE LOCK:** Mr. Glazier.

6 **MR. GLAZIER:** Thank you, Mr. Chairman.

7 This is maybe a question for Ms. Smith as
8 opposed to the Dr. Clement.

9 In 2019, is the reason that Clement
10 Consulting -- well, let me ask it open ended.

11 What is the reason that Merritt Williams was
12 not looked at in 2019 by Clement Consulting and does it
13 relate to the fact that Bode already excluded him?

14 **THE WITNESS:** Yes. Bode already excluded
15 him, and I would have excluded him too.

16 **MR. GLAZIER:** Okay.

17 **THE WITNESS:** Yeah. I actually did look at
18 all of them; so -- but because it had already been reported
19 he was excluded, I didn't include it in my report that he
20 was excluded again.

21 **MR. GLAZIER:** I just wanted to make sure.
22 Thank you.

23 **MS. SMITH:** Any other questions before we
24 move on to the next item?

25 (No response.)

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1 Q. Ms. Clement, if you will just move on to the next
2 item there, the velour bag containing a gold necklace.

3 A. Yes.

4 Q. It is marked as number .03.

5 A. The velour bag containing the gold necklace is
6 just the bag that was tested. DNA Labs International
7 determined that there was a mixture profile that was
8 consistent with at least two individuals and, again,
9 including at least one male. In this particular situation,
10 they do exclude Williams but they could not exclude
11 Carmichael as a contributor.

12 They then calculated what's called a likelihood
13 ratio, and the likelihood ratio basically will determine the
14 likelihood of two opposing hypotheses. And so the
15 hypotheses that they posed was that this mixture --
16 hypothesis 1 is a mixture of Carmichael and one unknown
17 individual versus the hypothesis that this is a mixture
18 which was created from two unknown individuals.

19 And what they determined was that it is
20 20 quadrillion times more likely if it originated from
21 Carmichael and one unknown than if this profile originated
22 or was the result of two unknown contributors. And they go
23 on to say that it's extremely strong support that Carmichael
24 and one unknown individual contributed to this mixture.

25 **MR. BOSWELL:** So you're saying there's a

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1 chance.

2 Q. And was anyone else excluded from that?

3 A. Yes.

4 And then subsequently, they tested Johnson, Davis,
5 and Smith, and they do exclude all of them from that mixture
6 as well.

7 **MS. SMITH:** Commissioners, just as a
8 reference, that's Darren Johnson, Lester Davis, and Terry
9 Smith that we've already talked about. So you will hear
10 those last names repeated throughout this.

11 Q. All right. If you will move on to the next item.

12 **MS. COLBERT:** I had --

13 **JUDGE LOCK:** Yes, go ahead.

14 **MS. COLBERT:** So you specifically say -- I
15 mean, it specifically says in there "including at least one
16 male."

17 **THE WITNESS:** Right.

18 **MS. COLBERT:** Does that mean that the other
19 one is a female? What does that mean?

20 **THE WITNESS:** What they base that on is the X
21 and the Y. And so anytime they see a Y, they know there is
22 at least one male. But if there is another male, you're
23 still only going to see the one Y. And because a male has
24 an X and a Y, we don't know whether it's a female and a male
25 or two males or -- yeah. But it has to be at least one

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1 male.

2 And, again, this was consistent with a
3 mixture of at least two individuals. So we just know it has
4 to be at least one male.

5 Q. All right. If you will move on to the Winston 100
6 cigarette butt from the victim's car.

7 A. Yes.

8 The cigarette butt was tested by Sorenson, and
9 this -- they developed a DNA profile. And here they clearly
10 say that it matches the profile of Robbin Carmichael.
11 Williams, Johnson, Davis, and Smith were excluded. This was
12 a single source.

13 And because it is a single source that matches a
14 single source, they performed statistics called a random
15 match probability. And what this does is it basically will
16 use the statistics or the frequency of each of the
17 particular characteristics or alleles and you determine the
18 frequency at one location times the frequency of a second
19 location times the frequency of a third.

20 And so this random match of the probability of
21 randomly selecting an unrelated individual that would match
22 this profile found on the cigarette butt which matched
23 Robbin Carmichael was approximately 1 in 163 nonillion in
24 the Caucasian population, 1 in 64 octillion in the
25 African-American population, and 1 in 14.7 nonillion in the

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1 Hispanic population.

2 And, again, if I were to -- basically, once you
3 determine that something, either a person cannot be excluded
4 or that something matches, you have to calculate a statistic
5 to say how common or rare that particular profile is. In
6 this case, the random match probability is extremely rare.
7 I honestly wouldn't expect more than one person in the world
8 to have this profile based on these statistics.

9 Q. What is the world's population approximately?

10 **MR. BOSWELL:** 6 or 7 billion?

11 A. I think it's upwards of 7 billion by now. Yeah.

12 So, I mean, this is way over that. Yeah.

13 Q. And if you will move to page 2 of that chart, the
14 overnight bag from the victim's car.

15 A. Yes.

16 The overnight bag from the victim's car was
17 originally tested by Sorenson in 2018, and they used the
18 traditional STR testing. They determined that the mixture
19 profile they developed was consistent with at least three
20 contributors and that it was conclusive for comparison
21 purposes.

22 And here they say it's including at least two
23 males. And the way they know that is because this testing,
24 out of those 27 locations, there was -- there are three
25 locations that look only at Y -- at the Y chromosome, and

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1 they found two peaks at one of those locations. So they
2 knew that there had to be at least two males in this
3 particular situation.

4 They said it was inconclusive for comparisons
5 using the traditional STR; however, it was suitable for
6 Y-STR testing. And they subsequently did the Y-STR testing
7 in 2019, and what they found using Y-STR testing was that it
8 was actually consistent with at least four males. So this
9 was a bit of a highly touched item.

10 In this year, I was asked to look at the Y-STR
11 profile and compare it to Williams, Carmichael, Johnson,
12 Davis, and Smith, and I excluded all of those individuals
13 from the reportable profile that was reported by Sorenson.
14 Each one of those individuals had multiple alleles that were
15 not found within that mixture.

16 Q. Can you explain for the commissioners why Sorenson
17 Forensics said that this was a profile -- a mixture profile
18 that was inconclusive and you were actually able to draw
19 some conclusions on that?

20 A. Yes.

21 Laboratories all set up their own protocols for
22 what their standards are going to be for interpretation.
23 There are a number of laboratories that feel if you cannot
24 include someone -- and anytime you include, you have to
25 calculate a statistic to get an idea of how common or rare.

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1 When you have a mixture of four individuals, especially with
2 Y chromosome, there are a lot of laboratories that cannot
3 calculate a statistic on Ys because that Y chromosome, as I
4 stated earlier, is inherited as a single entity. So as soon
5 as you get a mixture of Ys, you don't know whether the 9
6 from one location goes with the 13 in another or whether the
7 10 from one location goes with the 13. And because the
8 statistics is a different method of calculating for Ys, it
9 is difficult to calculate a statistic for a mixture. And
10 because a lot of labs don't have a methodology to calculate
11 a statistic, they say, "We can't calculate statistics for
12 mixtures and, therefore, we can't draw conclusions on them."

13 And so if they can't exclude -- if they can't
14 include, they feel they can't exclude either; so they just
15 report it all as inconclusive.

16 I personally feel that even if you can't calculate
17 a statistic on a mixture, that if there is data there that
18 you can compare and clearly show that someone is excluded,
19 that you should exclude someone from there.

20 It's two different schools of thought.

21 Q. And so for this overnight bag with this mixture of
22 at least four males, you were able to exclude Williams,
23 Carmichael, Johnson, Davis, and Smith?

24 A. From the reportable profile, yes.

25 **MS. SMITH:** All right. Are there any

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1 questions about that?

2 **MS. COLBERT:** So what that means is that they
3 didn't touch this bag?

4 **THE WITNESS:** What that means is, from the
5 DNA that was identified, I did not see their --

6 **MS. COLBERT:** -- DNA on the bag.

7 **THE WITNESS:** -- DNA.

8 It's still possible to touch a bag and not
9 leave enough DNA, especially when you're getting mixtures of
10 three or four people. It could be that somebody had handled
11 it a lot more than another person.

12 So I can't say that they never touched the
13 bag, but there's not DNA there --

14 **MS. COLBERT:** They can't find DNA there.

15 (Overlapping speakers.)

16 **MS. COLBERT:** Okay. Thank you.

17 **MS. SMITH:** Anyone else?

18 (No response.)

19 Q. Okay. Let's move on to the makeup bag from the
20 victim's home.

21 A. Yes.

22 The makeup bag was tested with Y-STR. They
23 developed a mixture profile consistent with at least two
24 male contributors. And, again, because it's a mixture, they
25 can't report a statistic. If they find a match, they report

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1 it as inconclusive and don't make any comparison.

2 I compared the reference profiles and determined
3 that Williams, Carmichael, Johnson, Davis, and Smith were
4 excluded from the reportable profile again because each one
5 of them contained -- their reference profiles contained
6 multiple alleles that were not seen in the reportable
7 mixture.

8 MS. SMITH: Any questions about that?

9 (No response.)

10 Q. Okay. If you will move on to the black glove
11 found on the northeast bedroom floor of the victim's home.

12 A. The black glove -- in 2018, Bode Cellmark
13 Forensics conducted traditional STR testing. They developed
14 a mixture profile that was consistent with three or more
15 individuals and they reported that, due to the possibility
16 of allelic dropout, no conclusions could be made.

17 Again, Bode Cellmark, when they can't -- because
18 they know there is dropout, they feel that they cannot
19 calculate a statistic. And because they can't calculate a
20 statistic, they can't use it for inclusion; so they can't
21 use it for exclusion is their protocol. So they report it
22 as inconclusive.

23 Q. Did the Commission also then send that item to DNA
24 Labs International?

25 A. Yes.

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1 What was actually sent was the actual DNA extract
2 that Bode had created in their testing. So this extract was
3 tested at DNA Labs International so that they could develop
4 profile and use the probabilistic genotyping software called
5 "STRmix." They developed a profile that they deemed was
6 consistent with three individuals, and, I mean, these
7 profiles were very similar. It was from the same extract so
8 we would expect that.

9 And although they did not exclude Carmichael and
10 Williams, when they ran these profiles through their
11 software, the STRmix software, the software failed to
12 produce results that supported that Carmichael and Williams
13 were contributors to the mixture.

14 Basically what this probabilistic genotyping
15 software does is it will calculate a likelihood ratio. So
16 you put in this -- the two opposing hypotheses, the one
17 hypothesis was that Carmichael and two unknown individuals
18 versus three unknown individuals, and the software will
19 calculate the likelihood ratio. And what happened in this
20 case is the software calculated a zero because there was at
21 least one or multiple locations where there were
22 characteristics possessed by Carmichael which were not seen
23 in the mixture. So the software said "We can't support that
24 they are included." And they're not coming up with a
25 negative number which supports their exclusion. So

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1 basically, it's an inconclusive result.

2 And the same thing happened with Williams. When
3 they input the hypothesis in reference to Williams, they got
4 zero and basically an inconclusive result.

5 So although the lab says that they can't exclude
6 them, they can't put a statistic on it, and so really they
7 should have reported it as inconclusive, in my opinion.

8 Q. And so before we move on to what you looked at,
9 did they also make those comparisons to Johnson and Davis?

10 A. They did, yes. They made those comparisons to
11 Johnson and Davis. He was excluded. And then they also --
12 the same thing happened when they looked at Smith. The
13 laboratory reported that they couldn't really exclude Smith
14 from that mixture, but then when they went in to use the
15 probabilistic genotyping software, it reported a zero and so
16 there was nothing to support that he was included.

17 So in this particular instance, yes. Again, I --
18 it's inconclusive for them.

19 Q. All right. And will you tell us what you did when
20 you were asked to look at those profiles?

21 A. Yes.

22 When I looked at the profile, I believe that
23 because there is a -- in Bode's profile especially, they got
24 information at all 27 locations whereas the DNA Labs
25 International only obtained results at 20.

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1 So when I looked at Bode's that had partial DNA
2 information at all 27 locations and I made the comparison, I
3 felt like you could use it for exclusionary purposes only,
4 and so I looked at those and determined that Johnson, Davis,
5 and Smith were excluded in my original report. And then I
6 was asked to go back and look at Williams and Carmichael,
7 and I excluded them also from the Bode profile because that
8 was the one with the most information.

9 Q. And can you explain for the commissioners, you
10 know, why -- why it would be that Bode could get a full
11 profile at all 27 loci and then, using that DNA extract from
12 that item, you might only get a partial profile that DNA
13 Labs got.

14 A. Yes.

15 Each laboratory has their own protocols. They
16 have their own thresholds. And even though the DNA had
17 already been extracted and was in extract in a liquid form,
18 it still continues to degrade. And so you are going to see
19 some degradation over time even if it's refrigerated or
20 frozen and in an extract. And so it's -- I would assume
21 that that was why. There was a bit of a time difference, a
22 few months -- different thresholds, different
23 instrumentation, different amplification programs. And so
24 it could be any one of those.

25 **MS. SMITH:** Commissioners, do you have any

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1 questions for Ms. Clement related to the glove?

2 **MR. BOSWELL:** The last one here, this DNALI
3 mixture profile was similar to the Bode mixture and the
4 software failed to produce results --

5 (Reporter clarification.)

6 **MR. BOSWELL:** The DNALI mixture profile is
7 similar to the Bode mixture profile, this last point --
8 would you explain that?

9 **THE WITNESS:** Yes.

10 In my report of May 13, I wanted to highlight
11 that both of the profiles were similar, which, as I stated
12 earlier, you would expect because it was from the same
13 extract except that the Bode mixture did give results at all
14 27 locations -- and that's not specifically stated in this
15 paragraph.

16 The DNA Labs International profile only had
17 results at 20, but they were similar. So when we're seeing
18 14/15/16 at one location in one lab, we were seeing that
19 same 14/15/16 at the same location for the other lab, it's
20 just that they had more dropout.

21 And, again, it was pointed out that the
22 STRmix software failed to produce results which supported
23 the conclusion that DNA Labs International made that
24 Williams, Carmichael, and Smith were possible contributors
25 and because that software failed to support that, I felt

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1 that it was inconclusive and, actually, I excluded them from
2 the Bode profile.

3 **MS. SMITH:** Any additional questions?

4 **MS. COLBERT:** I have a question. So the
5 black glove wasn't -- you still had the black glove? So it
6 wasn't in the list of things that we no longer have from
7 evidence?

8 **MS. MATOIAN:** That's correct. They had the
9 black glove from the northeast bedroom of the victim's
10 house. I believe the victim -- what were believed to be the
11 victim's gloves were located in her house and entered into
12 evidence at trial.

13 (Discussion off the record.)

14 **JUDGE LOCK:** All right. 15-minute recess.

15 (Recess taken, 10:25 to 10:43 a.m.)

16 **JUDGE LOCK:** All right. Let's come back to
17 order.

18 Q. All right, Ms. Clement. We left off on page 3, on
19 that first gray box, the velour bag containing a gold
20 necklace collected from Robbin Carmichael, number .01.

21 A. Yes.

22 This particular sample was tested at DNA Labs
23 International. They performed the traditional STR testing
24 on it and they developed a profile which was consistent with
25 a mixture of at least four individuals including at least

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1 one male, and then they determined that due to the complex
2 nature of this profile, it is inconclusive for comparison
3 purposes.

4 When I looked at that profile, I agreed with them.
5 This was a partial profile. It was missing a lot of --
6 there were a lot of loci, there were a lot of locations
7 where they just didn't get any result. There was indication
8 of a lot of dropout. And when you're seeing dropout, even
9 at the smaller segments of DNA, it's just too difficult to
10 make comparisons at that point. So I agreed that this was
11 too complex, and, again, because there were four people and
12 we were seeing that much dropout, that it shouldn't be used
13 for comparison.

14 Q. Okay. And then the next one is the velour bag
15 containing a gold necklace collected from Robbin Carmichael,
16 number.02.

17 A. This particular sample only -- they developed a
18 profile, but only at a single -- one location out of 27, and
19 that was just too limited to draw any conclusions.

20 Q. Okay. And then the velour bag containing a silver
21 necklace collected from Robbin Carmichael, number .04?

22 A. DNA Labs International developed a mixture profile
23 consistent with at least three individuals, including at
24 least one male. And, again, due to the complex nature of
25 this, the profile was deemed inconclusive for comparisons.

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1 And, again, this was another very partial. It was
2 missing data at at least 11 locations out of the 27, and
3 then we were seeing dropout even at the smaller locations so
4 I agreed that it was too complex for comparison purposes.

5 Q. Okay. And then on top of page 4, the velour bag
6 containing a silver hoop earring collected from Robbin
7 Carmichael, number .05.

8 A. Yes.

9 DNA Labs International reported that due to the
10 complex nature of this DNA profile, it's inconclusive for
11 comparison purposes.

12 It was a very partial profile. There were only
13 seven locations that gave any information. And out of those
14 seven, six of them only gave one allele. And so it was
15 just, in my opinion, too limited to be able to make
16 comparisons because it wasn't sufficient data to compare to
17 reference examples.

18 **MS. SMITH:** Commissioners, do you have any
19 questions about those initial velour bags?

20 (No response.)

21 Q. If you will move on to the two china plates from
22 the victim's car.

23 A. Yes.

24 Sorenson Forensics tested those in December of
25 2018 and there was no male DNA detected so they did not move

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1 forward.

2 As part of the testing, once you extract the DNA
3 in quantity, you have to determine approximately how much
4 DNA you've been able to recover. And during this
5 quantitation, you can look at how much overall human DNA is
6 recovered as well as whether there is any male DNA present.

7 And in this particular situation, there was no
8 male DNA detected so they didn't move forward to even try to
9 develop profiles.

10 Q. Okay. And the shawl from the victim's car?

11 A. The shawl was tested. They divided it into the
12 left side of the shawl and the right side of the shawl. So
13 they actually created two separate samples from the shawl.

14 And although they did get some indication of male
15 DNA, it was at such low levels that, based on that
16 quantitation, they didn't expect to find any profile or at
17 least a comparable profile. So no further testing. We
18 didn't even try to create a profile of those.

19 Q. Okay. And then the Salem cigarette butt from the
20 victim's car -- that's number 4.1.

21 A. There was no male DNA detected on that so there
22 was no profile obtained or no profile attempted.

23 Q. And the Winston 100 cigarette butt from the
24 victim's car, item 4.2.

25 A. They did attempt to develop a Y-STR profile on

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1 that; however, they did not get any results when testing for
2 the Y profile.

3 Q. And the Winston 100 cigarette butt from the
4 victim's car, number 4.3.

5 A. There was no male DNA detected on that item so
6 they didn't attempt to develop a profile.

7 Q. In the Winston 100 cigarette butt from the
8 victim's car, number 4.4.

9 A. There was no male DNA detected on that and so they
10 didn't attempt a profile.

11 Q. And the Winston 100 cigarette butt from the
12 victim's car, number 4.5.

13 A. There was no male DNA detected on that item either
14 so they didn't attempt to develop a profile.

15 Q. And does that complete the summary of items that
16 had to DNA testing conducted in this case?

17 A. Yes.

18 Q. Okay.

19 MS. SMITH: Commissioners, any additional
20 questions for Ms. Clement?

21 (No response.)

22 MS. SMITH: The remaining items in your chart
23 are items that were not tested by the Commission. We have
24 already talked -- Ms. Matoian talked about the latent
25 fingerprints and what we did to follow up on that. The rest

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1 of the items on the chart are items that either the
2 Commission could not locate or did not -- did locate but did
3 not have testing conducted.

4 So the only two items on that list, the
5 remaining pages other than the fingerprints that the
6 Commission has but did not have testing conducted on are the
7 carpet sample from the living room floor and the fiber
8 sample from Mr. Williams' apartment.

9 **SHERIFF FRYE:** On the latent print that you
10 couldn't get a match on that was on the candy dish, have we
11 thought about doing DNA testing on that latent print?

12 **MS. SMITH:** We have not. Based on some past
13 testing the Commission has conducted on latent prints, we
14 have determined that in most circumstances we will not be
15 doing that.

16 Also, because it appeared that all of the
17 individuals -- we know that Mr. Williams was excluded, but
18 also because it appears, based on our follow-up
19 investigation, that Mr. Johnson and Mr. Carmichael were also
20 compared to that print earlier by law enforcement and not
21 included, that was our decision for not moving forward with
22 that.

23 Any other questions for Ms. Clement?

24 If there are none, Your Honor, I would ask
25 that she be released from her subpoena and allowed to go.

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1 **JUDGE LOCK:** She may.

2 (Witness dismissed, 10:51 a.m.)

3 **MS. SMITH:** I will recall Associate Director
4 Beth Tanner.

5 (Beth Tanner resumes the stand.)

6 **JUDGE LOCK:** You remain under oath.

7 **MS. SMITH:** Commissioners, in addition to
8 consulting with Ms. Clement and the crime lab related to
9 DNA, the Commission also used for other experts in this
10 case.

11 Ms. Tanner is going to provide a forecast of
12 those experts now, but you will actually hear from them at
13 the very -- toward the very end of the hearing after you
14 have heard all of the other testimony from staff. But we
15 did want to let you know what is to come.

16 BY MS. SMITH: (10:52 a.m.)

17 Q. Ms. Tanner, can you describe what other areas the
18 Commission used experts for.

19 A. Yes.

20 We worked with experts in trace analysis, in
21 confessions, a forensic pathologist, and specific to the
22 Wilson case, crime scene reconstruction.

23 Q. All right. I want to first just focus you on the
24 experts that were used in the Bryson case.

25 A. Sure.

Testimony of Beth Tanner

1 We consulted with a forensic pathologist,
2 Dr. Jerri McLemore from Wake Forest, in the Bryson case. We
3 asked her whether or not there was anything in the autopsy
4 report that could help us to determine whether Ms. Bryson
5 was strangled with a ligature or was strangled as described
6 by Darren Johnson through a chokehold.

7 Dr. McLemore reviewed the photos of the crime
8 scene as well as the autopsy report in the case. She
9 ultimately opined that there was indication of ligature
10 marks that would be consistent with a ligature being used to
11 strangle Ms. Bryson but that she could not rule out a
12 chokehold also being used.

13 Her full report is Handout 78.

14 **MS. SMITH:** Commissioners, you were provided
15 Handout 78 as well as these other expert reports that
16 Ms. Tanner will testify about prior to the hearing panel but
17 they are also provided for you in your hearing handout
18 notebooks.

19 Q. Tell us about the fiber.

20 A. Sure.

21 We consulted with both the North Carolina State
22 Crime Lab and Max Houck, an expert in trace analysis.

23 As to the Bryson case, we were interested in
24 knowing whether the science of hair comparison and the
25 science of fiber comparison had changed at all since the

Testimony of Beth Tanner

1 time period of these cases.

2 After talking with the crime lab, we determined
3 that there have been some changes to hair comparison and
4 that we still had some further questions about the fiber
5 comparison, and so we thought it best to give that
6 information to an expert for review.

7 Q. Can you remind the commissioners about the hair
8 comparison.

9 A. Sure.

10 In the Bryson case, there was a hair found at the
11 scene. Once Williams became a suspect, the lab compared
12 that hair to -- and I mean the State crime lab compared that
13 hair to the hair samples from Williams.

14 It was determined that Williams' hair was
15 microscopically consistent with the hair found at the crime
16 scene, and there was testimony at the Bryson trial received
17 as to that finding. Because of the year of this original
18 testing, there was not any further DNA testing done on the
19 hair.

20 There have been quite a few questions about hair
21 comparison in recent history. The crime lab provided us
22 with some information about how that testing has changed and
23 Mr. Houck also has opinions related to that comparison and
24 the way he would give that today.

25 Commission staff cannot locate the hairs which

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1 were introduced at trial; therefore, no additional forensic
2 testing could be done.

3 **MR. PERRY:** The bottom line of what you just
4 said, then, is what?

5 **THE WITNESS:** The bottom line of what I just
6 said is that we have both the crime lab and Dr. Houck, who
7 is an independent expert, who are going to opine as to what
8 they would say today about a hair comparison like was done
9 in the Bryson case.

10 **MR. PERRY:** Is he coming today?

11 **THE WITNESS:** Not today. What they would say
12 in general.

13 **MR. PERRY:** Oh, they would say. I see.

14 **THE WITNESS:** They are coming this week.

15 **MR. PERRY:** I see.

16 **MS. SMITH:** Commissioners, we're going to
17 call both Lindsey Admire from the crime lab and Max Houck
18 later in the hearing to testify as to their findings and the
19 body of science that we have today.

20 And you have also been previously provided
21 Dr. Houck's report. That was Handout 80.

22 **MR. GLAZIER:** I think it's in those exhibits,
23 but I just want to make sure.

24 Will that also include -- when you're talking
25 about changes between the 1980s and where we are in how the

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1 lab approaches -- major changes the lab made in 2010 as a
2 result of the report that was done then?

3 **THE WITNESS:** Yes. We anticipate to receive
4 testimony about that.

5 Q. Okay. And can you remind that commissioners about
6 the fiber comparison?

7 **MR. PERRY:** Excuse me.

8 Sir, is that the Swecker report?

9 **MR. GLAZIER:** Yes.

10 **MR. PERRY:** We are hearing reasons for that
11 report?

12 **MR. GLAZIER:** I just want -- because -- may
13 I?

14 **JUDGE LOCK:** Yes, please.

15 **MR. GLAZIER:** I'm sorry, Mr. Chairman.

16 The Swecker report also then led to major
17 changes both legislatively mandated and done by then crime
18 lab director Joe John and by then Attorney General Cooper,
19 and those included pretty significant changes, as I recall,
20 to this whole testing protocol as related to this issue
21 among others.

22 And I just wanted to make sure that's what
23 we're -- I wanted to understand that that's kind of what
24 we're talking about.

25 **MR. PERRY:** I'm sorry, Mr. Chairman. This is

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1 in the weeds I guess, but are you intuitively, perhaps,
2 thinking that this sample would be a victim of the pre-2010
3 conduct of the lab or --

4 **MR. GLAZIER:** I think it just probably was in
5 conformity with the standards that existed then that have
6 significantly changed since then, and I just wanted to make
7 sure I understood that that's what we were talking about.

8 **JUDGE LOCK:** And I, with all due respect,
9 think that those may be fair questions for our expert,
10 especially the one from the lab.

11 **THE WITNESS:** I anticipate that we will
12 receive testimony from the lab about what their practices
13 are today, and Dr. Houck's opinions are outlined. And, of
14 course, they will be available to you-all to ask questions.

15 Q. Can you remind the commissioners about the fiber
16 comparisons.

17 A. Sure.

18 In the Bryson case, there was a comparison done
19 between two toboggans. One brown toboggan was found at the
20 crime scene. Merritt Williams provided the other brown
21 toboggan to police and made a statement that he wore two
22 toboggans at the same time.

23 Essentially what was found at the time by the lab
24 was that the toboggans were not made up of the same material
25 but there were several fibers between the two that were

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1 found to be microscopically consistent. However, there was
2 nothing else at the crime scene that connected those fibers
3 that were consistent between the two toboggans. They were
4 consistent between each other but not with anything else at
5 the scene.

6 It was unclear what reason or weight that
7 comparison had in the overall understanding of the case
8 particularly in light of the evidence we have related to
9 Darren Johnson. So we wanted to understand more about that
10 comparison. We also want to make sure generally there were
11 not advancements or changes in fiber comparisons that would
12 add additional information today.

13 In the Wilson case, the fiber comparison was done
14 between fibers found on the ax handle provided by police --
15 provided to police by Williams and fibers in the victim's
16 pants. We wanted to understand more about that.

17 The testimony that Mr. Bendura at the crime lab
18 had made -- he had testified that he picked certain fibers
19 and not others from the ax handle for comparison.

20 We also wanted to find out whether or not there
21 was more information related to fiber comparisons generally
22 in this instance also, like whether there had been changes
23 to that science.

24 **MS. SMITH:** And the crime lab and
25 Mr. Houck -- Dr. Houck will also testify about the fibers

1 when they are here.

2 Q. All right. Will you talk to the commissioners a
3 little bit about the confessions expert and whether we
4 consulted one of those.

5 A. Sure.

6 We did. You guys have that report but I can't
7 remember the handout right now.

8 Once we had evidence that suggested that
9 Mr. Williams may not have been involved in the Bryson
10 murder, there were questions about why someone would
11 implicate themselves and others in a crime.

12 If Williams' claim of innocence now was that he
13 did not commit either crime, then for us it became a
14 question of why would you give statements against yourself?

15 There is data and a whole body of research related
16 to factors that can be involved when someone implicates
17 themselves in a crime that they may not have committed. We
18 believe it would be valuable information for the Commission
19 to know whether or not these factors existed when evaluating
20 Mr. Williams' current claims and the new evidence in light
21 of his prior incriminating statements in both of the Bryson
22 and the Wilson cases.

23 **MS. SMITH:** Commissioners, that is Handout
24 81, is Dr. Kelley's report.

25 **THE WITNESS:** Thank you.

1 **MS. SMITH:** Commissioners, we will discuss
2 the reconstruction expert as well as the pathology expert
3 more fully when we get to the Wilson case as they only have
4 opinions related to that case and not the Bryson case.

5 Does anyone else have questions for
6 Ms. Tanner about why we consulted any of these experts?

7 **JUDGE LOCK:** Yes.

8 How did you locate the confessions expert?

9 **THE WITNESS:** We did do some -- we have used
10 some other experts -- an expert in the past, in the last
11 year. And in looking at some of the research she did, there
12 were some references to the group that we used.

13 We -- I did some also research on my own
14 using good old Google, but I did look at some of the
15 experience. This is a forensics clinic. One of the
16 important pieces about an expert in this area for the
17 Commission is that we want someone who not only understands
18 that body of research but who also has the expertise in
19 either psychology or psychiatry and education level so that
20 they can also help the commissioners understand whether
21 there are any accompanying psychological difficulties that a
22 claimant may have or that may -- they may not have.

23 But that's how we located this particular
24 expert. Of course, we reach out to a few. Some don't like
25 to work at the state rate. But essentially that's how we

1 found this group.

2 **JUDGE LOCK:** And I can certainly ask this
3 question of the witness, but has this expert ever been
4 accepted as an expert by a state or federal court in North
5 Carolina?

6 **THE WITNESS:** I don't know that she has in
7 North Carolina but I can check with her.

8 **JUDGE LOCK:** We can ask.

9 **THE WITNESS:** Yes.

10 **JUDGE LOCK:** Any other questions?

11 (No response.)

12 **MS. SMITH:** Commissioners, as we have
13 previously heard testimony, we were able to gather further
14 transcripts related to both the defense portion of Sammy
15 Mitchell's second trial and the first trial of Darryl Hunt
16 in the Wilson case.

17 We provided in your brief the full
18 testimonies of Dr. McCool and Mr. Bendura from Sammy
19 Mitchell's second trial. Dr. McCool's testimony can be
20 found on pages 727 to 744 of your brief. Mr. Bendura's
21 testimony can be found on 711 to 725 of your brief. These
22 two witnesses also testified at Darryl Hunt's first trial
23 and their testimony was largely the same though the
24 cross-examination was more robust on some issues.

25 We provided this additional testimony to the

1 appropriate expert. I did not provide it to you based on
2 the amount of information that we were already providing to
3 you but if any commissioner wants that extra or additional
4 testimony, I can provide it to the commissioners for review
5 over the overnight recess.

6 Mr. Bendura's testimony in the Hunt case is
7 25 pages. Mr. -- Dr. McCool's testimony is 12 pages.

8 Would anyone like us to prepare that to
9 provide for the overnight recess?

10 (No response.)

11 **JUDGE LOCK:** I guess not.

12 **MS. SMITH:** Okay.

13 And as I've already said, Handouts 77 to 81
14 are the CVs and expert reports from experts you will hear
15 from later this week. You've already been provided those to
16 read in preparation for the hearing, though I let you know
17 kind of the forecast that they would be here. So if you
18 haven't read those yet, please make sure to have them read
19 by tomorrow as I anticipate we will start taking some of
20 those experts tomorrow afternoon.

21 Ms. Tanner, you may step down.

22 (Witness stands down, 11:05 a.m.)

23 **MS. SMITH:** I will recall Ms. Matoian.

24 **JUDGE LOCK:** Yes, sir, Commissioner Perry.

25 **MR. PERRY:** Thank you. Again, not in the

1 weeds, but in your research and work, is the Swecker report
2 findings -- do you know what the Swecker report is?

3 **MS. SMITH:** I'm aware.

4 **MR. PERRY:** Of the lab? 2010?

5 Are those findings relevant to the findings
6 here? Does anyone -- I don't recall the expert --

7 **MS. SMITH:** We did not specifically look
8 at --

9 **MR. PERRY:** No one spoke to that on their own
10 as far as an expert witness?

11 **MS. SMITH:** No, sir.

12 **MR. PERRY:** "Had this been done in 2011, we
13 would have had a different" -- nothing like that?

14 **MS. SMITH:** We didn't ask in that context,
15 no, sir.

16 **MR. PERRY:** Because I think a lot of the
17 findings had to do with hairs and fibers, if I recall, and
18 new procedures for that; is that right? Do you remember?

19 **MS. COLBERT:** Yeah. Blood analysis as well.

20 **MR. PERRY:** Right. Both positive and
21 negative.

22 But nothing like that in the big picture came
23 up in your research?

24 **MS. SMITH:** We simply asked the lab if they
25 would do things differently today, and they described what

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1 would be different.

2 **MR. PERRY:** I see. Thank you.

3 (Catherine Matoian recalled.)

4 **MS. SMITH:** Commissioners, we're now going to
5 turn our attention to Merritt Williams. His criminal
6 history was provided to you on pages -- on page 1550 of your
7 brief. If you wish to refer back to that, you may.

8 BY MS. SMITH: (11:06 a.m.)

9 Q. Ms. Matoian, can you remind the commissioners how
10 Merritt Williams became a suspect in the Bryson case.

11 A. In the Bryson case, he, on the day that he was
12 served with the arrest warrant for the Arthur Wilson case,
13 indicated at the jail that he wanted to speak to the police
14 department about the Bryson and Witherspoon murders.

15 In the Wilson case, he had initially come forward
16 to Sergeant Thomas Spillman at the Forsyth County jail.

17 Q. And did commission staff interview Sergeant Thomas
18 Spillman?

19 A. He is deceased.

20 Q. Okay.

21 **MS. SMITH:** Commissioners, testimony from
22 Sergeant Spillman at the motion to suppress in the Bryson
23 case was provided on pages 1036 to 1043 of your briefs.

24 Q. Can you remind the commissioners of the
25 individuals that Merritt Williams named in his confessions

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1 to the Winston-Salem Police Department.

2 A. In his initial statement regarding the Bryson
3 case, Merritt Williams said he had committed the murder with
4 Sammy Mitchell, Terry Smith, and somebody he referred to as
5 "Gadget."

6 A few days later, Mr. Williams looked through
7 several hundred photographs and ID'd Gadget as being a
8 person named Anthony Venson.

9 In his second version, Mr. Williams said he had
10 committed the murder with a guy named Lieutenant who worked
11 for Terry Smith. He did not know this man's name. That
12 day, he also looked through photographs again and identified
13 Lieutenant as being Lester Davis.

14 Q. Did Mr. Williams ever give any other name for
15 Lieutenant?

16 A. He did.

17 During his testimony at the sentencing hearing,
18 Mr. Williams named Lieutenant as being someone named George
19 Thompson.

20 Q. Did he name anyone else?

21 A. The same day that he testified, he also asked to
22 speak with Detective Teresa Hicks. When -- and he repeated
23 the George Thompson version of the Lieutenant story to
24 Detective Hicks.

25 When told by Detective Hicks that someone would've

Testimony by Catherine Matoian

1 had to have driven him and Lieutenant to the victim's home,
2 Mr. Williams said that Thomas Thompson, who is Mattie Mae
3 Davis' brother, had driven them there.

4 Q. And who is Mattie Mae Davis?

5 A. Mattie Mae Davis was Merritt Williams' girlfriend
6 at the time that he was arrested.

7 Q. Were police ever able to locate George Thompson or
8 to confirm who Lieutenant was?

9 A. Not in the files that we reviewed.

10 There was also a newspaper article related to
11 testimony -- Merritt Williams' testimony about George
12 Thompson that indicates District Attorney Warren Sparrow was
13 not sure whether or not that was actually a real name.

14 Q. Did the Commission interview any of these
15 individuals that were named by Merritt Williams?

16 A. We did.

17 We were able to interview Terry Smith, Anthony
18 Venson, and Lester Davis. Sammy Mitchell and Thomas
19 Thompson are both deceased.

20 **MS. SMITH:** Commissioners, if you will refer
21 to pages 1553 to 1555 in your brief, that is the criminal
22 record for Sammy Mitchell which was previously provided.

23 Handout 19 in your hearing handout notebooks
24 is the criminal record of Thomas Thompson, if you would like
25 to take a moment to review them.

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1 Q. When did the Commission interview Terry Smith?

2 A. We interviewed Terry Smith in person on March 13,
3 2019.

4 Q. Was that interview recorded and transcribed?

5 A. It was.

6 MS. SMITH: Commissioners, Handout 20 in your
7 hearing handout notebook is the criminal record of Terry
8 Smith.

9 Q. Was Mr. Smith interviewed by the Winston-Salem
10 Police Department?

11 A. The Winston-Salem Police Department file for this
12 case did not contain any reports related to an interview of
13 Terry Smith. However, in a newspaper article from the time
14 of Mr. Williams' trial, Terry Smith was contacted by the
15 newspaper and said he did recall being interviewed by
16 detectives.

17 Q. What did Mr. Smith say?

18 A. Mr. Smith was a prominent drug dealer in the
19 Winston-Salem area in the 1980s. He was arrested on drug
20 charges in 1986 and remembered hearing about the Bryson case
21 on TV while he was in jail in Greensboro.

22 Q. And is this in your interview with the Commission?

23 A. Yes.

24 Q. Okay. Continue.

25 A. Mr. Smith indicated that Anthony Venson, who he

Testimony by Catherine Matoian

1 knew as Tiny but also goes by the nickname Gadget, did work
2 for him back in the 1980s.

3 Mr. Smith said that Sammy Mitchell did not work
4 for him and he did not like dealing with Sammy Mitchell but
5 that Sammy Mitchell did buy drugs from him. He denied
6 knowing Merritt Williams and did not recognize a photo of
7 Merritt Williams.

8 Mr. Smith denied participating in the murder of
9 the victim. He said he was making 20- to \$40,000 a week and
10 had no need to do a breaking and entering. He also said he
11 would not have sent anyone to a black person's house to
12 steal from them. He said he gave to people in the
13 neighborhood and was not out there robbing from them.

14 Q. What was he doing to make 20- to \$40,000 week?

15 A. He was dealing drugs.

16 Q. Okay. What else did he say?

17 A. He stated that the only older woman who ever
18 stashed money for him was his aunt. He denied keeping any
19 money in the victim's home or any home on Gilmer Avenue.

20 Mr. Smith indicated that he remembered being
21 interviewed by the police department about this murder and
22 he believes that they didn't take it seriously -- meaning
23 that he would have been involved -- because they knew him
24 better than that and knew that this case was not his "cup of
25 tea."

Testimony by Catherine Matoian

1 When Mr. Smith heard his name had been brought up
2 in the Bryson case, he thought that everyone was trying to
3 dump everything on him because he was facing life to 200
4 years at that point.

5 Mr. Smith said that law enforcement referred to a
6 woman in his organization as his lieutenant but that he
7 didn't actually use that term for anyone in his organization
8 at the time.

9 Q. You said that they referred to a woman in his
10 organization as Lieutenant?

11 A. That's correct.

12 Q. Did Mr. Smith agree to provide a voluntary DNA
13 standard to the Commission?

14 A. He did.

15 Q. Did the Commission have the standard compared to
16 the unknown profiles in the case?

17 A. We did.

18 Mr. Smith was excluded from the profiles from the
19 victim's fingernail scrapings, the velour bag with the gold
20 necklace which was the profile that included Mr. Carmichael,
21 the cigarette butt that was also the profile that included
22 Mr. Carmichael, the overnight bag from the victim's car, the
23 makeup bag from the victim's home, and the profile from the
24 black glove found in the victim's home developed by Bode
25 Cellmark Forensics.

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1 Q. Were there any items of evidence that Terry Smith
2 could not be excluded from for which the Commission got a
3 profile?

4 A. Yes. The profile from the extracts that was --
5 the extracts of the glove that was tested at DNA Labs
6 International.

7 Q. And that was because that was inconclusive?

8 A. Correct.

9 Q. Did the Commission learn anything else about Terry
10 Smith?

11 A. During his deposition with the Commission, former
12 WSPD Detective Ken Bishop said he was familiar with Terry
13 Smith and said that while he did not have direct knowledge
14 of Terry Smith's involvement in this case, it seemed to him
15 from his knowledge and exposure to Mr. Smith during his time
16 in law enforcement that Mr. Smith was "far, far too smart"
17 to actually participate in the murder.

18 Mr. Bishop's attorney, David Friedman, also
19 indicated that he had represented Terry Smith's aunt who
20 served federal time for claiming ownership of Mr. Smith's
21 black Mercedes.

22 **MS. SMITH:** Commissioners, do you have any
23 questions for Ms. Matoian about Terry Smith?

24 **MR. BOSWELL:** Was Terry Smith in jail when
25 this happened?

Testimony by Catherine Matoian

1 **THE WITNESS:** We don't have jail records from
2 the time -- that time period from the Forsyth County jail so
3 I don't know whether or not we'll be able to determine that.
4 We can certainly look into it.

5 **MR. BOSWELL:** Well, but did he say he was in
6 jail when he read about the crime?

7 **THE WITNESS:** He indicated he wasn't in jail
8 at the time.

9 **MR. BOSWELL:** He said --

10 **THE WITNESS:** He remembered hearing about it
11 in jail but he was not in jail at the time.

12 Q. Ms. Matoian, was there a time period between when
13 the crime was committed and when arrests were made in this
14 case?

15 A. Yes.

16 Blanche Bryson was murdered in December 1985 and
17 Mr. Williams did not come forward with information in this
18 case until April of 1986.

19 Mr. Smith recalled hearing about the case while on
20 TV in jail during the trial, which was in July of 1987.

21 **MR. BOSWELL:** Thank you.

22 **MS. SMITH:** Commissioners, if you will refer
23 to Handout 21 in your hearing handout notebooks, this is the
24 criminal record for Anthony Venson. If you'll just take a
25 moment to review that.

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1 **MS. COLBERT:** May I ask a question?

2 **JUDGE LOCK:** Yes. Of course.

3 **MS. COLBERT:** Did you mention that Terry
4 Smith had a black Mercedes? Is that --

5 **THE WITNESS:** Yes, he did. I believe that
6 was mentioned in one of Mr. Williams' statements.

7 Q. Ms. Matoian, did the Commission interview Anthony
8 Venson, who went by Gadget?

9 A. We did. In person on March 7, 2019.

10 Q. Was that interview recorded and transcribed?

11 A. It was.

12 Q. Was Anthony Venson interviewed by law enforcement?

13 A. He was. On April 24, 1986.

14 In that interview, he denied any involvement in
15 this case. He also agreed to a polygraph examination. The
16 report indicates that the results were that Mr. Venson was
17 truthful in indicating he didn't have any knowledge or
18 involvement in this crime.

19 **MS. SMITH:** Commissioners, Mr. Venson's
20 interview with law enforcement was on page 935 of your
21 brief.

22 Q. What did Mr. Venson tell commission staff?

23 A. Mr. Venson confirmed that he had worked for Terry
24 Smith's drug operation back in the 1980s. He was also
25 arrested on drug charges in 1986.

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1 He recalled police coming to speak to him about
2 this case and taking a polygraph examination. Mr. Venson
3 denied any involvement in the murder. He said he was making
4 thousands of dollars a day so he had no need to rob anyone.
5 He also stated that Terry Smith never asked him to take a
6 hit out on someone and that Mr. Mitchell was not part
7 Smith's organization.

8 Mr. Venson did not know anyone who went by the
9 name Lieutenant and he did not know Terry Smith in general
10 to attempt to take any hits out on anyone.

11 Q. Did Mr. Venson provide a voluntary DNA sample to
12 the Commission?

13 A. No. He declined to provide a sample to us.

14 Q. Did the Commission seek a court order for
15 Mr. Venson's DNA standard?

16 A. We didn't. We considered seeking an NTIO but
17 based on the Commission's investigation including Darren
18 Johnson's confession and the inclusion of Darren Johnson's
19 DNA under the victims fingernails, we determined that we
20 could not meet the legal standard required for obtaining an
21 NTIO.

22 **MS. SMITH:** Commissioners, do you have any
23 questions for Ms. Matoian about Anthony Venson?

24 **MS. COLBERT:** What's an NTIO?

25 **THE WITNESS:** It's a nontestimonial

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1 identification order. It allows you to collect some kind of
2 standard from someone you suspect to be involved in a crime.

3 **MS. COLBERT:** Thank you.

4 **MS. SMITH:** Any other questions?

5 (No response.)

6 **MS. SMITH:** Commissioners, if you will refer
7 to Handout 22 in your hearing handout notebooks, this is the
8 criminal record for Lester Davis. If you'll just take a
9 moment to review that.

10 Q. Ms. Matoian, was Lester Davis interviewed by
11 Winston-Salem Police Department?

12 A. He was.

13 Lester Davis had been the subject of a
14 CrimeStoppers tip that came in before Merritt Williams came
15 forward with information in the Bryson case.

16 That CrimeStoppers tip had been called in by an
17 ex-girlfriend of his named Annetta Gordon. Annetta Gordon
18 was eventually interviewed by the police department and
19 indicated that she had lied in her CrimeStoppers tip.

20 Lester Davis was interviewed by the police
21 department on April 18, 1986, which is the same day that
22 Merritt Williams came forward to first give information on
23 the Bryson case. In that interview, he denied any
24 involvement in the crime. He was polygraphed on May 8,
25 1986, and the report indicates he was truthful regarding not

Testimony by Catherine Matoian

1 being involved in the Bryson homicide.

2 Q. Did the Commission interview Lester Davis?

3 A. We did. In person on March 7, 2019.

4 Q. And was that interview recorded and transcribed?

5 A. It was.

6 Q. What did Mr. Davis tell commission staff?

7 A. Mr. Davis recalled being interviewed by law
8 enforcement about this case. He stated that he thought
9 Annetta Gordon had put his name into it as revenge because
10 he broke up with her after she told him she was pregnant and
11 began dating another woman.

12 Mr. Davis used to be a bouncer at a club owned by
13 Terry Smith but he had a falling out with Terry Smith
14 because Terry Smith had wanted him to run drugs for him and
15 he declined to do so.

16 Mr. Davis also said that Terry Smith never asked
17 him to take a hit out on anyone.

18 Mr. Davis denied any involvement in the murder and
19 said he did not know Merritt Williams and he did not know
20 anyone who went by the nickname Lieutenant.

21 Q. Did Mr. Davis provide a voluntary DNA standard to
22 the Commission?

23 A. He did.

24 Q. Did the Commission have his DNA profile compared
25 to the unknown profiles in this case?

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1 A. We did. He was excluded from all unknown profiles
2 in this case that were of value for comparison.

3 **MS. SMITH:** Commissioners, do you have any
4 questions for Ms. Matoian about Larry Davis?

5 (No response.)

6 **MS. SMITH:** Sorry. Lester Davis.

7 Q. Ms. Matoian, can you summarize what the original
8 investigation showed about the lampshades that were
9 collected from Merritt Williams' apartment?

10 A. In Mr. Williams' initial statements that happened
11 on April 18 through April 19, 1986, Mr. Williams said that
12 he took two lampshades from the victim's home and that the
13 lampshades were still in his apartment.

14 On April 21, 1986, police went to Mattie Mae
15 Davis, who was Williams' girlfriend at the time, and she
16 consented to a search of the apartment.

17 Two lampshades were located and collected during
18 this search. Ms. Davis indicated to the police department
19 that Mr. Williams had just recently found those lampshades
20 in a trash pile left outside by a neighbor. She also
21 indicated she had never known him to wear two toboggans at
22 the same time and only ever saw him with the toboggan that
23 had been collected from him at the jail.

24 Also on April 26, 1986, Merritt Williams was
25 polygraphed by the police department. In the report about

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1 that polygraph, Mr. Williams admitted to lying about the
2 lampshade. Other than property reports, there is nothing
3 else in the police file about the lampshades collected from
4 Mr. Williams. There are no reports of any interviews where
5 the victim's friends or family are asked to look at them and
6 see if they belonged to the victim.

7 At trial, those lampshades were entered into
8 evidence and shown to Emma Harper. She was asked about the
9 lampshades and she said that the victim may have had
10 lampshades that looked like that but ultimately could not be
11 sure if those belonged to the victim.

12 The Commission talked to several individuals in an
13 attempt to understand how those lampshades became to be
14 involved in the trial and whether they were confirmed as
15 having come from the victim's home.

16 **MS. SMITH:** Commissioners, before we move
17 into testimony related to the Commission's investigation
18 into the lampshades, please refer to hearing -- your hearing
19 handout notebooks Handout Number 23. That's the criminal
20 record for Mattie Mae Davis.

21 **JUDGE LOCK:** Yes, sir.

22 **MR. GLAZIER:** Thank you, Mr. Chairman.

23 I assume we're going to get to this. I just
24 can't remember the information in the file. The polygraph
25 of Williams -- can you speak to what evidence exists in any

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1 file as to that?

2 **THE WITNESS:** With Mr. Williams, the only
3 thing we have is just the short report on, I believe -- I
4 can find it to be sure -- but I believe the report says that
5 he was polygraphed, he indicated he was lying about the
6 lampshades, but the results were that he was truthful
7 otherwise.

8 This is the same situation we have in other
9 polygraph reports where we only have that short report that
10 indicates the results. We do not have any list of questions
11 that were asked, any charts, any scoring, any additional
12 documentation.

13 And, again, we requested that the police
14 department look for any additional documentation for
15 polygraphs stored in a separate area and they were not able
16 to locate anything.

17 **MR. GLAZIER:** One follow-up, please.

18 **JUDGE LOCK:** Yes, sir.

19 **MR. GLAZIER:** So essentially it's useless
20 because we don't know what was asked, what he was responding
21 to, what the questions were, no pretest information, and no
22 findings.

23 **THE WITNESS:** I can only speak to what the
24 report says.

25 **MR. GLAZIER:** Okay. Thanks.

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1 Q. Was Mattie Mae Davis interviewed by the
2 Winston-Salem Police Department related to the Bryson case?

3 A. She was. On April 21, 1986, which I just
4 described, and again in December of 1987.

5 MS. SMITH: Commissioners, Ms. Davis'
6 statements can be found on pages 920 to 921, 931 to 932,
7 924, 925 to 927, and 1277 to 1278 of your brief. So we
8 provided all of those various statements to you in the
9 briefs.

10 Q. Did commission staff interview Ms. Davis?

11 A. We did.

12 We interviewed her in person on March 28, 2019,
13 and then we deposed her on April 15, 2019.

14 Q. Were both of those recorded and transcribed?

15 A. They were.

16 Q. Did Ms. Little recall anything about the Bryson
17 case?

18 A. She did not. She did not recall anything about
19 the Bryson murder or being interviewed by police about it.
20 She did not recall anything about the toboggan or the
21 lampshades.

22 She also had never heard of anyone named George
23 Thompson and she only remembered police speaking to her in
24 relation to the Wilson case.

25 MS. SMITH: Commissioners, Ms. Matoian has

Testimony by Catherine Matoian

1 already testified about the Commission's interview of Emma
2 Harper.

3 Q. Ms. Matoian, did Ms. Harper say anything in
4 relation to the lampshades?

5 A. We asked Ms. Harper about the lampshades and she
6 had no recollection of even testifying at trial or being
7 asked anything about the lampshades.

8 Q. Did the Commission learn anything else about the
9 lampshades during its deposition of law enforcement in this
10 case?

11 A. We asked Teresa Hicks and Jeffrey Dorn if they
12 recalled confirming that the lampshades collected from
13 Williams had come from the victim's home. Both of those
14 people were former police department detectives, and neither
15 had any recollection.

16 We also asked District Attorney Warren Sparrow and
17 he did not have any recollection of how the lampshades
18 became involved in the trial.

19 **MS. SMITH:** Commissioners, do you have any
20 questions?

21 (No response.)

22 **MS. SMITH:** Commissioners, on page 1602 of
23 your brief is an index which gives the page numbers for
24 where Mr. Williams' prior statements and testimony in this
25 case appeared.

Testimony by Catherine Matoian

1 Mr. Williams has been writted in for this
2 hearing. He will testify after the Commission's
3 presentation of its investigation into the Wilson case. So
4 I do plan to have him testify on Friday.

5 Q. Ms. Matoian, how is Charlene Witherspoon related
6 to this case?

7 A. In the police report for Mr. Williams' first
8 statement in the Bryson case, Mr. Williams indicates that he
9 has information to provide about both of the Bryson and
10 Witherspoon murders.

11 Ms. Witherspoon's murder was also mentioned in the
12 same *Winston-Salem Chronicle* article regarding unsolved
13 murders with African-American victims from April 3, 1986.
14 That article also includes information about the Blanche
15 Bryson case and the Arthur Wilson case.

16 Ms. Witherspoon had been shot in her car in April
17 of 1984. She was the daughter of another prominent
18 Winston-Salem drug dealer named Poor Charlie.

19 Q. Did the Bryson file give any information that
20 Mr. Williams had provided pertaining to the Witherspoon
21 murder?

22 A. There are no reports of Mr. Williams providing any
23 information about that murder. However, there was an
24 undated, unsigned handwritten statement that contained
25 information about the Witherspoon murder.

Testimony by Catherine Matoian

1 **MS. SMITH:** Commissioners, if you will refer
2 to Handout 24 in your notebooks. This is the handwritten
3 document related to information about the Witherspoon
4 murder.

5 If you'll just take a moment to look.

6 **MR. EDWARDS:** Tell us again what we're
7 looking at here, Handout 24.

8 **MS. SMITH:** It is a handwritten document
9 related to information about the Witherspoon murder. My
10 next question for Ms. Matoian is probably going to answer
11 that.

12 Q. Can you tell us what we were able to learn about
13 this document.

14 A. The Commission asked Mr. Williams about this
15 during our interview of him on April 11, 2019. We showed
16 this document to him. He confirmed that it was his
17 handwriting. He expressed surprise that this document had
18 been contained in the police file and did not know how the
19 police had found it. He said he wrote it as a backup for
20 himself in case anything went wrong with the information he
21 was providing to the police.

22 He also indicated that the information contained
23 in this document was untrue. James Drayton was his uncle
24 but he was not a drug dealer and he lived in New York.

25 Q. Did the Commission find out any additional

Testimony by Catherine Matoian

1 information about the Witherspoon murder?

2 A. We did. We asked Terry Smith about the murder
3 during our interview of him, and he indicated that
4 Ms. Witherspoon had been killed as part of a lovers' quarrel
5 between Ms. Witherspoon and a woman she had been dating but
6 that the woman, who was also a dealer, was never charged.

7 During the Commission's deposition of Detective
8 Freeland, we showed him this document and he did not
9 recognize it. There is no report in the police file
10 detailing how it was located and he did not recall
11 Mr. Williams ever providing information about the
12 Witherspoon case.

13 He said that once he started -- once Mr. Williams
14 started talking about the Bryson case, that became their
15 focus. Detective Dorn also did not recall anything about
16 the Witherspoon case.

17 The Commission sought and obtained a judicial
18 subpoena for the Witherspoon file from the Winston-Salem
19 Police Department to determine whether or not there were any
20 statements from Merritt Williams contained in that file.
21 This murder remains unsolved; however, the reports in that
22 file were pretty consistent with the description given by
23 Terry Smith.

24 There are no reports to Mr. Williams providing any
25 information in this case. A report from May 19, '86, which

Testimony by Catherine Matoian

1 is the month after Merritt Williams said he had information
2 about the Witherspoon murder, indicated that there were no
3 new leads in the case.

4 **MS. SMITH:** Any follow-up questions to that?

5 **MR. BRITT:** I do.

6 So regarding Handout 24, the entry at the
7 bottom, "I was sent to breaking the house along with these
8 other two people who was there. The reason was that the old
9 lady owed some money and we was told to be careful of
10 papers."

11 What is that supposedly referring to?

12 **THE WITNESS:** That portion is consistent with
13 other statements Mr. Williams gave about the Bryson case.

14 **MR. EDWARDS:** Okay.

15 **MS. SMITH:** Any other questions?

16 (No response.)

17 **MS. SMITH:** Commissioners, Merritt Williams'
18 criminal record was provided on page 1550 in your brief, if
19 you wish to look at that again.

20 Q. Ms. Matoian, did the Commission staff interview
21 Mr. Williams related to the Bryson case?

22 A. We did.

23 On April 13, 2018, the Commission collected
24 Mr. Williams' buccal swab and he made several statements
25 about the case during that interaction.

Testimony by Catherine Matoian

1 The Commission interviewed Mr. Williams in detail
2 about the Bryson case on April 11, 2019.

3 Q. And were those recorded and transcribed?

4 A. They were.

5 **MS. SMITH:** Commissioners, you were
6 previously provided with the transcripts of those interviews
7 with Mr. Williams along with summaries prepared by
8 commission staff. Those are also in your hearing notebooks
9 as Handouts 25. That is the last handout in that first
10 notebook. You have all had an opportunity to read that
11 before today.

12 Do you have any questions, though, for
13 Ms. Matoian based on your reading of the interview
14 specifically related to the Bryson case about that
15 interview?

16 (No response.)

17 Q. After the interview with Mr. Williams, did
18 commission staff do anything to follow up?

19 A. We did.

20 In this interview, Mr. Williams stated that George
21 Thompson was an older man who was from the same place as him
22 in South Carolina. He said that this man had died before
23 Mr. Williams had moved to Winston-Salem or any of the events
24 in these cases took place. He stated that Thompson's name
25 just occurred to him and that's why he identified him as

Testimony by Catherine Matoian

1 Lieutenant during his testimony.

2 The Commission searched the Social Security death
3 index for George Thompsons that died in South Carolina from
4 the years 1975 through 1983. We found several whose last
5 payments were sent to towns within about an hour of the town
6 where Mr. Williams is from -- that is Walterboro, South
7 Carolina. However, due to lack of additional information
8 about this George Thompson, we just have not been able to
9 confirm whether or not any of these individuals are who he
10 is speaking of.

11 I will say we've been attempting to get in contact
12 with Mr. Williams regarding more information about this
13 George Thompson, and if we are able to find anything else,
14 we will present that to the commissioners.

15 The Commission also asked numerous witnesses, both
16 in the Bryson and Wilson cases, if they knew someone named
17 George Thompson or if they knew someone who went by the name
18 Lieutenant, and no one was aware of anyone by those names.

19 Q. Was any additional follow-up conducted?

20 A. Yes.

21 In that interview, Mr. Williams mentioned that his
22 defense attorneys had hired a private investigator. There
23 is no indication that a PI was hired in the clerk's file for
24 this case and his defense attorney, Kevin Mauney, did not
25 recall hiring one.

Testimony by Catherine Matoian

1 We asked Mr. Mauney for any PIs he may have used
2 in the 1980s. Mr. Mauney thought that he may have used
3 someone named Ken. He provided two last names, Martin and
4 Whaping, W-h-a-p-i-n-g. Based on information provided, the
5 Commission was unable to locate these individuals and
6 Mr. Williams also did not remember the name of this PI.

7 **MS. SMITH:** Commissioners, do you have any
8 questions related to the follow-up commission staff did with
9 respect to Mr. Williams?

10 **JUDGE LOCK:** Yes, ma'am.

11 **MS. COLBERT:** Wasn't -- his girlfriend had a
12 brother last name Thompson?

13 **THE WITNESS:** Thomas Thompson. He is
14 deceased. Yes.

15 **MS. COLBERT:** But he didn't mention -- I
16 mean, this wasn't the same -- particularly this other guy,
17 he said his name was George; right?

18 **THE WITNESS:** He said his name was George
19 Thompson. And when he spoke to Detective Hicks after his
20 testimony, he was telling Detective Hicks about George
21 Thompson and then he brought Thomas Thompson's name into it
22 later on in the interview. Thomas Thompson is deceased and
23 Mattie Mae Davis is not aware of anyone named George
24 Thompson.

25 **MR. BOSWELL:** I'm not sure if you're going to

Testimony by Catherine Matoian

1 get to this so I may be jumping the gun, but I would be
2 interested in hearing what evidence there is about what
3 Mr. Williams knew about the scene and, you know, jumping the
4 fence and hitting his head on a clothesline and stuff like
5 that.

6 Are we going to have any testimony about any
7 evidence that is -- aside from just his confession, but
8 anything he might have known about the scene that he would
9 have theoretically needed to be there to know?

10 **THE WITNESS:** I can't say what he would have
11 needed to know without being there.

12 Mr. Williams did talk in the Commission's
13 interview about information that he had heard either through
14 media or just around the neighborhood that he had used in
15 his confessions.

16 He also indicated, as regards to going to the
17 scene, that the police took him there, which is inconsistent
18 with what the police reports say. The police reports
19 indicate Mr. Williams took them there.

20 And Mr. Williams maintains that the
21 information that he provided had been provided to him by the
22 detectives. The detectives maintain that Mr. Williams
23 provided that information on his own.

24 **MR. BOSWELL:** We don't have any evidence to
25 sway it one or the other?

Testimony by Catherine Matoian

1 **THE WITNESS:** So what we've been able to
2 learn about interview practices at the time at the police
3 department is that they would have an interview with someone
4 that would not be recorded. There would be no audio
5 recording. Then there may be a handwritten statement and
6 then, at the end, there would a shorter transcribed
7 statement -- recorded and transcribed statement that kind of
8 summarized everything that they discussed.

9 So we do not have any recordings of their
10 entire interaction with Mr. Williams.

11 **JUDGE LOCK:** Do I understand you to say you
12 were never able to locate a George Thompson?

13 **THE WITNESS:** We have not, no.

14 **JUDGE LOCK:** So you were never able to
15 determine whether or not George Thompson was an actual
16 person?

17 **THE WITNESS:** That's correct.

18 **JUDGE LOCK:** Did you consider the possibility
19 that George Thompson and Tommy Thompson -- or Thomas
20 Thompson are the same person?

21 **THE WITNESS:** We did not because Merritt
22 Williams had named George Thompson in his testimony to
23 Detective Hicks and then, in that same interview with
24 Detective Hicks after he's talked about George Thompson,
25 Detective Hicks said, "Well, someone would have had to have

Testimony by Catherine Matoian

1 driven you to the house if you were going to get the TV."

2 And then Merritt Williams says that Thomas Thompson drove
3 him and George Thompson.

4 **JUDGE LOCK:** Okay.

5 **THE WITNESS:** So our understanding was that
6 they were separate people.

7 **JUDGE LOCK:** All right. Thank you.

8 Q. Ms. Matoian, did the Commission have Mr. Williams'
9 DNA standard compared to the testing in this case?

10 A. We did.

11 Q. Can you just summarize that.

12 A. Sure.

13 Mr. Williams was excluded from all unknown
14 profiles in this case that were of value for comparison.
15 The exception to that is the profile that DNA Labs
16 International developed from the black glove that they used
17 the extracts from Bode Cellmark Forensics. He was excluded
18 from the Bode Cellmark Forensics profile but DNA Labs
19 International was not able to explain Mr. Williams as part
20 of that mixture using their software.

21 Q. Did the Commission review DPS records for
22 Mr. Williams?

23 A. We did. These included combined records, medical
24 and mental health records, disciplinary records, probation
25 and parole records, and phone calls.

Testimony by Catherine Matoian

1 **MS. SMITH:** Commissioners, if you will pull
2 out your second hearing handout notebook, we are moving on
3 to that one.

4 Handout 26 in that notebook is a document
5 prepared by commission staff related to Mr. Williams'
6 education and mental health DPS records.

7 Your Honor, this document contains
8 information from Mr. Williams' DPS records related to mental
9 health and education that are otherwise protected by federal
10 and state law.

11 We also received this through a court order
12 that we were required to get from DPS. As with the other
13 mental health and education records that we provided, I
14 would request that it would be sealed from the public
15 record.

16 **JUDGE LOCK:** All right. So ordered.

17 And if you will prepare that and include that
18 in the written order that you will be preparing.

19 **MS. SMITH:** Yes, sir.

20 I will give you-all just a moment to review
21 Handout 26.

22 Q. Ms. Matoian, did the records received from DPS
23 related to Merritt Williams include any mention of this
24 case?

25 A. They did.

Testimony by Catherine Matoian

1 In an inmate crime version from 9/4/1987,
2 Mr. Williams said that he implicated himself in effort to
3 help police solve the crime but maintained his innocence in
4 this case. He also maintained his innocence during a mental
5 health assessment from 2017.

6 Another mental health assessment from June 19,
7 2007, indicates that he, Mr. Williams, was dealing with
8 maturity issues and reflecting upon his crimes -- I'm sorry.
9 That is a quote. "Dealing with maturity issues and
10 reflecting upon his crimes. He said it was only this year
11 that he fully realized the damage he did to his crime
12 victims."

13 There were several references in his case
14 management notes related to his applying to the Commission.
15 And there is also an official crime version related to this
16 case that the commissioners have received yesterday.

17 Q. Did the Commission also obtain recordings of
18 Mr. Williams' calls from the Department of Public Safety?

19 A. We did.

20 Those calls ranged from October 2012, which is
21 the -- that was the earliest recordings that were available,
22 and calls -- sorry -- from October 2012 through April 14,
23 2018, which is when we made our original request for those
24 phone calls.

25 We also received phone calls made by Mr. Williams

Testimony by Catherine Matoian

1 from April 1, 2019, through May 16, 2019.

2 **MS. SMITH:** Commissioners, Handout 27 in your
3 hearing handout notebooks is a chart of statements made by
4 Merritt Williams related to these cases and his phone calls
5 from prison.

6 This chart does not include details of calls
7 where Mr. Williams talks about his plans generally for if he
8 gets out of prison or the times that he discusses money he
9 may receive from the Commission's process, but he does
10 discuss that routinely.

11 If you'll take a moment to review that chart
12 and then if you have any questions for Ms. Matoian about
13 that, you can ask her.

14 **JUDGE LOCK:** Is everyone ready? All right.

15 **MS. SMITH:** Do you-all have any questions for
16 Ms. Matoian about the phone calls?

17 **JUDGE LOCK:** Yes, ma'am.

18 **MS. COLBERT:** You know, in his mental health,
19 they list all of these issues. Is he currently on
20 medication? Is there any record of that?

21 **THE WITNESS:** He indicated in his commission
22 interview recently that he is on medication and receiving
23 mental health treatment.

24 **MS. WELCH:** Did y'all verify that? Do we
25 know what he's on?

Testimony by Catherine Matoian

1 **THE WITNESS:** We have his DPS medical and
2 mental health records up to, I believe, April 2018, when we
3 requested them last year, and those did indicate that he was
4 receiving treatment.

5 **MS. WELCH:** But what about medicines?

6 **THE WITNESS:** I can double-check. I'm not
7 sure.

8 **MR. BRITT:** For example, in his interview,
9 I'm sorry -- I'm sorry. Wrong person. Never mind.

10 **MS. SMITH:** Any other questions?

11 (No response.)

12 Q. Ms. Matoian, did the Commission do anything --
13 obtain any additional records for Mr. Williams?

14 A. We did.

15 Like with Mr. Carmichael and Mr. Johnson, we
16 obtained Mr. Williams' full WSPD records including a list of
17 police contacts with him.

18 Q. What did those records indicate?

19 A. Those records indicated that Mr. Williams had
20 several assaults on his record. However, all the people
21 named as victims in those assaults were people that were
22 known to him, such as girlfriends or friends.

23 Q. And were Mr. Carmichael or Mr. Johnson named in
24 any of those reports?

25 A. No, they were not.

Testimony by Catherine Matoian

1 **MR. EDWARDS:** May I ask a question?

2 **MS. SMITH:** Sure. Absolutely.

3 **MR. EDWARDS:** Is she about to step down?

4 **MS. SMITH:** She is.

5 **MR. EDWARDS:** Okay. So in regard to the
6 mental health history, in 2007, I think you said, there was
7 a note where you said he said he was "reflecting on his
8 crimes and the damage he had done to his victims."

9 **THE WITNESS:** Correct.

10 **MR. EDWARDS:** And then in 2017, I think you
11 stated, that he was then claiming in some interview or
12 assessment that he was innocent.

13 **THE WITNESS:** Correct.

14 **MR. EDWARDS:** And if I looked at the records
15 correctly, this Commission opened up an investigation in the
16 Wilson case in March 2011 and the Bryson case June 2015.

17 **THE WITNESS:** That's correct.

18 **MR. EDWARDS:** Does that sound right?

19 **THE WITNESS:** Yes.

20 **MR. EDWARDS:** And so these recorded phone
21 calls from the jail would have all been after he filed his
22 claims requesting -- his innocence request?

23 **THE WITNESS:** That's correct.

24 **MR. EDWARDS:** Okay. All right.

25 **THE WITNESS:** Can I just add one thing to

Testimony by Catherine Matoian

1 that?

2 In the inmate crime version from 1987,
3 Mr. Williams said he implicated himself in an effort to help
4 police solve the crime but maintained his innocence.

5 **MR. EDWARDS:** Thank you.

6 **MR. BOSWELL:** Can I ask one question?

7 Did he confess to anything prior to the
8 newspaper coming out saying -- talking about -- the article
9 coming out talking about these unsolved crimes?

10 **THE WITNESS:** Are you referring to the one
11 that was in the *Chronicle* about the unsolved crimes
12 involving African-American victims?

13 **MR. BOSWELL:** Yes.

14 **THE WITNESS:** That article came out on
15 April 3, 1986, and I believe he first comes forward in the
16 Arthur Wilson case on April 8, 1986.

17 **JUDGE LOCK:** Sheriff?

18 **SHERIFF FRYE:** I want to go back because I
19 was waiting until you finished your testimony to talk about
20 this.

21 In the initial crime scene photos or anything
22 from the homicide, the lady homicide, were there any lamps
23 that were missing lampshades -- anything that indicated that
24 any lampshades were missing from the house?

25 Was there any evidence of any lampshades

1 missing from that house?

2 **THE WITNESS:** There was no indication of that
3 in the initial file. The victim's children actually went
4 through the house to let the police know items they thought
5 might be missing. They initially thought some fur coats
6 were missing but they were found later on, and her children
7 do not mention any lampshades in that.

8 **MS. SMITH:** Okay. You can step down.

9 (Witness stands down, 11:56 a.m.)

10 **MS. SMITH:** Commissioners, with respect to
11 the question about medication that Merritt Williams is
12 currently on, commission staff does not have that
13 information. We have records through April of 2018 from DPS
14 and we can pull medications up to that point, if that will
15 answer your question.

16 Dr. Kelley did give Merritt Williams a
17 battery of psychological tests when she met with him, and
18 that's all reflected in the report that you've already read.
19 If you would like information between April of 2018 and
20 today, I can get a judicial subpoena and get that
21 information if that's something that you-all are interested
22 in.

23 Do you want to know the medications he was on
24 in April of 2018?

25 **JUDGE LOCK:** How quickly do you think you can

1 get that to us? By the time he testifies?

2 **MS. SMITH:** Over lunch.

3 **MS. TANNER:** Do you mean the information from
4 DPS?

5 **JUDGE LOCK:** Yes.

6 **MS. TANNER:** I think that would be up to Your
7 Honor what date you want to put on the judicial subpoena.

8 **JUDGE LOCK:** I mean, do you think it can be
9 obtained by the day he testifies, which I understand will be
10 day after tomorrow?

11 **MS. TANNER:** Yes. I think they have
12 electronic records but I don't know how complicated that
13 would be.

14 **JUDGE LOCK:** All right. Does anyone want
15 that information in anticipation of his testimony?

16 **MR. BOSWELL:** I couldn't make any -- I
17 wouldn't know what to do with it. If somebody said he's on
18 Zoloft, okay, I don't know what that means. So no. Others
19 might.

20 **JUDGE LOCK:** Anyone else?

21 All right. It appears no. Thank you.

22 **MR. PERRY:** Mr. Chairman.

23 **JUDGE LOCK:** Yes, sir, Mr. Perry.

24 **MR. PERRY:** If I may, if I missed something.
25 With the -- his health summary, is this restricted from the

1 public to talk about? We're okay?

2 **JUDGE LOCK:** We're on the record. Everything
3 that is said is on the record and is public.

4 **MR. PERRY:** Thank you.

5 Excessive exaggeration on the part of the DPS
6 claim in '87 by whom? What -- is that an assessment of DPS
7 psychologists or of the -- of Mr. Williams?

8 **MS. MATOIAN:** Hold on one second. We pulled
9 that document.

10 So the document that quote came from is
11 labeled a psychological assessment, and it said it was done
12 by Bob James, who was the psychological programs manager.
13 And it says that Mr. Williams was seen during processing due
14 to "elevated psychological test scores and due to his
15 request to see mental health staff due to bad nerves."

16 **MR. PERRY:** Okay. And so the excessive
17 exaggeration is describing whom?

18 **THE WITNESS:** It's describing Mr. Williams.

19 **MR. PERRY:** Oh, it is? And not the
20 psychologist?

21 **THE WITNESS:** That's correct. Let me find --

22 **MR. PERRY:** So they call that now, I think,
23 malingering?

24 **THE WITNESS:** I have heard that term.
25 Correct.

1 **MR. PERRY:** You have?

2 **THE WITNESS:** Would you like me to read you
3 the full quote from that portion?

4 **MR. PERRY:** Yes, ma'am.

5 **THE WITNESS:** Okay.

6 It says "Intellectual functioning is in
7 normal ranges and achievement is at the fifth grade level.
8 Psychological testing is invalid due to excessive
9 exaggeration of emotional problems."

10 **JUDGE LOCK:** Yes, sir, Commissioner Glazier.

11 **MR. GLAZIER:** Just following that, as I
12 understand it, that was the intake evaluation as he was
13 being processed into the system back in 1987; is that right?

14 **MS. MATOIAN:** That's correct. He was
15 convicted in early August 1987, and this assessment is from
16 8/21/1987. And the first part indicates he was seen during
17 processing.

18 **MR. PERRY:** If I may, not to overdo this, but
19 did they undo any of the analysis based on the malingering
20 or the appearance of malingering?

21 **MS. MATOIAN:** I don't know that I can say
22 that they undid that analysis. I can say that Mr. Williams,
23 from the records we've reviewed, appears to have
24 consistently received mental health treatment over the
25 course of his time at the Department of Public Safety.

Testimony of Beth Tanner

1 **MR. PERRY:** His characterization of his
2 condition, then, does not appear to have been exaggerated --

3 **THE WITNESS:** I can't speak to whether --

4 **MR. PERRY:** -- based on his treatment since?

5 **THE WITNESS:** I can't speak to whether or not
6 it was exaggerated. I can only say what this report says
7 and that he has received treatment consistently while in the
8 Department of Public Safety.

9 **MR. PERRY:** Okay.

10 **MS. SMITH:** Dr. Kelley did the battery of
11 tests, and I think that she may speak to -- she also
12 reviewed all of these records over the years and should be
13 able to speak to that more than our staff can.

14 **MR. PERRY:** Dr. Kelley is at DPS?

15 **MS. SMITH:** No. Dr. Kelley is the
16 confessions and psychology expert.

17 **MR. PERRY:** Oh, I see. Thank you.

18 **MS. SMITH:** You're welcome. I will recall
19 Ms. Tanner.

20 (Beth Tanner recalled, 12:02 p.m.)

21 BY MS. SMITH:

22 Q. Ms. Tanner, did the Commission interview defense
23 attorneys this case?

24 A. Yes.

25 We interviewed all living defense attorneys for

Testimony of Beth Tanner

1 Mr. Williams as well as defense attorneys that would've been
2 involved in the Mitchell and Hunt defense in the Wilson
3 case.

4 Q. Let's focus first on the Bryson case for now.

5 Who were the defense attorneys involved in the
6 Bryson case that represented Merritt Williams?

7 A. Greg Davis is now a federal public defender and
8 Glenn Davis, who is deceased, represented Williams in both
9 the Wilson and Bryson cases initially. Later, Kevin Mauney
10 and Charles Redden represented Williams in both cases.

11 Q. Did you interview Glenn Davis?

12 A. Mr. Glenn Davis is deceased.

13 Q. Did you interview Greg Davis?

14 A. Yes. He is not related to Glenn Davis.

15 We did. We recorded and transcribed that
16 interview.

17 He did not have any records related to the
18 Williams case, though we did look through the only three
19 remaining boxes that he had at his office from his time as a
20 private practice attorney just to make sure.

21 Mr. Davis did not have much independent
22 recollection of the case. In fact, he did not remember the
23 Wilson case at all even after having his recollection
24 refreshed with the transcript and some documents.

25 He did recall specifically the hearing where

Testimony of Beth Tanner

1 Mr. Williams requested new lawyers because he and Glenn
2 Davis were black -- oh, sorry.

3 In addition, Greg Davis represented Johnny Gray in
4 the Sykes case after being asked to do so by some of the
5 individuals in the community involved in the defense of
6 Darryl Hunt. He said that Johnny Gray was not prosecuted
7 because of his work with the prosecutors in convincing them
8 that they did not have enough to prosecute Mr. Gray.

9 Q. Did you also interview Charles Redden and Kevin
10 Mauney?

11 A. Yes.

12 We talked with Mr. Redden by phone on July 19,
13 2018, and he provided the Commission with an affidavit that
14 he did not have any records related to the case. He did not
15 have much independent recollection related to the Bryson
16 case. He could not recall whether Mr. Williams had
17 confessed in either case. He did recall the Wilson case
18 being controversial in general due to the involvement of
19 Sammy Mitchell and Darryl Hunt.

20 He did not know that Robbin Carmichael came
21 forward after Williams' conviction.

22 **MS. SMITH:** Commissioners, if you will refer
23 to Handout 28 in your handout notebooks, this is the
24 affidavit of Attorney Charles Redden.

25 Just take a moment and review that.

Testimony of Beth Tanner

1 Q. Ms. Tanner, can you tell the commissioners about
2 your interview with Attorney Kevin Mauney.

3 A. That's correct, Kevin Mauney. That interview is
4 also reported and transcribed.

5 He did not have any records related to the
6 Williams case but he did search the boxes he had remaining
7 in his possession to be sure. He remembered the cases and
8 remembered that he believed he did a really good job on both
9 cases. He recalled Williams making incriminating statements
10 to the police and he recalled being concerned about
11 Williams' mental state.

12 Mr. Mauney also recalled Williams wanting new
13 attorneys because both Mr. Davises were black and Williams
14 was worried that the black community would somehow influence
15 them.

16 In the Bryson case, Mr. Mauney did not recall that
17 someone named Robbin Carmichael had come forward about his
18 involvement in the crime after Mr. Williams' conviction. He
19 also said that he did not believe the DA's office would have
20 notified him about this because Mr. Williams had already
21 been convicted and would be represented by an appellate
22 attorney at that point.

23 In the Wilson case, Mr. Mauney remembered being
24 ready for trial but that Williams ultimately pled guilty.
25 We asked him about the report from Teresa Hicks' interview

Testimony of Beth Tanner

1 after the Bryson trial. In that report, Ms. Hicks notes
2 that Mauney stopped the interview.

3 After reviewing that report and the trial
4 transcript, he said that he believed he did that because
5 Williams was saying in that interview that Thomas Thompson
6 transported Williams and George Thompson while, at the
7 trial, he recalled that Williams had not testified to that
8 particular detail. So that was why he stopped the interview
9 at that point.

10 Q. Were there any other documents related to
11 Williams' representation by these attorneys?

12 A. Yes.

13 Phoebe Zerwick had notes that appeared to be from
14 interviews with Mr. Mauney and Greg Davis. These notes do
15 not appear to have anything significantly different from
16 what they told commission staff. However, there is a,
17 quote, "off-record note" regarding Kevin Mauney's opinion
18 about the plea in the Wilson case.

19 **MS. SMITH:** Commissioners, if you will refer
20 to Handout 29 in your hearing handout notebook, these are
21 Phoebe Zerwick's handwritten notes from her interviews with
22 both attorneys, Greg Davis and Kevin Mauney.

23 If you would take a few minutes to read them
24 if you can.

25 **MR. GLAZIER:** The top of notes on that page

Testimony of Beth Tanner

1 say Glenn Davis. Are we talking about Greg Davis or Glenn
2 Davis?

3 **MS. SMITH:** Sorry. That is Glenn Davis.

4 **THE WITNESS:** Glenn Davis. I apologize for
5 that. That was my mistake.

6 **SHERIFF FRYE:** Are you going to help us
7 decipher these?

8 **THE WITNESS:** I can do the best I can. If
9 you have --

10 **SHERIFF FRYE:** I mean, have you talked to
11 Ms. Zerwick to figure out what she said on these?

12 **THE WITNESS:** So we did speak with
13 Ms. Zerwick but not about these specific notes. I can
14 expand on that more if you need me to.

15 We talked to her about the notes related
16 to --

17 **SHERIFF FRYE:** The last notes that we
18 looked --

19 **THE WITNESS:** We did.

20 **SHERIFF FRYE:** Because I can't read these any
21 better than I could read the last ones.

22 **THE WITNESS:** Yes.

23 So we included these -- the last page is the
24 note from Mr. Mauney. The very last page of this handout
25 says "off record" at the top.

Testimony of Beth Tanner

1 That note, so far as we could read it right
2 under "off the record" -- that is page 70 at the bottom --
3 says "It wasn't one I walked away from and" -- I don't know
4 what that word is -- "worried that there was when someone
5 had pled guilty to something he didn't do."

6 This was Mr. Mauney's off-record conversation
7 with Ms. Zerwick. So we included all of the notes from
8 these conversations as a complete representation.

9 **MR. BRITT:** Will you read that again?

10 **THE WITNESS:** Sure.

11 It wasn't one -- this was a team effort.

12 "It wasn't one I walked away from and worried
13 that this was when someone had pled guilty to something he
14 didn't do."

15 **MR. PERRY:** Mr. Chairman, on line 4 -- could
16 you read -- do you have a -- an interpretation of that?

17 **MS. SMITH:** On which page?

18 **MR. PERRY:** The first page of 29.

19 **THE WITNESS:** Page 65 at the bottom?

20 **MR. PERRY:** Yes. Is that "Drayton called the
21 offer"?

22 **THE WITNESS:** Uh-huh.

23 "Against my advice and Greg's." I don' know
24 what the last little scribble is.

25 Is that what you're talking about?

Testimony of Beth Tanner

1 **MR. PERRY:** No. Line 4. I don't know what
2 else to call it. Well, paragraph 4 or comment 4.

3 **THE WITNESS:** "Drayton called the office."

4 **MR. PERRY:** Oh, "the office"?

5 **THE WITNESS:** Uh-huh.

6 And I don't know what the first couple little
7 scribbles are, but the last bit on the next line is "help
8 himself."

9 It could be "officer," I guess, too. It just
10 says "O-f-f scribble."

11 **JUDGE LOCK:** You think it may say "Drayton
12 called the officer to try to help himself."

13 Is that a reasonable interpretation --

14 **THE WITNESS:** I think that's a reasonable
15 interpretation --

16 **JUDGE LOCK:** -- of that scribble?

17 **THE WITNESS:** -- of that, yes.

18 (Overlapping speakers.)

19 **JUDGE LOCK:** It asks for your lay opinion.

20 **THE WITNESS:** I'm sorry?

21 **JUDGE LOCK:** That's asking for your lay
22 opinion.

23 **THE WITNESS:** Yes. That's absolutely my lay
24 opinion having read it a couple of times now.

25 **MR. EDWARDS:** Ms. Tanner, on the bottom of

Testimony of Beth Tanner

1 page 69 -- again, this is a lay opinion question --

2 **THE WITNESS:** Absolutely. I understand.

3 **MR. EDWARDS:** Is the last paragraph "We would
4 not have let him plead guilty unless we thought he would be
5 convicted"?

6 **THE WITNESS:** Yes.

7 **MS. SMITH:** Any additional questions on those
8 notes?

9 (No response.)

10 **MS. SMITH:** Any additional questions for
11 Ms. Tanner?

12 (No response.)

13 **MS. SMITH:** You may step down.

14 (Witness stands down, 12:16 p.m.)

15 **MS. SMITH:** Your Honor, lunch is ready, if we
16 want to break now for 45 minutes? 30 minutes? Whatever
17 you-all wish.

18 **JUDGE LOCK:** 45 minutes be enough time?

19 **MS. SMITH:** Uh-huh.

20 **JUDGE LOCK:** Let's do that.

21 **MS. SMITH:** Come back at 1:00 o'clock.

22 **JUDGE LOCK:** All right. We will be in recess
23 until 1:00 o'clock.

24 (Recess taken, 12:15 to 1:12 p.m.)

25 **JUDGE LOCK:** All right. Let's come back to

Testimony by Catherine Matoian

1 order then.

2 MS. SMITH: All right. And I will recall
3 Catherine Matoian.

4 (Catherine Matoian recalled.)

5 MS. SMITH: Commissioners, you have already
6 heard testimony from Ms. Matoian and read or seen interviews
7 regarding what Mr. Carmichael, Mr. Johnson, and
8 Mr. Williamson have said about each other's involvement and
9 their interactions regarding this case.

10 BY MS. MATOIAN: (1:13 p.m.)

11 Q. Ms. Matoian, did commission staff do any
12 investigation to determine whether Merritt Williams
13 participated in the Bryson order with Mr. Carmichael and
14 Mr. Johnson?

15 A. We did.

16 Q. Did the Winston-Salem Police Department file in
17 the Bryson case contain any reports in identifying a
18 connection between those three individuals?

19 A. No, there were not.

20 We only have a few reports from after
21 Mr. Carmichael came forward in the case. I think it's three
22 total. And none of them indicated any connection between
23 Mr. Williams with either Mr. Johnson or Mr. Carmichael.

24 Mr. Carmichael indicated in his interview with the
25 police department that he did not know Merritt Williams. It

Testimony by Catherine Matoian

1 is unclear from the substance of the report we have whether
2 or not Mr. Johnson was asked about Merritt Williams during
3 his interview in 1988 and there are no additional reports
4 establishing a connection between that group.

5 Q. What contact between the three of them is the
6 Commission aware of?

7 A. Both Mr. Carmichael and Mr. Johnson acknowledged
8 knowing each other from the time they were kids and
9 participating in the crime together. We are aware that
10 Mr. Carmichael and Mr. Williams had had some contact while
11 in prison. Both Mr. Carmichael and Mr. Williams denied
12 knowing each other prior to meeting in prison after both
13 were convicted of this crime.

14 Mr. Williams indicated to the Commission that he
15 was never aware of the person named by Robbin Carmichael as
16 participating in the crime, and Mr. Williams has never used
17 the name Darren Johnson in his communications with the
18 Commission. And Mr. Johnson has denied knowing Merritt
19 Williams.

20 Q. Did the Commission do anything to determine if
21 there was a connection?

22 A. We did. As I testified earlier, the Commission
23 obtained complete police department records for all three
24 men from Winston-Salem, and none of these records connected
25 Merritt Williams with either Robbin Carmichael or Darren

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1 Johnson.

2 Q. What else did commission staff do?

3 A. The Commission reviewed DPS records to determine
4 at what times Merritt Williams, Robbin Carmichael, and
5 Darren Johnson were incarcerated together in any
6 combination.

7 **MS. SMITH:** Commissioners, you were
8 previously provided in Handout Number 4, which was the chart
9 of that housing crossover between the individuals.

10 Q. Ms. Matoian, can you describe what we know about
11 the housing between the individuals.

12 A. I can.

13 As we noted previously, the Commission has been
14 unable to obtain jail records from the Forsyth County
15 Sheriff's Department so we are not able to say if there was
16 any overlap between Mr. Williams, Mr. Carmichael, and
17 Mr. Johnson while in the jail.

18 I will walk through the charts of the housing
19 overlap just related to Merritt Williams, Robbin Carmichael,
20 and Darren Johnson.

21 **MR. BOSWELL:** Let me ask a question. Is any
22 of it relevant unless it was prior to the crime being
23 committed?

24 **THE WITNESS:** I don't know that I can tell
25 you what is relevant or not relevant.

Testimony by Catherine Matoian

1 **MR. BOSWELL:** If they saw each other
2 afterwards -- I mean, we're trying to discern whether they
3 would have known each other at the time of doing the crime,
4 not afterwards.

5 I pose that to you, Judge. I just -- okay.
6 Never mind.

7 **THE WITNESS:** I will try to speak fast but
8 not too fast.

9 As indicated in the handout, Merritt Williams
10 and Robbin Carmichael were in Central Prison together from
11 July 1, 1988, to February 15, 1990; from August 31, 1990,
12 through September 12th, 1990; through May 22, 1991, and
13 June 4, 1991. There was no information available in the
14 records for that time, whether or not their bed assignments
15 overlapped.

16 Merritt Williams and Darren Johnson were in
17 prison together in Central Prison on May 21, 1992, to
18 August 7, 1992. There was no bed assignment overlap during
19 that time.

20 Darren Johnson and Robbin Carmichael were in
21 Central Prison together from October 18, 1988, to
22 January 18, 1989.

23 Merritt Williams, Robbin Carmichael, and
24 Darren Johnson were in prison together at Central Prison
25 from October 1, 1988, to January 18, 1989. There was no

Testimony by Catherine Matoian

1 records regarding bed assignment overlaps during that time.

2 And I believe that is all the connection
3 between those individuals as far as DPS housing goes.

4 **MS. SMITH:** Any questions about that?

5 **MS. COLBERT:** You said that Johnson said he
6 didn't know Williams; right?

7 **THE WITNESS:** That's correct.

8 **MS. COLBERT:** Thank you.

9 **MR. BOSWELL:** I guess my point is there is no
10 evidence that they were ever together before this crime in
11 prison?

12 **THE WITNESS:** In prison? Not -- no.

13 **MR. BOSWELL:** Okay. And we don't have any
14 jail records?

15 **THE WITNESS:** Correct.

16 Q. Did the Commission do anything else with respect
17 to DPS records?

18 A. We did.

19 In April of 2019, we sought and obtained a
20 judicial subpoena for records related to a list of phone
21 calls made from any inmate in DPS to the following: Darren
22 Johnson's current phone number, Robbin Carmichael's current
23 phone number, Darren Johnson's parents' phone number,
24 Suzanne Carter's old phone number -- Ms. Carter is Merritt
25 Williams' fiancée -- and Suzanne Carter's current number.

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1 Q. And what was the purpose of obtaining those
2 records?

3 A. We wanted to determine whether Mr. Williams had
4 been in contact with Mr. Carmichael or Mr. Johnson or anyone
5 connected with them while in prison.

6 We sought calls to those phone numbers from any
7 inmate in case Mr. Williams or anyone else had used someone
8 else's PIN in order to make those phone calls.

9 Q. Is the use of someone else's PIN -- is that
10 something that the Commission routinely sees?

11 A. Yes.

12 Q. What did the records show?

13 A. The judicial subpoena had requested records going
14 back to the time that Robbin Carmichael was paroled in 2008.
15 DPS only had records of the phone calls being made going
16 back to January 1, 2009, and that is different from what we
17 were told about the actual recordings of the phone calls
18 regarding Merritt Williams -- that the recordings only went
19 back to 2012. But they had records of what calls were made
20 going back to 2009.

21 There were no phone calls from any inmate to
22 Mr. Johnson or Mr. Carmichael's current phone numbers.
23 There were numerous phone calls from Mr. Williams to
24 Ms. Carter and also phone calls made to Ms. Carter by other
25 inmates.

Testimony by Catherine Matoian

1 The Commission -- and also calls made to Darren
2 Johnson's parents' house.

3 The Commission requested recordings of all phone
4 calls made by Merritt Williams from April 1, 2019, to the
5 present -- the reason being that the Commission interviewed
6 Mr. Williams in early April of 2019 -- as well as any calls
7 to Suzanne Carter by any PIN number associated with Avery
8 Correctional Institution where Merritt Williams was
9 housed -- so any phone call that had been made from the
10 prison Merritt Williams was in to Suzanne Carter's phone
11 number -- from 4/1/2019 to the present as well.

12 Q. What did the records show with respect to calls to
13 Darren Johnson's parents' phone?

14 A. This number showed numerous phone calls from
15 Johnson's brother, James Johnson, that I testified about
16 earlier as well as several other individuals.

17 The Commission also sought and obtained a judicial
18 subpoena for those individuals' movement records to
19 determine whether they had been housed with Merritt Williams
20 during the time period that those phone calls to Darren
21 Johnson's parents' house had been made. We determined that
22 none of those individuals were housed with Merritt Williams
23 during those times.

24 **MS. SMITH:** Commissioners, if you wish, you
25 can refer back to Handout 27. You've already reviewed that

Testimony by Catherine Matoian

1 and did so just before the lunch break -- that was the phone
2 calls chart -- so you don't need to review that again. You
3 have already had an opportunity to ask Ms. Matoian questions
4 about those phone calls. But now, in the context of
5 anything she's testified about now, if there's any
6 additional questions, please feel free to ask.

7 **MR. BOSWELL:** So the point for doing all of
8 this is -- one reason to do all of this was to see if they
9 were getting their stories together?

10 **THE WITNESS:** Correct.

11 The Commission wanted to determine if there
12 was any communication between those individuals in any
13 combination that we were not aware of.

14 **MR. BOSWELL:** I see. And that would also be
15 a reason to note, after the fact, if they were together so
16 they could get their stories straight.

17 **THE WITNESS:** (Moves head up and down.)

18 **MR. BOSWELL:** I got it.

19 **JUDGE LOCK:** Commissioner Colbert.

20 **MS. COLBERT:** So James Johnson is Darren
21 Johnson's brother?

22 **THE WITNESS:** That's correct.

23 **MS. COLBERT:** Mr. Williams indicated that he
24 talked to James Johnson; correct?

25 **THE WITNESS:** That was Mr. Carmichael.

Testimony by Catherine Matoian

1 **MS. COLBERT:** Mr. Carmichael.

2 **THE WITNESS:** He said that James Johnson had
3 come up to him in prison and said that his brother Darren
4 Johnson had done Robbin Carmichael wrong.

5 **MS. COLBERT:** Okay. So if you could, I beg
6 your indulgence, explain to me about the PIN number.

7 **THE WITNESS:** Sure.

8 **MS. COLBERT:** So it keeps track of, you know,
9 who you call -- the inmate? Or does the inmate have a
10 certain number of hours they can use with their PIN? Or --

11 **THE WITNESS:** I will explain to the best of
12 my ability my knowledge of it. It may be something we could
13 call Ms. Tanner up about.

14 But each inmate uses a PIN number, when they
15 make a call, that is unique to them. And so -- but we have
16 learned through reviewing phone calls in several cases that
17 inmates routinely will make calls using somebody else's PIN
18 number.

19 **MS. COLBERT:** Is that because they don't want
20 you to know who they're calling?

21 Well, it could be many reasons but it had
22 nothing to do with they are not allowed to have a number of
23 hours on their PIN?

24 **THE WITNESS:** I do not know.

25 **JUDGE LOCK:** Mr. Perry, do you have a

Testimony by Catherine Matoian

1 question?

2 **MR. PERRY:** I do.

3 Ms. Carter is his fiancée?

4 **THE WITNESS:** Mr. Williams' fiancée.

5 Correct.

6 **MR. PERRY:** And she received a lot of calls
7 from other inmates?

8 **THE WITNESS:** She did.

9 **MR. PERRY:** To what end?

10 **THE WITNESS:** Some of them were actually from
11 other inmates that were not Mr. Williams. I would have to
12 double-check the --

13 **MR. PERRY:** Why is she so popular?

14 **SHERIFF FRYE:** She's engaged to a man that's
15 in prison.

16 **MR. PERRY:** This isn't Avery.

17 **THE WITNESS:** I will summarize to the best of
18 my ability, but Mr. Williams and Ms. Carter appeared to be
19 close with another inmate who is in the prison and his
20 girlfriend who is not in prison. Mr. Williams has called
21 that girlfriend; that inmate has called Ms. Carter.

22 **MR. PERRY:** That's fine. I was just
23 wondering if there was an informant at work here. So I was
24 thinking ...

25 **THE WITNESS:** Not that I'm aware of.

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1 **MR. PERRY:** No knowledge of? Thank you.

2 **THE WITNESS:** I do not.

3 **MR. BRITT:** I have a question and it goes
4 back to statements made earlier.

5 What efforts were made to make a connection
6 between Williams, Carmichael, and Johnson prior to the
7 Bryson murder?

8 **THE WITNESS:** Prior to the Bryson murder?

9 **MR. BRITT:** For example, did you interview
10 Mattie Mae Davis about her knowledge of who Mr. Carmichael
11 and Mr. Johnson were?

12 **THE WITNESS:** I did ask Mattie Mae Davis if
13 she knew Darren Johnson and Robbin Carmichael, and she did
14 not know either of them.

15 Due to the time that has elapsed, there just
16 aren't a lot of people available to interview about their
17 connections during that time.

18 **JUDGE LOCK:** Commissioner Glazier.

19 **MR. GLAZIER:** Thank you, Mr. Chairman.

20 In follow-up to Mr. Johnson's -- Mr. Britt's
21 question, would it be safe to say that -- based on your
22 evaluation and analysis, that there is no evidence of record
23 either from the Winston-Salem Police Department or the
24 district attorney's office or your independent investigation
25 that shows a connection between Darren Johnson,

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1 Mr. Carmichael, and Mr. Williams prior to the Bryson murder?

2 **THE WITNESS:** The Commission has been unable
3 to locate anything that connected Mr. Williams to those two
4 individuals prior to the Bryson murder.

5 **MR. GLAZIER:** So the answer to my question
6 would be "that's correct."

7 **THE WITNESS:** That's correct.

8 **MR. GLAZIER:** Okay. Thank you.

9 Q. Ms. Matoian, did the Commission speak to Suzanne
10 Carter?

11 A. We did.

12 Q. And was that interview recorded and transcribed?

13 A. It was.

14 Q. And when did that occur?

15 A. On May 5, 2019, over the phone.

16 Q. What did Ms. Carter tell commission staff?

17 A. Ms. Carter did not seem to know many details about
18 Mr. Williams' crimes and indicated that she had done some
19 searching online herself but had not been able to find a lot
20 of information.

21 During his commission interview, Mr. Williams
22 indicated he thought that Ms. Carter had searched social
23 media for Robbin Carmichael and kept up with him.

24 Ms. Carter remembered looking for Mr. Carmichael
25 on social media but said that she didn't know enough about

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1 him to determine if she had found the right one. That is
2 consistent with information she provided in some of her DPS
3 phone calls with Mr. Williams. Ms. Carter told me that she
4 had done that searching on her own and that Williams had not
5 asked her to do so.

6 She stated that she had never -- she never
7 contacted anyone involved in Mr. Williams' cases and that
8 Mr. Williams had never asked her to contact anyone.

9 Q. Has any information the Commission has uncovered
10 established a connection between Mr. Williams and
11 Mr. Carmichael?

12 A. Not before they were in prison together after they
13 were both convicted of these crimes.

14 Q. And has any information the Commission has
15 uncovered established a connection between Mr. Williams and
16 Mr. Johnson?

17 A. No. Outside of being housed together in Central
18 Prison for a brief while after these crimes occurred, we
19 have not uncovered any connection between Mr. Williams and
20 Mr. Johnson, and there are no confirmed connections between
21 them while in prison together other than the housing
22 overlaps that we noted in the handout.

23 **MR. GLAZIER:** Mr. Chair?

24 **JUDGE LOCK:** Yes, sir, Commissioner Glazier.

25 **MR. GLAZIER:** So comment that those questions

1 asked by Ms. Smith actually make clear the point Your Honor
2 made yesterday, which is if we all, including me, wait for
3 the next question, we are likely to get it asked and
4 answered without us having to intervene.

5 So my apologies and thank you.

6 **MS. SMITH:** Does anyone have any additional
7 questions?

8 (No response.)

9 **MS. SMITH:** We're now going to turn our
10 attention to law enforcement in this case.

11 Commissioners, Tom Freeland, Teresa Hicks,
12 Ken Bishop, and Mike McCoy have all been placed under
13 telephone standby subpoena and will be available by phone if
14 you have any additional questions for them at the conclusion
15 of our testimony.

16 I believe it's Tom Freeland and Ken Bishop
17 will be available at 9:00 a.m. tomorrow morning. The
18 others, along with additional officers in the Wilson case,
19 will be available on Friday.

20 We will have testimony about law enforcement
21 in both of the Bryson and Wilson cases. You will have an
22 opportunity to decide if you actually need to hear anything
23 additional from them.

24 And if you will let me know as we go through
25 at the conclusion of the sections whether there is any of

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1 those officers you want to hear from, we will make sure that
2 they are available in the morning or on Friday depending on
3 which case or cases they were involved in.

4 Q. Ms. Matoian, who is Michael McCoy?

5 A. Michael McCoy is --

6 **JUDGE LOCK:** Excuse me. Yes, ma'am.

7 **MS. COLBERT:** So is commission staff going to
8 testify in regard to this report about the Winston-Salem
9 Police Department done by the risk management?

10 **MS. SMITH:** Yes, ma'am.

11 **MS. COLBERT:** Okay.

12 Q. Who is Michael McCoy?

13 A. Michael McCoy is a retired assistant chief of the
14 Winston-Salem Police Department. At the time of these
15 cases, he was the sergeant of the crimes against persons
16 division.

17 Q. Did commission staff speak to Mr. McCoy?

18 A. We did. He was deposed on May 6, 2019.

19 Q. Was that recorded and transcribed?

20 A. It was.

21 Q. What did Mr. McCoy say about the Bryson case?

22 A. Mr. McCoy had gone to the police department prior
23 to the deposition and reviewed his reports in the Bryson
24 case.

25 The Commission became aware that the police

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1 department had sent out an e-mail to officers involved in
2 these cases giving them the opportunity to come look at
3 their reports prior to speaking with us. If it was a report
4 they wrote, they were given a copy of it. They were allowed
5 to review other the reports, but if they did not write it,
6 the police department did not give them a copy of it. So he
7 had taken advantage of that opportunity and went and
8 reviewed his reports.

9 Chief McCoy remembered that he was newly assigned
10 to the homicide division at the time of the Bryson case and
11 he was called to go to the scene to observe another
12 supervisor. He recalled that the on-call sergeant the night
13 of the murder, Sergeant Gentry, was reprimanded for giving
14 out too much information to the media but he didn't recall
15 the details of what the sergeant had provided.

16 Q. What did Mr. McCoy say about the other individuals
17 that were named by Merritt Williams in his statements?

18 A. Mr. McCoy was familiar with Terry Smith and said
19 he wouldn't have thought that Terry Smith would be involved
20 in something this petty. He did think that any detectives
21 would have documented attempts to interview Terry Smith and
22 Sammy Mitchell even if they refused to be interviewed.

23 Q. What did Mr. McCoy say about Merritt Williams'
24 statements?

25 A. Mr. McCoy stated that the 4/18 through 4/19

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1 statements were a lot different than the April 24th
2 statement. He stated that he had also never heard of
3 someone wearing two toboggans at the same time before.

4 Q. What did he say about Mr. Williams?

5 A. Mr. McCoy said that he had cautioned all of his
6 detectives about talking to Mr. Williams and he believed
7 Mr. Williams to be a compulsive liar trying to benefit
8 himself. He said he told them to make sure they
9 corroborated any information Mr. Williams gave them with
10 evidence or testimony from other witness.

11 Q. Did Mr. McCoy say anything about Robbin
12 Carmichael?

13 A. Mr. McCoy had reviewed the reports related to
14 Mr. Carmichael prior to the deposition but didn't have any
15 independent recollection of that or any additional
16 information as to any follow-up investigation of Darren
17 Johnson.

18 MS. SMITH: Commissioners, do you have any
19 questions for Ms. Matoian about her interview with
20 Mr. McCoy?

21 MS. COLBERT: So you said that he said he
22 didn't -- he said people wearing two toboggans at the same
23 time.

24 Does that mean that he didn't recall that in
25 any kind of testimony or any kind of report or just

Testimony by Catherine Matoian

1 generally he never heard of people wearing two toboggans?

2 **THE WITNESS:** He meant that generally.

3 **MS. COLBERT:** Okay.

4 **THE WITNESS:** He had never heard that before.
5 He had noted that detail in Mr. Williams' statements that he
6 gave to police.

7 **MS. COLBERT:** Thank you.

8 **MR. BRITT:** Did he recall any corroborative
9 efforts by his detectives to check on Mr. Williams'
10 statement?

11 **THE WITNESS:** He did not recall anything
12 specific as far as corroborating those. He just indicated
13 that he had directed his officers to make sure they did so.

14 **MR. BRITT:** And why did he believe that
15 Mr. Williams was a compulsive liar and was simply trying to
16 benefit himself -- if he was asked?

17 **THE WITNESS:** If you'll give me one second.
18 I am going to read from our interview with
19 him.

20 Mr. McCoy said "Matter of fact, when Merritt
21 Drayton testified, reading the different statements he had,
22 he would always call detective -- different detectives
23 wanting to talk to him about different cases. This when he
24 was in trouble. I cautioned all of them. I said, 'Look.
25 Dealing with Merritt Drayton, he's a compulsive liar, liar.

Testimony by Catherine Matoian

1 He's trying to benefit himself. Be sure you corroborate any
2 information that he gives you with some type of evidence or
3 with some other testimony from some other witness' because
4 Merritt, from reading about him and different things, he
5 tells the detectives he -- he's not a very believable
6 person."

7 "Q Who did -- so who did you tell that to?

8 "A All my detectives that was assigned to me.

9 "Q And when did you say that?

10 "A When -- I don't know exactly when but when I first
11 realized that he sometime would change his story and
12 implicate different people dealing with the different
13 detectives he had spoken to and saying that information.

14 "Q You just used the term 'compulsive liar.'

15 "A Yeah.

16 "Q Did you find Merritt Williams to be a reliable
17 truth-telling person?

18 "A No.

19 "Q Okay.

20 "A And it's just -- that's just my opinion."

21 **MR. BRITT:** Did he have any prior history
22 with Mr. Williams?

23 **THE WITNESS:** I believe we asked him about
24 that and he said that he did not recall having any dealings
25 with Mr. Williams prior to these cases.

Testimony by Catherine Matoian

1 **MR. BRITT:** So his opinion is based upon the
2 fact that Mr. Williams would call different detectives based
3 upon who was assigned to the case and tell them information?

4 **THE WITNESS:** Correct.

5 **MR. BRITT:** Was one of those individuals
6 Mr. Bishop -- or Detective Bishop?

7 **THE WITNESS:** Mr. Bishop did not become
8 involved in the case other than some canvassing around the
9 time of the murder until 1988. So when Merritt Williams was
10 being arrested, Mr. Bishop was not working on the case.

11 **MR. BRITT:** And the reason I ask is there --
12 there are references about Detective Bishop throughout this
13 report in both the murder of Ms. Bryson and Mr. Wilson.

14 **THE WITNESS:** To my knowledge, I don't
15 believe Mr. Bishop had much involvement in the Wilson case.

16 **MR. BRITT:** Was Bishop involved in the Sykes
17 case?

18 **THE WITNESS:** Let me check.
19 Ken Bishop was not involved in the Sykes
20 case.

21 **MS. COLBERT:** But according to this chart, he
22 was involved in the Wilson case?

23 **THE WITNESS:** I just saw that myself.

24 I believe that may be in error, and Brian can
25 correct me if I'm wrong. But to my knowledge, Mr. Bishop

Testimony by Catherine Matoian

1 did not have any involvement in the Wilson case.

2 (Reporter clarification.)

3 **MR. ZIEGLER:** That's correct. And we are
4 double-checking.

5 **MR. BRITT:** And I take it -- if I may ask?

6 **JUDGE LOCK:** Yes, sir.

7 **MR. BRITT:** -- Mr. McCoy didn't reference how
8 many different detectives or how many times Mr. Williams had
9 been reaching out to the police?

10 **THE WITNESS:** No, he did not.

11 We just checked the file, and it appears that
12 Mr. Bishop was involved in one interview in the Wilson case.

13 **MR. BRITT:** And was that with Mr. Williams?

14 **THE WITNESS:** Mr. Bishop was apparently
15 involved in two interviews following up on Mr. Wilson's
16 calls made to a church about the Wilson case, and those
17 calls happened in 1986.

18 **JUDGE LOCK:** Commissioner Colbert?

19 **MS. COLBERT:** Did -- you mentioned that McCoy
20 said that he informed all of his detectives.

21 On this list that you gave us, are any of
22 these individuals under law enforcement the detectives that
23 he was referencing?

24 **THE WITNESS:** He did not reference anyone
25 specifically, but we do have knowledge of some of the

Testimony by Catherine Matoian

1 detectives that were working under him at the time, and that
2 included Detective Freeland and Detective Dorn, Detective
3 Hicks, Detective Spillman, Detective Spoon, Detective
4 Weavil, Detective Wilson -- Wilkins, I'm sorry.

5 I'm just trying to see if I need to add
6 anybody to this list.

7 Detective Belton. Detective Boland.

8 Let me correct myself.

9 Mr. McCoy was the sergeant supervisor
10 overhead of the crimes against persons division. So the
11 individuals who were involved in the homicide investigations
12 would have been reporting to him.

13 **MS. COLBERT:** So you mentioned Spillman. He
14 was a detective. Wasn't there a Spillman at the jail -- at
15 the Forsyth -- and this is not the same -- Robert Spillman?

16 **THE WITNESS:** There are two separate people.

17 **MS. COLBERT:** But this one on this list of
18 law enforcement was a detective that was under McCoy?

19 **THE WITNESS:** With the police department.

20 Q. Ms. Matoian, who is Jeffrey Dorn?

21 A. Mr. Dorn was also a detective at the Winston-Salem
22 Police Department at the time. He assisted Detective
23 Freeland, who was initially the lead detective in the Bryson
24 case.

25 Q. Did the Commission speak to Mr. Dorn?

Testimony by Catherine Matoian

1 A. We did.

2 We deposed him on April 16, 2019.

3 Q. And was that reported and transcribed?

4 A. It was.

5 Q. What did he tell commission staff?

6 A. Mr. Dorn had also reviewed his reports at the
7 police department prior to coming to the deposition. He did
8 not have much independent recollection about the case other
9 than what was in his reports. He did not recall anything
10 about Mr. Williams' statements in the Bryson case.

11 Mr. Dorn indicated that Mr. Williams spoke to
12 Detective Freeland coherently. He was not under the
13 influence of alcohol or drugs and he seemed to know the
14 details of the case.

15 Detective Dorn thought that Teresa Hicks was
16 assigned to this case after Detective Freeland was promoted
17 because she and Detective Weavil were also working on the
18 Sykes case, and this case also involved Sammy Mitchell.

19 Detective Dorn was not familiar with Terry Smith
20 but he did know who Sammy Mitchell was and he recounted a
21 time where Sammy Mitchell had a knife to a citizen's throat
22 and Detective Dorn had to draw his gun on Mitchell in order
23 to get him to put the knife down.

24 He indicated he didn't know Mr. Mitchell to have
25 many associates and he did not know of any connections

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1 between Mr. Williams, Terry Smith, and Sammy Mitchell but
2 said it would have been standard procedure to document any
3 attempts to establish a connection.

4 Mr. Dorn did not have any knowledge regarding
5 Mr. Carmichael coming forward.

6 MS. SMITH: Do y'all have any questions about
7 the Commission's interview with Mr. Dorn?

8 (No response.)

9 Q. Who is Thomas Freeland?

10 A. Thomas Freeland was initially assigned as the
11 detective on this case and he remained on the case until it
12 was reassigned to Detective Teresa Hicks when he was
13 promoted to sergeant later on in 1986.

14 Q. Did the Commission speak to Captain Freeland?

15 A. We did.

16 We deposed him on April 15, 2019.

17 Q. And was that recorded and transcribed?

18 A. It was.

19 Q. What did Mr. Freeland say?

20 A. Mr. Freeland had also gone to the police
21 department prior to the deposition to review his reports.

22 He recalled going to the crime scene and the
23 information that was provided by the Harpers.

24 Detective Freeland did not recall being familiar
25 with what Merritt Williams had been telling other detectives

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1 in the Wilson case. He said there were no meetings where
2 detectives would have discussed their ongoing investigations
3 and what would be passed from one detective to another about
4 a case would just be whatever they said to each other in
5 passing.

6 Detective Freeland said that they had spoken to
7 Mr. Williams first and then wanted to verify that he knew
8 where the victim's house was.

9 After going to the victim's house, they went back
10 to the public safety building and took the written statement
11 which Detective Freeland wrote but Mr. Williams signed and
12 they obtained a recorded statement from him. This was
13 typical for his interview process at the time. It was not
14 department policy to record your entire interaction with a
15 suspect.

16 Detective Freeland stated that what made Merritt
17 Williams' statements reliable to him was describing the part
18 when Mr. Williams was in the residence and when he left the
19 residence.

20 He recalled that in the statement, Merritt
21 Williams mentioned coming out of the bedroom and when you
22 first came out of the bedroom, you would be looking right
23 where the victim's body had been found. Mr. Williams had
24 also described the clothesline and the white garage in the
25 backyard.

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1 Detective Freeland said that the toboggan found
2 near the victim's body was not public knowledge and thought
3 it was significant that Mr. Williams was able to provide
4 that specific detail. The toboggan was also significant to
5 him because of the hairs being reported as microscopically
6 consistent to Mr. Williams.

7 Q. And, Ms. Matoian, have you reviewed newspaper
8 articles published about this case?

9 A. I have.

10 Q. And do any of the articles mention the toboggan?

11 A. None from close in time to the crime.

12 Q. What else did Detective Freeland say?

13 A. Regarding the individuals that Merritt Williams
14 named in his statements, Detective Freeland did not recall
15 being aware of who Terry Smith was other than what
16 Mr. Williams said about him. He didn't have any record of
17 contacting Mr. Smith in relation to the Bryson case.

18 Detective Freeland was familiar with Sammy
19 Mitchell because of the Sykes case and working the east side
20 of Winston-Salem. He had a reputation of being a problem,
21 but he never had any interactions with Mitchell
22 specifically.

23 He also recalled getting information about Anthony
24 Venson from the vice squad. He was not able to tell us why
25 Mr. Venson's fingerprints had been compared to the latent

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1 prints from the crime scene before Merritt Williams came
2 forward and named him.

3 He also has no record of interviewing Mitchell.
4 He did not recall making any effort to connect Williams,
5 Mitchell, Venson, and Smith and did not have any
6 documentation of it. He said that finding a connection
7 between individuals like that is something he normally would
8 have done and would have documented.

9 When asked about the changes in Mr. Williams'
10 stories, Detective Freeland indicated that that did not
11 change his opinion as to whether or not Mr. Williams was
12 involved. He thought that Mr. Williams might have changed
13 his story in order to be more truthful because he had
14 already been charged in the case.

15 Regarding Lester Davis, Detective Freeland said
16 that the polygraph showed Davis was not involved at all. He
17 again did not recall attempting to connect Mr. Davis to
18 Mr. Williams but said he would have documented any efforts
19 that had been taken to do so.

20 Detective Freeland said the fact that none of the
21 other individuals named by Williams were charged in this
22 case and that this did not affect Williams' credibility to
23 him.

24 Based on the information provided by Mr. Williams,
25 he was convinced that Mr. Williams was at the crime scene

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1 but he does not know who the other players were.

2 Detective Freeland did not recall much about the
3 trial and he didn't recall any efforts to identify George
4 Thompson.

5 Q. Did Detective Freeland recall anything about
6 Robbin Carmichael?

7 A. He did.

8 He recalled Detective Bishop contacting him when
9 Mr. Carmichael came forward but he didn't recall
10 interviewing Carmichael himself. He said that Merritt
11 Williams never used the names Robbin Carmichael or Darren
12 Johnson in his interviews.

13 And he didn't recall having any other involvement
14 in the investigation beyond that initial phone call with
15 Detective Bishop and he also did not recall the June 1986
16 Darryl Johnson CrimeStoppers tip.

17 MS. SMITH: Commissioners, do you have any
18 questions for Ms. Matoian about staff's interview with
19 Detective Freeland?

20 MS. COLBERT: I have a question about order.
21 Are you -- when you're asking her about the
22 interviews with police, is that the order in which the
23 interviews took place?

24 MS. SMITH: No.

25 MS. COLBERT: So when you talked to, you

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1 know, the detectives under McCoy -- because what I think I
2 heard you say, that he was sergeant of crimes against
3 persons or whatever he was, that these individuals would've
4 been reporting directly to him; is that correct?

5 **THE WITNESS:** That's correct.

6 **MS. COLBERT:** So in his initial statement, he
7 indicated that he had given his detectives -- expressed a
8 concern about the credibility of Mr. Williams in regard to
9 his storytelling.

10 **THE WITNESS:** Right.

11 **MS. COLBERT:** So did -- when you interviewed
12 these folks, was this after McCoy told you that or before?

13 **THE WITNESS:** This was after. Mr. McCoy was
14 deposed on May 6, 2018, and I would have to check to be
15 sure, but I believe we deposed all other law enforcement in
16 the Bryson case before we spoke to Mr. McCoy.

17 **MS. COLBERT:** Thank you.

18 **MS. SMITH:** That appears to be correct.

19 Specifically for Detective Dorn, he was
20 deposed on April 16, and Thomas Freeland was deposed on
21 April 15, and those were both before we deposed McCoy.

22 **MR. BOSWELL:** Did any of them mention that
23 McCoy had told them to be wary of Mr. Williams?

24 **THE WITNESS:** No, they did not.

25 And specific to Detective Freeland, he did

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1 not -- he did not indicate that he had any issues with
2 Mr. Williams' credibility.

3 **MS. SMITH:** Any additional questions?

4 (No response.)

5 Q. Who is Teresa Hicks?

6 A. Teresa Hicks was assigned to the Bryson case after
7 Sergeant Freeland was promoted in November 1986. She is
8 also retired.

9 Q. Did the Commission speak to Ms. Hicks?

10 A. We did.

11 We deposed her on April 16 and April 17, 2019.

12 Q. And was that recorded and transcribed?

13 A. Both were, yes.

14 Q. What did Ms. Hicks say?

15 A. Ms. Hicks had very little recollection of the
16 Bryson cause but had also reviewed her reports at the police
17 department prior to the deposition.

18 She indicated to the Commission that she had not
19 been assigned to the case. We showed her a report from
20 November of 1986 that indicated she had been assigned to the
21 case and her trial testimony from Mr. Williams' trial where
22 she testified to being assigned to the Bryson case after
23 Freeland's promotion. But in the deposition, she maintained
24 she was not ever assigned to the Bryson case.

25 Ms. Hicks was aware of Terry Smith's reputation as

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1 a drug dealer but did not recall if he was interviewed about
2 the Bryson case. She did indicate she thought it would have
3 been documented if he had been interviewed. She said Terry
4 Smith probably wouldn't have talked to law enforcement.

5 She also did not recall if Sammy Mitchell was
6 interviewed but did indicate that Sammy Mitchell would
7 always invoke his rights and wouldn't speak to law
8 enforcement. However, she would have documented any
9 attempts to interview those individuals even if they refused
10 to be interviewed.

11 The Commission showed Ms. Hicks Merritt Williams'
12 statements from April 18, 1986, and April 24, 1986, and
13 Detective Hicks indicated she thought the statements said
14 basically the same thing. When the difference in names
15 given by Mr. Williams were pointed out to Ms. Hicks, she
16 acknowledged that there was a difference.

17 She did say that it seemed to her that
18 Mr. Williams knew an awful lot about what was done in the
19 house and she also indicated that Merritt Williams knew
20 about the lamp cord.

21 Q. Did Merritt Williams ever use the phrase "lamp
22 cord" in his statements to police?

23 A. No, he did not.

24 In his April 18 statement, he said that the victim
25 was strangled with an object "like a rope." In his 4/24

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1 statement, he said that the victim was strangled with an
2 object but he didn't know what.

3 Q. Ms. Matoian, have you been able to review
4 newspaper articles related to this case?

5 A. I have.

6 Q. Did any of those articles include the detail about
7 the lamp cord?

8 A. Yes. Several articles that were published close
9 in time to the crime indicated the victim was strangled with
10 a lamp cord.

11 Q. What else did Ms. Hicks say?

12 A. Ms. Hicks did not recall whether George Thompson
13 had ever been identified and she was also unaware of Robbin
14 Carmichael coming forward in this case.

15 **MS. SMITH:** Commissioners, any questions for
16 Ms. Matoian related to the interview of Ms. Hicks?

17 (No response.)

18 Q. Who is Ken Bishop?

19 A. Ken Bishop was the detective assigned to the case
20 when it was reopened after Mr. Carmichael came forward in
21 March 1980.

22 Q. Did the Commission speak to Mr. Bishop?

23 A. We did. He was deposed on April 17, 2019.

24 Q. And was that deposition recorded and transcribed?

25 A. It was.

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1 Q. What did he say?

2 A. Mr. Bishop also indicated that he had gone to
3 review his reports at the police department prior to the
4 deposition but he believed that some of his reports were
5 missing.

6 He had reviewed a report related to some
7 canvassing he had done close in time to the murder but did
8 not recall having any other involvement after Williams came
9 forward and prior to Mr. Carmichael coming forward.

10 Q. Did Detective Bishop say anything else regarding
11 reviewing his reports at the police department?

12 A. He did.

13 Early on in the deposition, Mr. Bishop was asked
14 if he had been told anything about the Commission's
15 investigation, and he stated that he was told by the police
16 department that the Commission was looking into the case.

17 Later on in the deposition, Mr. Bishop indicated
18 he had been told by someone at the police department that
19 there had been a DNA hit to Darren Johnson in this case but
20 did not recall who told him that. He said he was glad to
21 hear that and hoped the Commission did have a DNA hit to
22 Mr. Johnson.

23 Q. What did Mr. Bishop say about Mr. Carmichael's
24 statements in the case?

25 A. Mr. Bishop stated that he would not generally

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1 charge someone based only on a confession. Once they had
2 the corroborating physical evidence with the fingerprint
3 identification to Mr. Carmichael and the jewelry bags, he
4 felt that there was enough to speak to the district
5 attorney. He indicated that there would be no Class A
6 felony charges filed without first consulting with the DA's
7 office.

8 He found Mr. Carmichael to be credible because of
9 the physical evidence and because Mr. Carmichael knew where
10 the victim's house was.

11 **MR. GLAZIER:** I just kind of wanted to go
12 back to the statement about the confession.

13 Could you tell me, is the exact -- do you
14 have the exact Q and A of that?

15 **THE WITNESS:** I can find it.

16 Mr. Bishop said -- was discussing
17 Mr. Carmichael coming forward, and he said "And I felt like
18 he gave me enough detail about the crime scene that he was
19 at least there, and we took a recorded statement from him
20 and he put himself being at the crime scene and put Darren
21 Johnson at the crime scene. And at that point in time,
22 based on our practices back then, I did not feel like we had
23 sufficient evidence yet to charge him. We -- we generally
24 do not charge based solely on a confession, but he was
25 already in custody so he was no escape risk or anything."

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1 **MR. GLAZIER:** Thank you.

2 Q. What did Mr. Bishop recall about Darren Johnson?

3 A. Mr. Bishop remembered going to interview
4 Mr. Johnson in prison. He said that Mr. Johnson denied
5 "every bit of it."

6 He did not recall any of the questions he asked
7 Darren Johnson during the interview but said he probably
8 asked Mr. Johnson what he was doing the night of the murder.

9 Mr. Bishop didn't think he would have told Johnson
10 about Carmichael naming him over safety concerns. He said
11 he rarely told people where he had gotten information from.
12 He didn't recall if he brought the jewelry bags to that
13 interview and he did not recall whether he asked Mr. Johnson
14 if he knew Merritt Williams.

15 Mr. Bishop said he would have been interested in
16 polygraphing Mr. Johnson but did not recall if he had one
17 conducted or how the logistics of that would have worked
18 since Mr. Johnson was in prison at the time.

19 Bishop indicates that where Darren Johnson is
20 concerned, that's where reports may be missing from him
21 because there were no other reports of the case from
22 Mr. Bishop other than the initial one where Mr. Johnson
23 comes forward and he interviews Darren Johnson and the
24 report where Mr. Carmichael takes his plea. He believed
25 that he would have done more investigation into Darren

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1 Johnson.

2 Q. You just said "where Mr. Johnson comes forward."

3 A. I'm sorry. Where Mr. Carmichael comes forward.

4 Q. Were there other reports from Detective Bishop?

5 A. Like I just said, the only report we have after
6 the initial report is the report where Mr. Carmichael takes
7 his plea and the case is closed.

8 Detective Bishop indicated he would have followed
9 up on the investigation or put a reason in there why they
10 hadn't done any additional investigation into Mr. Johnson.

11 He didn't recall doing any investigation into a
12 connection between Mr. Carmichael, Mr. Williams, and
13 Mr. Johnson but said he would have documented it if he had
14 done so.

15 He did not recall going to Merritt Williams about
16 what Mr. Carmichael had said. He knew of Terry Smith's
17 organization but did not recall making a link between Robbin
18 Carmichael and one of Terry Smith's lieutenants and he had
19 never heard of George Thompson.

20 Q. Did you ask Bishop about the 1986 Darryl Johnson
21 CrimeStoppers tip?

22 A. I did.

23 He said he never seen it before but wished that he
24 had. He said it would not have been included in the files
25 he reviewed once being assigned to the case because each

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1 detective kept his own personal files that remained with
2 them and would not have been put into the file in the
3 records department where all of the official reports were
4 filed. He thought that the CrimeStoppers tip would have
5 been in Detective Freeland's personal files.

6 Q. Did Detective Bishop say anything about a
7 connection between Merritt Williams and Robbin Carmichael?

8 A. When asked about the fact that neither
9 Mr. Carmichael nor Mr. Johnson named the other, Mr. Bishop
10 said that it appeared to him that the crime had happened in
11 two waves. A group of people had gone to the scene and
12 committed the murder; Darren Johnson then picked Carmichael
13 up and went back to the scene. So it was possible that
14 Merritt Williams and Robbin Carmichael were both involved
15 without knowing about the other.

16 Mr. Bishop based this on the fact that, to him, it
17 seemed that there was more than one person in the victim's
18 house and somebody that was in that group took her car. He
19 was not sure whether Darren Johnson was involved in the
20 initial theft of the car but he had no reason not to believe
21 Carmichael when he said that Mr. Johnson picked him up in
22 the car.

23 He didn't have any investigative knowledge of what
24 happened prior to that.

25 Q. Did Detective Bishop say anything else regarding

Testimony by Catherine Matoian

1 the connection between Williams, Carmichael, and Johnson?

2 A. He did.

3 We reviewed the official crime version from
4 Mr. Carmichael's parole records from DPS with Detective
5 Bishop.

6 Q. What's the official crime version?

7 A. It's a document found in parole records that
8 includes information about the circumstances surrounding the
9 underlying crime. The official crime version of
10 Mr. Carmichael's records indicates that the information
11 contained was provided by Detective Bishop.

12 **MS. SMITH:** Commissioners, we discussed
13 Handout 30 yesterday. Some of you may have read it. That
14 is the official crime version related to Robbin Carmichael.
15 If you want to take a look at that and refresh yourself on
16 that.

17 **MR. BOSWELL:** It would have been written by
18 Detective Bishop. Is that what you're saying?

19 **THE WITNESS:** So the official crime version
20 indicates that it was from Jim Goff, who was at the
21 Greensboro PRAC and was written to a case analyst, but the
22 top paragraph said that "The following information was
23 obtained from the Forsyth County Clerk's office, a complaint
24 report of Officer J. Leach of the Winston-Salem Police
25 Department and from a conversation with Detective Ken Bishop

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1 of the Winston-Salem Police."

2 So Detective Bishop provided information that
3 was then put into the report.

4 Q. Did you show Detective Bishop --

5 **JUDGE LOCK:** Go ahead and ask your question
6 and then I'll ask mine.

7 Q. You showed Detective Bishop the crime version?

8 A. I did.

9 Q. What did he recall about that or say about that?

10 A. Mr. Bishop did not recall providing this
11 description of events to Mr. Goff but said that he would
12 never dispute another officer's report.

13 He did confirm that Robbin Carmichael had never
14 told him he was present when the victim was strangled.

15 **JUDGE LOCK:** So if I understand, Detective
16 Bishop reconciled these glaring discrepancies between
17 Carmichael's and Williams' statements by concluding that
18 Williams was present in the home when Johnson killed
19 Ms. Bryson. They left. And then Johnson picked Carmichael
20 up driving Ms. Bryson's car and took him back to the scene;
21 is that correct?

22 **THE WITNESS:** Detective Bishop believes that
23 the crime happened in two waves and that Merritt Williams
24 and Robbin Carmichael were not at the scene together.

25 **JUDGE LOCK:** All right.

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1 Now -- and I just don't recall from the file.
2 Who was the prosecutor who prosecuted Carmichael?

3 **THE WITNESS:** That's Eric Saunders. He is
4 the same ADA who prosecuted Williams during his trial and he
5 is now deceased.

6 **JUDGE LOCK:** Okay. Was there anybody else in
7 the office who worked with Eric Saunders on the case who may
8 have remembered how Mr. Saunders was able to reconcile these
9 two differences or versions of -- these two statements
10 between Carmichael and Williams?

11 **THE WITNESS:** So Robbin Carmichael comes
12 forward in March 1988 and he takes his plea in June 1988 so
13 just about three months later. Eric Saunders is the only
14 district attorney listed on Mr. Carmichael's plea
15 transcript. But Eric Saunders tried Williams in the Bryson
16 case with District Attorney Warren Sparrow.

17 We did ask Mr. Sparrow about this. If you
18 will give me one second.

19 He did not have any recollection of
20 Mr. Carmichael coming forward in the Bryson case before
21 being convicted; so he was not able to provide any
22 additional insight into that.

23 In our interview -- or our deposition with
24 Mr. Sparrow, we showed him Mr. Bishop's report from Robbin
25 Carmichael coming forward and asked to see if that refreshed

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1 his recollection.

2 He answered: "It will not. I can tell you
3 that --

4 "Q Okay. Why not?

5 "A -- without even looking at it.

6 "Q Okay. Why not?

7 "A Because I just -- as I told you, I don't remember
8 anyone else being implicated in this.

9 "Q Okay. So --

10 "A Now, if the record says that I prosecuted this man,
11 fine. But I don't -- I don't remember anything about this."

12 **JUDGE LOCK:** The judge who adjudicated
13 Mr. Carmichael's plea was Judge Freeman; is that correct?

14 I believe Judge Russo -- well, I may be
15 wrong.

16 **THE WITNESS:** We will have to double-check on
17 that.

18 (Commission staff confer.)

19 **JUDGE LOCK:** Well, my real question is, if
20 you know, was the presiding judge who adjudicated
21 Mr. Carmichael's guilty plea made aware of the fact that
22 Williams already had been convicted of that murder?

23 I don't recall reading a transcript of the
24 plea adjudication.

25 **THE WITNESS:** We don't have a transcript of

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1 the plea so we don't know what information was heard at that
2 time.

3 **JUDGE LOCK:** All right.

4 **MS. COLBERT:** On that same line, I have a
5 question about how the communication -- you know, between,
6 you know, the law enforcement agency -- well, within the
7 whole criminal justice system in regard to a murder, right,
8 you know, because what I'm hearing is that the law
9 enforcement in this particular case from the Winston-Salem
10 police didn't seem to know about Carmichael and him
11 confessing in '88, right, although Williams was convicted
12 in, what, '86?

13 **THE WITNESS:** '87.

14 **MS. COLBERT:** '87.

15 And so where is all this information -- I
16 mean, how does the law enforcement, the DA's office, the
17 whole criminal justice system not know about -- I mean, how
18 would they know about all of this?

19 **THE WITNESS:** I don't know whether I can
20 answer how those communication channels worked back in the
21 '80s and who would have known what.

22 We have attempted in our interviews with
23 defense attorneys or district attorneys to determine how
24 much was known about Mr. Williams by Mr. Carmichael's
25 attorneys and how much was known about Mr. Carmichael by

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1 Mr. Williams' attorneys, and no one has been able to provide
2 any clear recollections of being provided that information.

3 **MS. COLBERT:** So you're talking to Detective
4 Bishop -- was that in April too?

5 **THE WITNESS:** Yes, ma'am.

6 **MS. SMITH:** Any other questions?

7 (No response.)

8 Q. Did you ask Detective Bishop about statements
9 attributed to him in Phoebe Zerwick's 2004 article?

10 A. I did.

11 **MS. SMITH:** Commissioners, the portion of
12 that article that's relevant to Detective Bishop is on pages
13 1537 to 1538 of your brief. You may want to take a look at
14 that.

15 Q. What is Detective Bishop attributed as saying in
16 the article?

17 A. In that article, Mr. Bishop was noted as telling
18 Phoebe Zerwick that he was not concerned about the
19 differences between Mr. Carmichael and Mr. Williams'
20 stories.

21 The article also says Mr. Bishop said it was his
22 job to investigate Robbin Carmichael, not solve the murder
23 of Blanche Bryson. And he also said that nothing he found
24 in 1988 took Mr. Williams out of the murder of Blanche
25 Bryson.

Testimony by Catherine Matoian

1 Q. What did Mr. Bishop say when he was shown that
2 information by commission staff?

3 A. Mr. Bishop disputed several of the statements
4 attributed to him and said that Phoebe Zerwick was no friend
5 to the police department and he believed she would have
6 written something attributed did to him that he didn't
7 actually say.

8 He indicated that he did in fact believe it was
9 his job to solve the Bryson murder and that he had
10 contributed to solving it, but he did agree that nothing he
11 found in 1988 took Mr. Williams out of the murder.

12 Q. Was the Commission able to confirm whether anyone
13 from the Winston-Salem Police Department visited with
14 Mr. Williams after Mr. Carmichael came forward?

15 A. No. Visitation records at DPS only went back to
16 2016, and there is no indication in the file we have from
17 the Winston-Salem Police Department that any visit like that
18 occurred.

19 **MS. SMITH:** Commissioners, do you have any
20 additional questions for Ms. Matoian about the deposition
21 with Detective Bishop?

22 (No response.)

23 **MS. SMITH:** Commissioners, Detectives
24 Freeland and Bishop had involvement in this case. The
25 others also were involved in the Wilson case.

Testimony by Catherine Matoian

1 Do any of you want to hear from Detectives
2 Freeland or Bishop?

3 (No response.)

4 **MS. SMITH:** No? If that's the case, I would
5 just ask that we be able to release them from their
6 subpoenas and tell them that they no longer have to be on
7 standby for tomorrow.

8 **JUDGE LOCK:** All right. Very well.

9 **MS. SMITH:** The others we are going to hold
10 on because they -- you'll hear more about them with the
11 other case.

12 Q. Ms. Matoian, were any individuals polygraphed in
13 this case?

14 **MS. COLBERT:** May I, sir?

15 **JUDGE LOCK:** Yes.

16 **MS. COLBERT:** Your chart -- so you're
17 finished with the law enforcement piece of this? Because
18 there was a number of people on this law enforcement that
19 was involved with the Bryson case.

20 Did you talk to any of the rest of these
21 folks -- Hairston, Spoon, and Twitty?

22 **THE WITNESS:** We did.

23 **MS. COLBERT:** Somebody -- is that "D" beside
24 Twitty and indicates he's deceased?

25 **THE WITNESS:** Detective Twitty is deceased.

Testimony by Catherine Matoian

1 Some of the individuals that had reports
2 involving them in the Bryson case had minimal involvement,
3 such as canvassing around the time of the murder and were
4 asked about their recollections during the depositions. But
5 because they weren't able to provide anything substantive,
6 there was just nothing to testify regarding those people.

7 We did speak to Detective Hairston over the
8 phone. He is the one who arrested Carmichael on the
9 unrelated charges before Carmichael came forward about the
10 Bryson crime.

11 He recalled that happening and he recalled
12 finding the jewelry bags but did not have any other
13 involvement in the investigation of the Bryson murder after
14 that.

15 **MS. SMITH:** Does that answer your question?

16 **MS. COLBERT:** Yes. Thanks.

17 **MS. SMITH:** Commissioners, just a point of
18 clarification related to Detective Bishop.

19 In looking through the notes that the
20 Commission was provided from Phoebe Zerwick, we do not see
21 any notes from a conversation with Detective Bishop in her
22 notes that were provided. We don't know that we have all of
23 her notes, but based on what we have, we don't see notes
24 from a conversation with Detective Bishop.

25 Q. Ms. Matoian, were any individuals polygraphed in

Testimony by Catherine Matoian

1 this case?

2 A. They were.

3 Merritt Williams was polygraphed, and the report
4 indicated that he was truthful but does not provide any
5 additional information about the test.

6 We know from -- we know now that the interview
7 tapes of Robbin Carmichael pursuant to a polygraph
8 examination were conducted by Renée Patterson but we don't
9 have any reports related to this polygraph so we don't know
10 what the results were.

11 Q. What information did the Commission learn about
12 polygraphs at the Winston-Salem Police Department during
13 this time period?

14 A. The reports in the police department file related
15 to polygraphs are -- again, are short reports by either the
16 examiner or the detective that indicate that someone was
17 polygraphed and only state whether they were truthful or not
18 truthful.

19 The reports do not include the questions asked,
20 answers given, charts, scores, or summaries of any
21 pretesting reviews.

22 The Commission asked several former members of the
23 police department how polygraphs worked at the time. They
24 indicated that it was the practice for the reports in the
25 file to be in the format that I just described. The

Testimony by Catherine Matoian

1 polygraph examiner would keep their own separate records
2 containing more detailed information such as charts and
3 questions.

4 The Commission confirmed this practice with Barry
5 Owens, who polygraphed Merritt Williams and other suspects
6 in the initial investigation of the Bryson case. Mr. Owens
7 didn't have any specific recollections of the Bryson or
8 Wilson cases other than that the Wilson case happened at a
9 drink house.

10 I believe I testified about this before, but we
11 did obtain a judicial subpoena for the police department to
12 look for any separate polygraph records and they were unable
13 to find anything responsive to that request.

14 **MS. SMITH:** Before we move on to the
15 prosecuting attorneys in this case, are there any other
16 additional questions about law enforcement or polygraphs?

17 (No response.)

18 Q. Ms. Matoian, who is Don Tisdale?

19 A. Don Tisdale was the district attorney at the time
20 Mr. Williams was arrested in the Bryson case. He had left
21 office by the time Mr. Williams was tried in the Bryson
22 case, however.

23 Q. Did the Commission interview Mr. Tisdale?

24 A. Mr. Tisdale is retired and has several serious
25 medical issues at least one of which affects his memory.

Testimony by Catherine Matoian

1 The Commission originally subpoenaed Mr. Tisdale for a
2 deposition; however, we were contacted by his son, Attorney
3 Ken Tisdale, who advised us that his father was in failing
4 health and had memory issues.

5 In addition, Attorney Mark Rabil independently
6 mentioned Mr. Tisdale's failing health, and the Commission
7 also confirmed with Mr. Tisdale's former law partner,
8 Commissioner Michael Grace, that Mr. Tisdale was in failing
9 health and had memory issues.

10 Because of that, the Commission agreed to send
11 Mr. Tisdale's son, Ken Tisdale, a list of our questions
12 along with exhibits about both cases.

13 Mr. Tisdale's son went through the questions with
14 his father and provided those answers to the Commission in
15 an e-mail.

16 Q. What did Mr. Tisdale say about the Bryson case?

17 A. Mr. Tisdale said that he felt Mr. Williams was a
18 credible witness.

19 Regarding the report that indicated he had met
20 with Mr. Williams about a receipt in a wallet, Mr. Tisdale
21 had no memory of this. It was not his practice to meet with
22 defendants; however, if it was written in a report, it
23 probably did happen.

24 **MS. SMITH:** Commissioners, do you have any
25 questions about Mr. Tisdale?

Testimony by Catherine Matoian

1 (No response.)

2 Q. Who is Warren Sparrow?

3 A. Warren Sparrow succeeded Mr. Tisdale as the
4 elected district attorney for Forsyth County. He tried the
5 Bryson case along with Eric Saunders, and Eric Saunders was
6 also the ADA on Mr. Carmichael's plea.

7 Q. When you say "ADA," what does that mean?

8 A. I'm sorry. The assistant district attorney.

9 Q. Did the Commission speak to Mr. Saunders?

10 A. Mr. Saunders is deceased.

11 Q. Did the Commission speak to Warren Sparrow?

12 A. We did.

13 The Commission sent him an e-mail requesting to
14 interview him on March 5, 2019. Mr. Sparrow responded that
15 same day and said "No."

16 The Commission then subpoenaed him for a
17 deposition on May 7, 2019.

18 Q. And was the deposition recorded and transcribed?

19 A. It was.

20 Q. What did Mr. Sparrow remember about the Bryson
21 case?

22 A. Mr. Sparrow recalled that his role in the trial
23 was not very active and was more supervisory. He remembered
24 that the victim had been at a Christmas party and surprised
25 the intruder. It was their theory that the intruder was

Testimony by Catherine Matoian

1 Merritt Williams. He did not recall that there was any
2 suggestion that someone other than Merritt Williams
3 committed this murder. And he recalled that Merritt
4 Williams told the jury to give him the death penalty during
5 his testimony.

6 Q. What did Mr. Sparrow say about Robbin Carmichael?

7 A. As I testified to a little earlier, he did not
8 have any recollection of Mr. Carmichael coming forward in
9 the Bryson case or being convicted. He did say it would not
10 have been his practice at the time to notify Mr. Williams
11 that Mr. Carmichael had pled guilty to the same crime.

12 Q. And did Mr. Sparrow provide any information about
13 discovery at that time?

14 A. He did. He said that the discovery rules at the
15 time were more restrictive and, as a former defense
16 attorney, he recalled being frustrated by them. When he was
17 district attorney, he provided anything that was relevant
18 and gave defense attorneys an opportunity to look at any
19 physical evidence they intended to use and any statements
20 their clients had made. His office did not turn over files
21 but, in general, he gave defense attorneys opportunities to
22 look at things if they requested it because he had been on
23 the other side before.

24 He did recall having some friction with law
25 enforcement over how much information he allowed defense

Testimony by Catherine Matoian

1 attorneys to have. He recalled an instance of telling
2 Forsyth County Sheriff's Office to turn over a document to a
3 defense attorney and the sheriff saying he would not do so
4 without an order from the attorney general.

5 When asked directly if he had the same issue with
6 Winston-Salem Police Department, he said he did not recall
7 having that issue with them.

8 **MS. SMITH:** Commissioners, any questions
9 about the prosecuting attorneys in the Bryson case?

10 **JUDGE LOCK:** A question here?

11 **MR. BRITT:** You say Mr. Sparrow didn't recall
12 Mr. Carmichael coming forward in '88?

13 **THE WITNESS:** That's correct.

14 **MR. BRITT:** Was he still the DA?

15 **THE WITNESS:** He was.

16 **MR. BRITT:** Was he involved in the Carmichael
17 plea?

18 **THE WITNESS:** Only Mr. Saunders is named on
19 the plea transcript. The district attorney's office does
20 not have a file for this case so we don't know what
21 Mr. Sparrow's involvement might have been.

22 **JUDGE LOCK:** Is it correct that Mr. Sparrow
23 was then defeated two years later by Tom Keith? So Sparrow
24 was DA just for a brief period of time; is that correct?

25 **THE WITNESS:** Right. I don't know the exact

Testimony by Catherine Matoian

1 year he left office but I do know that Tom Keith was after
2 him, yes.

3 **MS. COLBERT:** So I have a question.

4 And so when someone actually says -- you
5 know, pleads guilty, do they have -- they have to go up in
6 front of the Court; right?

7 Do they? Like if I plead guilty --

8 **MR. BRITT:** They are supposed to.

9 **MS. COLBERT:** That's what -- you know, I'm
10 just trying to understand.

11 So if I plead guilty to a crime, I go -- in
12 order for me to get sentenced, the Court sentences me;
13 correct?

14 **THE WITNESS:** Correct.

15 **MS. COLBERT:** And so in order for the Court
16 to sentence me, then I appear before the Court. And so I
17 have my attorney, right, or whoever is assigned, and is it
18 the DA or an ADA assigned when that happens?

19 **THE WITNESS:** Correct.

20 **MS. COLBERT:** And so that's the way that --
21 and then that concludes and that person then goes to jail;
22 right?

23 **THE WITNESS:** That's my understanding of the
24 process, yes.

25 **MS. COLBERT:** And so everybody documents

Testimony by Catherine Matoian

1 this. The Court has to document it, law enforcement has to
2 document it, and the DA has to document it; right? Is
3 that --

4 **THE WITNESS:** I can't speak to other people's
5 documentation processes. But I have seen documentation from
6 all of those agencies of pleas.

7 **MS. COLBERT:** Okay.

8 **MS. SMITH:** Anything else?

9 All right. I am going to ask Ms. Matoian to
10 step down. So if anybody's got anything else, now is the
11 time.

12 **MR. GLAZIER:** This is a place where we've
13 been at it for an hour and 15 minutes. I wondered if it
14 would be appropriate --

15 **JUDGE LOCK:** Natural breaking point?

16 **MS. SMITH:** Now is a natural breaking point.

17 **JUDGE LOCK:** Let's take a 10-minute recess.

18 (Recess taken, 2:24 to 2:42 p.m.)

19 **JUDGE LOCK:** Looks like everybody's in place.
20 Let's come back to order.

21 **MS. SMITH:** The Commission recalls Associate
22 Director Beth Tanner.

23 **JUDGE LOCK:** All right.

24 (Beth Tanner recalled.)

25 BY MS. SMITH: (2:42 p.m.)

Testimony by Beth Tanner

1 Q. Ms. Tanner, part of the brief discussed community
2 involvement in the defense of Darryl Hunt both in the Sykes
3 case and in the Wilson case.

4 Beyond what was provided by law enforcement and
5 the district attorney's office, did the Commission's
6 investigation provide more information about the community's
7 involvement as it related to either the Wilson or Bryson
8 cases?

9 A. Yes.

10 We interviewed several individuals that were
11 identified as being involved in the community action related
12 to the defense of Darryl Hunt in both the Sykes and Wilson
13 cases primarily to see if they had any documents related to
14 the Wilson case or if they had any further information that
15 would be relevant to the Commission's investigation here.

16 Q. And who did Commission staff interview?

17 A. We interviewed Imam Khalid Griggs, who was
18 featured in the documentary on the Sykes case.

19 We also interviewed Dr. Larry Little. He was a
20 Winston-Salem alderman. He was also in the documentary.

21 We interviewed Pastor Carlton Eversley, whose name
22 was provided to us by Mr. Rabil.

23 We also interviewed Pastor John Mendez, whose name
24 was provided by Mark Rabil as well.

25 In addition, Pastor Mendez was actually the

Testimony by Beth Tanner

1 individual that Mr. Williams was attempting to contact when
2 he called the church from jail, if you remember that part
3 from your brief.

4 All of these individuals were identified as being
5 involved in the defense committee for Darryl Hunt.

6 **MS. SMITH:** Commissioners, the call that
7 Ms. Tanner just referenced to the church by Mr. Williams is
8 on pages 408 to 422 of your brief.

9 Q. Were the interviews with those individuals
10 recorded and transcribed?

11 A. Imam Griggs' interview was not recorded and
12 transcribed because my recorder died.

13 Dr. Little was interviewed over the phone but the
14 first few minutes were not captured.

15 Pastors Eversley and Mendez's interviews are
16 recorded and transcribed.

17 Q. And what did you learn from the interview with
18 Imam Griggs?

19 A. We initially touched base with Imam Griggs at the
20 community mosque in Winston-Salem where he said he might
21 have some documents at his home concerning the Wilson case.

22 In a follow-up interview with him at his home, he
23 said he did not have any documentation that he could locate
24 related to the Wilson case but he did recall some letters
25 from Williams on a white legal pad where Williams said he

Testimony by Beth Tanner

1 was sorry for implicating Hunt and Mitchell in the crime.

2 He promised to continue looking for these letters,
3 but ultimately, even after a subpoena, represented that he
4 did not have the letters.

5 Q. And how did Imam Griggs come to be involved in the
6 Wilson case?

7 A. Imam Griggs became involved in Wilson through the
8 defense of Darryl Hunt in the Sykes case.

9 Imam Griggs did not know Sammy Mitchell or Darryl
10 Hunt prior to his involvement in the Deborah Sykes defense.
11 He was essentially recruited along with Pastor Eversley to
12 get involved in the Sykes case related to the defense of
13 Darryl Hunt. That involvement is how he got to know Sammy
14 Mitchell.

15 Q. And did Mr. Hunt or Mr. Mitchell admit to
16 participating in this crime to Imam Griggs?

17 A. Hunt and Mitchell both maintained their innocence
18 in the Wilson case to the imam.

19 Q. What did Imam Griggs know about Sammy Mitchell?

20 A. Imam Griggs said that Mitchell was a "cutter." He
21 had many self-inflicted cuts on his arm. Though Hunt
22 admitted to Imam Griggs that Mitchell got into a lot of
23 fights, Imam Griggs said that Hunt himself was not violent.

24 In addition, Imam Griggs said that Mitchell was
25 always "losing" his fights. His assessment of that was that

Testimony by Beth Tanner

1 it was as if Mr. Mitchell was intentionally causing fights
2 to lose them.

3 After getting involved in the Sykes case, Imam
4 Griggs said that he was with Mitchell quite a bit out in the
5 community but that he never saw Mitchell with a stick or any
6 kind of weapon.

7 Imam Griggs also said that "most people in the
8 neighborhood" would say that if anyone killed Mr. Wilson, it
9 would have been Mitchell but not Hunt. He said that Hunt
10 was just not violent.

11 Q. Did Imam Griggs know Merritt Williams?

12 A. He only knew Merritt Williams through the Wilson
13 case.

14 Furthermore, Imam Griggs told me that Hunt
15 contended that he generally knew Williams but was not close
16 to Williams and that Mitchell was also not close to
17 Williams. Both Mitchell and Hunt said they knew Williams to
18 be a liar.

19 Hunt also expressed a belief to the imam that
20 Mr. Williams was trying to insert himself into the attention
21 being garnered in the black community about the case.

22 Q. According to Imam Griggs, where did Hunt tell him
23 he was on the night of Wilson's death?

24 A. Imam Griggs reported that though Hunt said he and
25 Mitchell were at the drink house that night, Hunt said that

Testimony by Beth Tanner

1 he and Mitchell had left before this incident happened.

2 However, Hunt told the imam that he left
3 separately from Sammy Mitchell; so Hunt did not have
4 personal knowledge of where Mitchell went after they left
5 the drink house that night.

6 Q. Did Imam Griggs know any of the other individuals
7 from the community that were involved in the case?

8 A. Yes.

9 Imam Griggs also personally knew James Robert Ford
10 either socially or from high school, he couldn't remember
11 which. He knew Ford to be a Black Panther and said that
12 Ford had some trouble with drugs in the past. He recalled
13 that Ford was a witness at one of the trials -- the Wilson
14 trials. He never knew Ford to be a liar and said that he
15 considered Ford to be a "principled" person.

16 Imam Griggs also knew Ronald McGee from junior
17 high school and recalled that McGee likewise had some issues
18 with drugs. He recalled McGee coming forward to say it was
19 not Hunt. And that happened late in the process of the
20 defense in the Wilson case. He also thought that McGee said
21 it was not Mitchell.

22 There was also a note in Mark Rabil's documents
23 that indicated that Ford, Walser, and McGee did not want to
24 be in the case. It was a handwritten note from someone
25 named Gail. Imam Griggs said that he believed that was

Testimony by Beth Tanner

1 likely because they just did not want to be involved in
2 court process at all.

3 **MS. SMITH:** Commissioners, you will be
4 provided that note as a handout later in this case.

5 Q. Did Imam Griggs provide any additional
6 information?

7 A. Yes.

8 Imam Griggs generally had a low opinion of the
9 police at the time. He believed that WSPD's attention on
10 unsolved crimes was not altruistic but was because they were
11 trying to tie Mitchell and Hunt into crime generally.

12 He also said that he would not be surprised if
13 police "got to" multiple witnesses in the case. However,
14 Imam Griggs acknowledged that there were simply several
15 overlying actors in both cases between the police department
16 and the defense.

17 He also recalled that there were other cases
18 around the time that indicated there were fabricated
19 evidence in those cases but he could not remember any
20 details or the specific cases.

21 He followed the Bryson case because he actually
22 knew Ms. Bryson's son but he didn't have any specific
23 information about that case.

24 **MS. SMITH:** Commissioners, do you have any
25 questions about any of this information?

Testimony by Beth Tanner

1 **MR. PERRY:** The imam is Griggs; right?

2 **THE WITNESS:** G-r-i-g-g-s.

3 **MR. PERRY:** So he believes Mr. Williams was
4 trying to insert himself in -- what? For the attention of
5 the community? For religious reasons? Any idea on that
6 assessment?

7 **THE WITNESS:** His assessment was what he
8 said -- Hunt. That was Hunt's assessment. So I want to be
9 clear that Mr. Hunt --

10 **MR. PERRY:** Oh, that was Hunt's assessment?

11 **THE WITNESS:** -- had told him that he
12 believed Williams was trying to insert himself into --

13 **MR. PERRY:** Hunt had told the imam?

14 **THE WITNESS:** Yes.

15 **MR. PERRY:** But the imam had very little
16 knowledge of Williams; right?

17 **THE WITNESS:** Right.

18 **MR. PERRY:** Only hearsay of his --

19 **THE WITNESS:** Right.

20 **MR. PERRY:** No expanding on that comment
21 about Williams from Hunt?

22 **THE WITNESS:** That was all that -- no. He
23 did not have anything else that he recalled Mr. Hunt saying
24 other than that Mr. Williams -- Mr. Hunt believed
25 Mr. Williams was trying to insert himself.

Testimony by Beth Tanner

1 **MR. PERRY:** May I ask for speculation?

2 To what end?

3 **THE WITNESS:** Hang on. I have it right here.

4 I think I've said everything that he said,
5 but I do want to make sure.

6 Brian, pull that interview.

7 He just said that Drayton was -- or Williams
8 was trying to insert himself into the attention being
9 garnered in the black community about this case.

10 I don't recall that he said anything further,
11 but we'll pull the interview and make sure.

12 **MR. PERRY:** Thank you.

13 **THE WITNESS:** Yes, sir.

14 **MS. SMITH:** Any other questions?

15 (No response.)

16 Q. Tell us about the interview with Larry Little.

17 A. This interview, the recording starts a few minutes
18 into the phone call.

19 Dr. Little originally refused to speak to us in
20 person because he had no sympathy for Mr. Williams because,
21 as he said, Mr. Williams "contributed to Darryl Hunt's
22 suffering."

23 Dr. Little said it was clear that Williams had
24 lied and put himself into the Wilson case because Williams
25 believed if he helped bring Darryl Hunt down, law

Testimony by Beth Tanner

1 enforcement would look favorably on him.

2 Q. Did Larry Little know any of the other individuals
3 in the Wilson case?

4 A. Yes.

5 Dr. Little told us that James Ford reached out to
6 him about having seen the attack on Mr. Wilson and that none
7 of the men attacking Mr. Wilson were Mr. Hunt or
8 Mr. Mitchell.

9 James Ford called Dr. Little from a prison in
10 South Carolina at some point during the litigation involving
11 Sammy Mitchell. Dr. Little knew Mr. Ford from their joint
12 participation in the Black Panthers and believed that is why
13 Mr. Ford reached out to him.

14 Dr. Little reported that information to defense
15 attorneys and recalled that the defense investigator went to
16 interview Mr. Ford. He said the defense did not use
17 Mr. Ford in the Hunt case because the DA's office and Don
18 Tisdale were prepared to charge Mr. Ford after he got off
19 the witness stand with some criminal drug charges if he
20 testified for Mr. Hunt.

21 Dr. Little said "That's the way the DA's office
22 and Don Tisdale rolled back during that time."

23 Dr. Little also recalled that Mr. Ford told him
24 that, in 1983, Mr. Ford had reported what he saw regarding
25 the Wilson case Officer Otis Delton -- he said that with a

Testimony by Beth Tanner

1 "D." There is no Otis Delton in the file but there is an
2 Otis Belton, and we believe that to be the person to whom
3 Dr. Little is referring.

4 He recalled that Ford said he "cut a deal" with
5 the State on some pending charges he had at the time to tell
6 him who he thought attacked Wilson. That was in 1983.

7 Dr. Little said that he knew that Officer -- knew
8 Officer Belton. And when he asked about it, the officer
9 said he did not remember.

10 However, Dr. Little said that later the officer
11 came back and said he looked through his notes and did see
12 where Mr. Ford gave them the name of an individual but he
13 was told by Michael McCoy that if Belton was found to be
14 cooperating with Dr. Little, he would be fired.

15 Little even went to see Mr. Ford's lawyer, whose
16 name was Mr. Brower, and Mr. Brower just said he could not
17 talk to Dr. Little.

18 Q. Did Larry Little have any insight into the defense
19 strategies in the Wilson case?

20 A. Yes. He recalled that Walser and McGee were not
21 used in the first trial. He said that McGee and Walser only
22 got a good look at one of the people so he believed that is
23 why they were not used by the defense.

24 Dr. Little said he disagreed with that decision
25 because he believed Walser and McGee were important because

Testimony by Beth Tanner

1 they never saw any of the people on the street who said that
2 they were on the street and witnessed the crime -- so the
3 other witnesses who said they witnessed the crime.

4 Dr. Little also believed that Ezelle Clowers
5 pulled those witnesses together to help his son out on a
6 second-degree murder charge, but he could not recall the
7 name of the son.

8 We researched Ezelle Clowers Junior, who is the
9 only son of Ezelle Clowers of which the Commission is aware,
10 and there were no felonies listed in CIPRS or DCIN between
11 1983 in 1987.

12 Q. Did Dr. Little have any information related to the
13 police or district attorney's office at the time?

14 A. Dr. Little held a strong belief that these charges
15 were "conveniently brought up" in the Wilson case right
16 before the Democratic primary in which Mr. Tisdale was a
17 candidate to try and "stifle or frustrate the black
18 community into thinking that perhaps Hunt was a murderer."

19 Dr. Little also recalled Warren Sparrow talking to
20 him personally and saying that "You have made Hunt a
21 national hero; so I'm going to get out and change it."

22 He recalled Sparrow saying he was not going to try
23 the case, that he was going to have AOC, Administrative
24 Office of the Courts, to get people to come in and try the
25 case.

Testimony by Beth Tanner

1 Dr. Little then said "They brought in Dean Bowman
2 and James from Surry County to railroad Darryl Hunt."

3 Q. Did you ask Warren Sparrow about that
4 conversation?

5 A. We did. Mr. Sparrow does not recall a
6 conversation with Larry Little. He does remember early on
7 that his office would not try the case, but it was not
8 because he believed at the time that Mr. Hunt was innocent.
9 He had previously told us that multiple people in his office
10 had a conflict based on their prior work as lawyers, and he
11 felt it was best to request that AOC, the Administrative
12 Office of the Courts, provide prosecutors for the case.

13 **MS. SMITH:** Commissioners, do you have any
14 questions about the information related to the interview
15 with Dr. Little?

16 **MS. COLBERT:** What is Dr. Little's standing
17 in the community?

18 **THE WITNESS:** He was an alderman.

19 **MS. COLBERT:** He's not related -- I know this
20 Mattie Mae's maiden name or something was Little.
21 They're --

22 **THE WITNESS:** Not that we're aware of.

23 **MS. WELCH:** This -- this may cause -- you may
24 not be able to answer this but I'm a little confused by the
25 statement that the DA, Tisdale, wanted to try Hunt and make

Testimony by Beth Tanner

1 the community believe he was a murderer because he had a
2 Democratic election.

3 **THE WITNESS:** Yes. Right before the
4 Democratic primary in which Tisdale was a candidate.

5 **MS. WELCH:** And was Sparrow the candidate
6 against him as Democrat?

7 **THE WITNESS:** Yes. There was a contested
8 primary.

9 **MS. WELCH:** I guess I don't understand that.
10 That doesn't make any sense to me.

11 **THE WITNESS:** I think -- so first, I will
12 just be clear that this was Dr. Little's assessment of the
13 situation.

14 Part of the brief was a reference to the
15 documentary. I think in that you can see that there was a
16 pretty heated political environment at the time related to
17 Mr. Tisdale's bid for reelection.

18 He didn't expound on that any more, and this
19 was just his opinion -- assessment of the situation at the
20 time.

21 **MS. WELCH:** Okay. Thank you.

22 **THE WITNESS:** Sure.

23 Q. Can you tell us about the interview with Pastor
24 Eversley?

25 A. Sure.

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1 Pastor Eversley had gone through all of his items
2 to check for documents related to the case. He brought a
3 scrapbook with him. It had newspaper articles related to
4 Hunt and Williams as well as other cases that took place in
5 the 1990s that he felt were important to the community.

6 The only recollection he had of the Wilson case
7 was that he remembered Williams being "crazy" and "not
8 competent."

9 He remembers seeing Williams testifying in court
10 and that he testified about killing Arthur Wilson and that
11 he implicated Hunt and Mitchell. Though Pastor Eversley did
12 not talk in detail with Hunt or Mitchell about the Wilson
13 case, neither of them ever admitted guilt to him.

14 Eversley did hold a belief that witnesses were
15 being intimidated by the police when he was asked whether he
16 knew why McGee, Walser, and Ford may not have wanted to
17 testify.

18 So just to be clear, we asked if he would have any
19 information about why McGee, Walser, and Ford may not have
20 wanted to testify, and he said he just held a belief that
21 witnesses were being intimidated by the police.

22 Q. Can you tell us about your interview with Pastor
23 Mendez?

24 A. Pastor Mendez became involved in the Darryl Hunt
25 defense after he moved to Winston-Salem. He said that he

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1 had an activist background and did not know Hunt until he
2 became involved in the Sykes defense.

3 He got to know Hunt after becoming involved and he
4 also got to know Sammy Mitchell after becoming involved in
5 the Sykes defense.

6 He said that neither admitted guilt to him in the
7 Wilson case and that "nobody believed" that Hunt or Mitchell
8 were involved in the Wilson case.

9 He characterized Mr. Hunt as nonviolent. He said
10 that the general consensus was that if anyone committed the
11 Wilson crime, it would have been Sammy Mitchell.

12 He also held the belief -- Pastor Mendez held the
13 belief that the police and the district attorney's office
14 were really after Mitchell generally and not Mr. Hunt.

15 **MS. SMITH:** Commissioners, any questions
16 about the interview of the pastors?

17 **MR. BOSWELL:** I just have a general question.
18 And I didn't glean it from the reading, but how did Hunt get
19 to be this community -- this person that the community
20 rallied around as having been a victim of police misconduct?

21 **THE WITNESS:** Our understanding of that,
22 based on what we found, is that the Deborah Sykes murder is
23 really where that kind of started. And I think the
24 community generally had some questions about that case and
25 they were just able to kind of rally together to have a lot

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1 of people involved in that.

2 Dr. Little was an alderman. I think once
3 they got those folks involved, they got some other pastors
4 in the community and some other religious leaders involved.
5 But it kind of -- it generates from the Sykes case.

6 **MR. BOSWELL:** And their sense was that he was
7 innocent but was being prosecuted and there was -- community
8 came around -- it was all around Hunt?

9 **THE WITNESS:** Yes. It was originally around
10 Hunt. And then when Hunt was implicated in the Wilson
11 murder with Mitchell, I think that same community was also
12 involved with the defense of Mr. Mitchell.

13 There is -- based on what we have found here,
14 Mr. Hunt and Mr. Mitchell were together not infrequently.
15 So they were together.

16 **JUDGE LOCK:** Mr. Britt?

17 **MR. BRITT:** Isn't it true that Deborah Sykes
18 was white and these other victims were black?

19 **THE WITNESS:** Yes. That is also true. Yes.

20 **MR. BRITT:** And is it also true that Deborah
21 Sykes -- the arrest of Darryl Hunt came relatively quickly
22 compared to these other solved or unsolved murders involving
23 black victims?

24 **THE WITNESS:** Yes. The arrest happened
25 faster after the crime of Deborah Sykes than this -- the

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1 Wilson case or the Bryson case.

2 **MR. BRITT:** And is it your impression that
3 because of the swiftness with which the Winston-Salem Police
4 Department acted in the Sykes case that that led to the
5 belief that Darryl Hunt was being wrongly accused?

6 **THE WITNESS:** I don't know that we had any
7 witness say that exact thing at all, but they definitely --
8 the witnesses we talked to related to the community had the
9 belief that Darryl Hunt was being wrongfully accused.

10 **MR. BRITT:** Thank you.

11 **MS. SMITH:** Anything else?

12 Q. Ms. Tanner, we also discussed the Sykes Committee
13 Report in the commission brief.

14 In that report, we learned that some of the police
15 officers involved in the Sykes case were also involved in
16 the Wilson and Bryson cases.

17 During the Commission's investigation, was any
18 additional information gathered from the Sykes case that is
19 relevant to the investigation in these cases?

20 A. Yes. The Wake Forest Law Library Collection, as
21 we previously discussed, contained more documents really
22 related to the Sykes case as well as the Wilson case.

23 Several of the documents provided some specific
24 information related to Wilson. Those were the 2008
25 assessment of the Winston-Salem Criminal Investigative

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1 Division by Risk Management Associates Incorporated, the
2 Merritt Williams voir dire testimony from the 1990 Sykes
3 retrial, and a March 1993 affidavit from Merritt Williams
4 regarding Johnny Gray.

5 Q. Can you explain the 2008 assessment of the WSPD
6 Criminal Investigation Division.

7 A. Yes. So I am going to back up a little bit on the
8 timeline here.

9 Q. Okay.

10 A. So -- and it's on your timeline, but in 2004,
11 Mr. Hunt is exonerated in the Sykes case. There is a Sykes
12 Committee Report from February 2007. So Winston-Salem
13 created, like, a committee to kind of look at what happened
14 in the Sykes case, and it recommended an independent review
15 of the criminal investigation division, and that is this
16 2008 assessment that we're looking at from 2007/2008 of the
17 criminal investigation division.

18 So that was done kind of at the recommendation of
19 that committee.

20 It was to be an independent review of the
21 practices and procedures of the criminal investigation
22 division of the Winston-Salem Police Department.

23 **MS. SMITH:** Commissioners, that was Handout
24 31 in your notebooks that was provided to you prior to the
25 hearing and you've already had an opportunity to review

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1 that.

2 **MS. SMITH:** Do you-all have any questions
3 about that assessment?

4 **MR. PERRY:** Are you going to question her
5 about the assessment?

6 **MS. SMITH:** I am not. If you have questions
7 about it, we'll try to answer them.

8 **MR. PERRY:** It's my understanding that they
9 came to two conclusions: They didn't have enough money, the
10 WSPD, and not enough training.

11 Did they dig any deeper than that?

12 **THE WITNESS:** The conclusions that they have
13 are the only ones that we know about.

14 **MR. PERRY:** Are you aware of any predicate
15 allegations along the lines of Mr. Britt's comment about
16 misconduct due to prejudice of the CID?

17 **THE WITNESS:** Due specifically to prejudice?
18 Like allegations -- let me make it clear. Allegations in
19 this report related specifically to prejudice from RMA?

20 **MR. PERRY:** Any allegations like that to
21 prompt this report? I don't see anything like that in the
22 report of RMA.

23 But there must've been something more than
24 money and training that prompted the report four years
25 later.

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1 **THE WITNESS:** So there is nothing in RMA as
2 far as prejudice that I read either in there.

3 I think there were -- and I would have to go
4 back and I would want to go back and look at the Deborah
5 Sykes Committee Report because I think there was some
6 questions in there possibly. So I don't want to speak to
7 that. And the Deborah Sykes Committee Report is what came
8 out and said "Go do this other research."

9 **MR. PERRY:** Right. That would be important
10 to me.

11 **THE WITNESS:** Okay. I don't want to speak to
12 that without looking back at the exact report myself.

13 **MR. PERRY:** May I continue?

14 **JUDGE LOCK:** Yes, sir. Of course.

15 **MR. PERRY:** Did the RMA report have much
16 effect to your knowledge?

17 Were there any dismissals or management
18 movement or anything like that?

19 **THE WITNESS:** I am not aware of any
20 dismissals.

21 As far as the specific impact that it had on
22 WSPD after the fact, I couldn't speak to that.

23 **JUDGE LOCK:** Sheriff?

24 **SHERIFF FRYE:** Prior to this report, how long
25 was Winston-Salem Police Department CALEA accredited prior

Testimony by Beth Tanner

1 to -- when did they receive their CALEA accreditation?

2 **THE WITNESS:** I don't have that answer but I
3 can get it for you.

4 (Discussion off the record.)

5 **SHERIFF FRYE:** Do you know about CALEA
6 standards?

7 **THE WITNESS:** I know generally but I would
8 have to go back and see --

9 **SHERIFF FRYE:** Is that not considered the
10 gold standard for police departments and law enforcement to
11 be accredited by?

12 **THE WITNESS:** I am an attorney. I have never
13 been a law enforcement officer so I couldn't speak to what
14 the gold standard would be.

15 **JUDGE LOCK:** Commissioner Glazier.

16 **MR. GLAZIER:** Just on this topic -- and I'm
17 not asking for any detail, I'm just asking generally.

18 On all of the officers who were involved in
19 the Wilson and Bryson cases that remain available, was there
20 any request made to review any of their personnel records?

21 **THE WITNESS:** So we did not make that
22 request. We -- I think the committee -- and I would go back
23 and look at this -- I think the committee looked at some
24 personnel items.

25 There is indication in our file that one of

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1 the officers had a personnel action. It was Teresa Hicks, I
2 believe, but it was not related to, like, her
3 investigative --

4 **MR. GLAZIER:** Follow-up, please?

5 **JUDGE LOCK:** Yes.

6 **THE WITNESS:** -- procedures.

7 **MR. GLAZIER:** When you said "the committee,"
8 are you talking about the assessment committee?

9 **THE WITNESS:** Yes. The Sykes Review
10 Committee I think looked at the personnel records. I would
11 like to go back and double-check that but ...

12 **MR. GLAZIER:** Let me ask a different
13 question.

14 Is there any information that you have
15 received either anecdotally or in some document that would
16 suggest or that we know of that indicates that any of the
17 officers involved in any of these cases -- other than Hicks
18 that you mentioned -- had charges filed, supported and/or
19 charges substantiated, recognizing that is two very
20 different things, with respect to their investigation of
21 cases and either any inadequate inefficiencies with regard
22 to their investigation of cases?

23 **THE WITNESS:** We are not aware from any of
24 the documentation we have or the interviews we've done of
25 any personnel action based on allegations made or

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1 substantiated as to any of the officers that investigated
2 the Wilson or the Bryson cases.

3 **MR. GLAZIER:** Thank you.

4 **MR. PERRY:** Do we have the Sykes results?

5 **THE WITNESS:** The committee report, you mean?

6 **MR. PERRY:** Yes.

7 **THE WITNESS:** We put that in the brief, like,
8 the link in the brief. It's hundreds of pages, and we made
9 some recommendations as to what parts you should focus on in
10 the brief.

11 We can get you the page of the brief shortly,
12 where that is.

13 **MR. PERRY:** I don't think that I've read it,
14 quite frankly.

15 **THE WITNESS:** There's always tonight.

16 **MR. PERRY:** But anything that stands out in
17 your mind about justifying the RMA report? I mean, does RMA
18 satisfy questions of Sykes?

19 **THE WITNESS:** So I think the Sykes Committee
20 wanted this -- I think it satisfies the request from the
21 Sykes Committee that an independent group to come in and do
22 a full review of the police department.

23 **MR. PERRY:** That was open-ended in the Sykes
24 request; is that right?

25 **THE WITNESS:** Right. So they wanted an

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1 independent group to come in and do a review, not just to
2 have, like, an internal review. They wanted, like, an
3 independent group from the outside to come in and do a
4 review of this particular division.

5 **MR. BOSWELL:** Is there anything in any of the
6 independent review, the Sykes Review, that indicated that
7 there was any police misconduct relative to the Bryson case
8 or the Wilson case?

9 **THE WITNESS:** I don't remember any specific
10 discussion by RMA to those two cases.

11 **MR. BOSWELL:** How about the Sykes case?

12 **THE WITNESS:** No. This was, like, a general
13 review of the practices.

14 **MR. BOSWELL:** So there wasn't anything that
15 said, "And, by the way, they manufactured evidence in the
16 Wilson case or the Bryson case"?

17 **THE WITNESS:** Right. These were general
18 recommendations about how to improve the investigative
19 division overall.

20 **MR. BOSWELL:** Okay.

21 **MR. PERRY:** It seems to me that the RMA is
22 worth comment, it seems to me. Comments in there about the
23 reputation and the substantiated allegations that
24 investigators rushed to judgment, they didn't document
25 anything until someone was arrested -- that kind of thing.

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1 I don't think we should take those findings
2 lightly even though I find RMA recommendations rather
3 superficial. But the ones that are made are significant, it
4 seems to me.

5 Are we done with RMA for the purposes of this
6 hearing?

7 **THE WITNESS:** So I'm not sure what you're
8 asking me, but as far as what we provided to you is just the
9 full report. As far as what an individual commissioner
10 might take from that report, I don't know that we could
11 make -- have an opinion about how you might consider it.

12 We found that this was a report that came
13 from a time period when both the Wilson and Bryson cases
14 were happening and it came from a committee report involving
15 a case that involved some similar codefendants and officers;
16 so it was -- we believed it was relevant.

17 But as to what weight or how you consider
18 that, that would be up to an individual commissioner.

19 Q. Ms. Tanner, Handout 31 -- that assessment from
20 RMA -- also references the Calvin Michael Smith case and
21 another committee that was formed to review that case.

22 A. Yes.

23 Q. Was there any information from that committee that
24 provides further insight into police practices during this
25 time period?

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1 A. Yes.

2 The Calvin Michael Smith case, just to give you
3 guys a date on that, was actually in the 1990s. The actual
4 crime was in December 1995.

5 While we were investigating this case, we just
6 received an e-mail from Mr. Rabil with a link to this
7 committee report, and it directed us to specific pages of
8 this report.

9 This Calvin Michael Smith Report generally
10 indicated that, in that case, there were witnesses who later
11 recanted, and those witnesses made some allegations related
12 to police practices in obtaining their original statements
13 in the Calvin Michael Smith case.

14 We did ask detectives when we interviewed them --
15 the detectives who did the 1986 reinvestigation of the
16 Wilson case. We asked those detectives whether they
17 recalled seeing or participating in any of the actions
18 alleged in this Calvin Michael Smith Report while they were
19 investigating the Wilson case. Each detective stated that
20 they were not aware of anything like that happening in the
21 Wilson case.

22 **MS. SMITH:** Commissioners, Handout 32 is
23 pages 13 through 18 of that Calvin Michael Smith or Silk
24 Plant Forest, as the case is known, Committee Report.
25 You-all were provided that prior to the hearing and have

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1 already had an opportunity to review it.

2 If you have any additional questions, now
3 would be an appropriate time.

4 **JUDGE LOCK:** Yes, sir.

5 **MR. GLAZIER:** I do have one question. And I
6 apologize, it's just asking for additional information for
7 my brain that can't remember it all.

8 On page 14 of that report -- so the second
9 page of the exhibit, in paragraph -- the second full
10 paragraph, they are quoting or talking about Professor James
11 Coleman.

12 And it says that in his view "it is likely
13 that some of the testimony given by some of the witnesses in
14 this case was concocted by the investigators themselves."

15 What was the full context of that statement?
16 Who was -- was there any more detail about what
17 investigators he thought were doing that?

18 **THE WITNESS:** I don't have any more right in
19 front of me. We can pull the Calvin Michael Smith thing and
20 see if we can find his actual full testimony.

21 **MR. GLAZIER:** I'd just be curious. I don't
22 remember being able to see that myself and I'm probably just
23 missing it.

24 **THE WITNESS:** Yes, sir.

25 **MR. EDWARDS:** It's also his opinion.

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1 **MR. GLAZIER:** Yeah. I'm just trying to
2 figure out what he based it on.

3 **THE WITNESS:** We can see if we can find the
4 full testimony of Mr. Coleman.

5 **MR. GLAZIER:** Thanks.

6 **MS. SMITH:** Any further questions?

7 (No response.)

8 **SHERIFF FRYE:** I found the answer to my
9 question. 1997.

10 **MS. SMITH:** Okay. WSPD was CALEA accredited
11 in 1997?

12 Okay. I can take that one off then.

13 (Discussion off the record.)

14 Q. I am going to turn your attention now, Ms. Tanner,
15 to Merritt Williams' voir dire testimony from the 1990 Sykes
16 retrial.

17 Can you explain how Merritt Williams came to
18 testify in the Sykes case.

19 A. Yes.

20 The State proposed Merritt Williams as a witness
21 in the Sykes -- this is the Sykes retrial of Darryl Hunt,
22 which was in March 1991. There was an objection from the
23 defense, and this ultimately resulted in voir dire of
24 Williams for the Court to hear his proposed testimony.

25 Though we do not have the portion of the

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1 transcript where the judge ultimately rules on whether to
2 receive Merritt Williams as a witness at trial, the index to
3 the trial transcripts only lists him in the voir dire; so it
4 appears that the judge ruled against receiving his testimony
5 before the jury.

6 Q. And tell us what you know about the 1993 written
7 statement from Merritt Williams related to Johnny Gray.

8 A. So we received this document after we interviewed
9 Mr. Williams; so we do not have any information from him
10 about why he wrote this document or why this document
11 existed. He signed it. I'm sorry.

12 We reached back out to Mark Rabil on May 22, 2019,
13 about this document. It came from his group of documents,
14 and he referred us to Richard McGough. We then spoke to
15 Mr. McGough that same day. He recalled that this affidavit
16 was actually drafted by him in preparation for the 1993 MAR
17 in the Sykes case.

18 He said that he rarely handwrote affidavits but
19 that this was his handwriting and he had done so in this
20 case. He recalled that, in the 1993 MAR in the Sykes case,
21 there were several issues related to witnesses police had
22 intimidated or witnesses where police had tried to turn
23 around testimony or statements that were favorable to the
24 defense.

25 He also recalled that a major issue in this MAR

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1 were multiple *Brady* violations. He specifically remembered
2 Hicks and Weavil as being the officers that were involved
3 related to the MAR.

4 He stated that one of the key issues with this
5 affidavit that Mr. Williams signed was Williams' assertion
6 that Officer Teresa Hicks had intercepted a letter from
7 Johnny Gray because there were questions essentially about
8 whether these letters that Officer Hicks has intercepted had
9 not been turned over to the defense.

10 **MS. SMITH:** Commissioners, that is Handout 33
11 and 34 in your notebooks.

12 33 is the voir dire testimony of Merritt
13 Williams from the 1990 Sykes trial and 34 is the 1993
14 written statement of Merritt Williams related to Johnny
15 Gray. You-all received those prior to the hearing to review
16 but you may take a moment to review them now if you haven't
17 done so and need to refresh.

18 **MR. BRITT:** Can you clarify something?
19 Handout 34, the affidavit -- it was for a
20 Hunt MAR in the Sykes case?

21 **THE WITNESS:** In the Sykes case. That's
22 right.

23 **MR. BRITT:** Thank you.

24 **THE WITNESS:** Yes, sir.

25 Q. Ms. Tanner, did you ever confirm with the

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1 Department of Public Safety whether Mr. Gray and
2 Mr. Williams were housed together at NC DPS as alleged in
3 the affidavit between 1987 and 1982?

4 A. Yes. As Handout 4 provides, Mr. Williams was
5 housed at Central Prison from 1988 to 1992.

6 We confirmed with NC DPS through the General
7 Counsel's Office that Johnny Gray McConnell was housed at
8 Central Prison from 5/27/1988 to 9/12/1990 and then again
9 from 10/11/1990 to 5/2/1994.

10 Q. Do you have any additional understanding of how
11 Mr. Williams was connected if at all to the Sykes case?

12 A. Documents from the Sykes Committee Report as well
13 as the SBI file in the Sykes case indicate that law
14 enforcement began including Merritt Williams' photograph in
15 lineups for the Sykes case in 1986.

16 In addition, Merritt Williams provided in an
17 affidavit which is on pages 425 to 428 of your briefs that
18 Detective Spoon talks to him about the Sykes case and
19 provides -- and he provides some information in that case.

20 Q. Did the staff ask Detective Spoon about the
21 affidavit?

22 A. Yes. Detective Spoon read the first three
23 paragraphs of the affidavit which reference him interacting
24 with Williams. He did not recall Mary Smith being an
25 informant and did not recall asking Williams about the Sykes

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1 case while he was investigating the Smith case.

2 Ms. Smith is the victim of the manslaughter.

3 Q. Did he say anything else?

4 A. Oh, I'm sorry.

5 Yes. He stated that while he was working on the
6 reinvestigation of the Sykes case, it was his only
7 assignment. Detective Spoon recalled speaking to Mattie Mae
8 Davis about the Mary Smith case but did not recall bringing
9 up the Sykes case with her.

10 Regarding the third paragraph of the affidavit
11 where Mr. Williams says that Detective Spoon and an FBI
12 agent came to talk to him in jail about Mary Smith giving
13 information about the death of Deborah Sykes, Detective
14 Spoon stated that he did not recall but the presence of an
15 SBI agent implies that it was part of the Sykes
16 reinvestigation.

17 Detective Spoon stated that he did not see
18 anything about -- when he checked his own documentation --
19 I'm sorry. He stated that he did not see anything about it
20 when he checked his own documentation but he suggested that
21 we check the SBI file because, in his words, "They didn't
22 walk into a building without putting it down on a piece of
23 paper."

24 Q. And did the Commission check with the SBI?

25 A. We did. There was no report related to that

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1 interview that could be located. The only time that
2 Williams' name appears is when he is used in a lineup in the
3 Sykes case.

4 Q. But the SBI did maintain a file in the Sykes case?

5 A. Yes.

6 Q. What did Detective Spoon say about Merritt
7 Williams' claim that Detective Spoon had indicated they
8 could not help Williams since he did not have information
9 about the Sykes case?

10 A. Although Detective Spoon did not specifically
11 recall this conversation, he stated that was a typical
12 implication and that Williams would've had reason to believe
13 he could help himself on the Mary Smith case if he had
14 information to provide about another case.

15 Q. Did Detective Spoon have anything else to say
16 related to the Sykes case?

17 A. We asked him what influenced his decision to
18 ultimately agree to be interviewed for the City Manager's
19 Sykes Committee when the other retired detectives had
20 declined. He stated that after his involvement in the
21 reinvestigation of the case, he was not convinced that
22 Mr. Hunt was guilty. He stated that he was bothered about
23 the case and described a belief among the police that a man
24 named Terry Thomas was the one who killed Deborah Sykes.

25 Detective Spoon stated that Thomas was in jail at

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1 the time of the homicide but that if he did not have jail as
2 an alibi, he would have, in Detective Spoon's words, "been
3 the next Darryl Hunt."

4 Detective Spoon clarified that he meant Mr. Thomas
5 would have been charged with murdering Ms. Sykes.

6 Q. Is there any other information from the
7 Commission's investigation about Mr. Williams inserting
8 himself in cases?

9 A. Previously there was testimony by Catee about
10 Merritt Williams providing information about the Wilson,
11 Bryson, and Witherspoon cases. In addition, we have the
12 affidavit drafted by Attorney McGough that indicates that
13 Merritt Williams provided information in the Sykes case.

14 Mr. Williams has also told commission staff that
15 he was inserting himself in these cases in order to get out
16 of the charges in the Mary Smith case. He could not explain
17 why he thought putting himself into other murders would help
18 him in the case.

19 When asked why he thought he could get help in the
20 Mary Smith case, he said the police told him it could help
21 him down the road if he told the truth.

22 No one promised him anything or made him any
23 offers. He did recall Detective Weavil telling him he
24 needed to help himself but Weavil did not reference any
25 specific cases.

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1 Q. Did Mr. Williams have any explanation for how he
2 would have information about cases if he was not involved in
3 them?

4 A. Mr. Williams stated that he kept up with
5 information in the news, specifically newspapers, and most
6 often the *Chronicle*. He did not watch TV much. He
7 specifically recalled hearing on the radio that someone had
8 been seen jumping into the passenger side of Bryson's car on
9 the night of the murder.

10 He also specifically remembered seeing an article
11 in jail that contained information about both the Bryson and
12 Wilson cases.

13 He also heard information from people around the
14 neighborhood. He said that there were a lot of things going
15 on in the news related to Darryl Hunt at the time and he was
16 able to pick up on "little things" he could use when police
17 questioned him.

18 Q. And were there any media articles that talked
19 about this information?

20 A. Yes. There were media articles and CrimeStoppers
21 TV ads that were included in your brief. You may recall an
22 article provided on page 1409 to 1410 of the commission
23 brief dated 4/3/1986 that provides information on all four
24 of the cases.

25 Q. Were there any other investigative avenues that

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1 provided additional information regarding that particular
2 time period?

3 A. Yes.

4 Q. We had heard from a few witnesses about Johnny
5 Gray's civil suit against the Winston-Salem Police
6 Department. We found the suit filed in federal court and
7 researched it. His suit was dismissed on summary judgment.

8 Calvin Michael Smith was also mentioned as a case
9 that happened during the time period which some witnesses
10 indicated involved police misconduct.

11 The crime for which Mr. Smith was convicted was in
12 December 1995. He sought several postconviction motions and
13 an appeal. When we researched that case, the only overlap
14 was that Detective Weavil was an investigator on that case.
15 We found several newspaper articles but also found that the
16 City of Winston-Salem, as you see, created another review
17 committee regarding this case in October 2007. That report
18 also made several recommendations regarding WSPD's practices
19 when it was published in July 2009.

20 **MS. SMITH:** Any questions from commissioners
21 about any of this information?

22 **MR. BOSWELL:** We had a Crimestopper video and
23 I reviewed it.

24 When did that air? And what would've been in
25 there that Mr. Williams might have seen that would've shown

Testimony by Beth Tanner

1 him information that he could use to the police that he
2 might not have gotten any other way?

3 **THE WITNESS:** So Mr. Williams said he did not
4 watch TV. So to the extent that -- I think that was a spot
5 on TV. So he said he didn't. He did say he heard it on the
6 radio -- heard something on the radio about the case.

7 And let me make sure where he got the piece
8 about -- where he said he got the piece about jumping in the
9 car.

10 **MR. BOSWELL:** Yeah. I saw that was on the
11 radio.

12 What did he -- did the CrimeStoppers thing
13 show the toboggan?

14 **THE WITNESS:** I do not recall that. I would
15 like to double-check that.

16 No.

17 **MR. BOSWELL:** It didn't? I couldn't
18 remember. When I was watching it, I wasn't sure why I was
19 watching so I wasn't sure what to look for. So ...

20 **MR. PERRY:** There's always tonight.

21 **THE WITNESS:** Also true, Dr. Perry.

22 (Discussion off the record.)

23 **MR. BRITT:** One of you testified that there
24 was a report that a police sergeant was reprimanded for
25 releasing too much information to the media.

Testimony by Catherine Matoian

1 **THE WITNESS:** Can you ask that again?

2 **MR. BRITT:** One of you -- either Catherine or
3 you testified earlier that there was a police sergeant who
4 was reprimanded for releasing too much information to the
5 media.

6 **THE WITNESS:** Yes. Catherine testified about
7 that.

8 **MR. BRITT:** Are you aware of that? Or do we
9 need to go back at some point?

10 **THE WITNESS:** I would suggest going back to
11 Catherine, for sure.

12 **MR. BRITT:** I would like to be able to do
13 that because it ties in to what we're talking about right
14 now.

15 **MS. SMITH:** If you-all don't have any
16 additional questions for Ms. Tanner, I will recall
17 Ms. Matoian to answer any outstanding questions.

18 (Witness stands down, 3:32 p.m.)

19 (Catherine Matoian recalled, 3:32 p.m.)

20 **MR. BRITT:** Ms. Matoian, you testified
21 earlier that there was a police sergeant who was reprimanded
22 for providing too much information to the media.

23 **THE WITNESS:** That's correct.

24 Retired Assistant Chief Mike McCoy told us
25 that during our deposition of him. He said that he had been

Testimony by Catherine Matoian

1 reprimanded for providing too much information to the media
2 on the night of the crime but he couldn't remember anything
3 particular to the substance of what that information was.

4 **MR. BRITT:** Okay. So he doesn't recall what
5 he said. But is there a record somewhere?

6 **THE WITNESS:** There is no record in the file
7 of that reprimand happening.

8 **MR. BRITT:** That would have been the Bryson
9 murder?

10 **THE WITNESS:** That's correct.

11 **MS. SMITH:** Ms. Matoian also has a bit of
12 follow-up information on some questions that were asked of
13 Ms. Tanner earlier. So I'm going to allow her to speak to
14 those things related to the Sykes Report.

15 **THE WITNESS:** Yes.

16 Regarding personnel files, the Sykes Report
17 indicates that they reviewed personnel files. Those files
18 are not enumerated as to whose they reviewed and they do not
19 appear in the appendices that are available to the public
20 related to the SARC.

21 There were some closed-minute sessions where
22 the investigators testified about -- or addressed the
23 committee about their interviews with law enforcement, and
24 those were closed sessions due to confidentiality concerns
25 with personnel matters.

Testimony by Catherine Matoian

1 A few detectives related to the Wilson case
2 are mentioned in that, and they do discuss Detective
3 Spillman's notes from the Wilson trial, but they don't get
4 into any discussion of what was in the personnel files of
5 any of those individuals. But those closed minutes were
6 made available to the public in one of the appendices.

7 I believe there was also a question as to
8 what the Sykes Administrative Review Committee had to say
9 about the Wilson case. The Bryson case is mentioned very
10 sparsely in the Sykes Administrative Review Committee
11 Report. The Wilson case is mentioned more frequently.

12 In their Scope of Report section -- so on
13 page 86 of the report -- there is a section related to their
14 review of the Arthur Wilson homicide investigation. It's
15 just that one page on page 86 of the report, if the
16 commissioners would like to review that on their own.

17 And I believe there was also a question as to
18 anything that the Sykes Committee Report had to say about
19 racism or racial bias. On page 76, which is also in the
20 Scope of Report section, there are some questions and some
21 discussion of the different treatment of black witnesses
22 versus white witnesses. That is on page 76.

23 On page 101 of the recommendation -- or page
24 101 of the report which is in the Recommendations section,
25 there is a Section 6 labeled "Diversity." That's short. I

Testimony by Catherine Matoian

1 can read it, if the commissioners would like.

2 **MR. PERRY:** It's entitled what?

3 **THE WITNESS:** It's labeled "Diversity." And
4 it's in the Recommendations section.

5 **MS. SMITH:** Commissioners, that Sykes
6 Committee Report is linked in your brief on page 1544. So
7 if you want to go back and look at any of those things that
8 Ms. Matoian has testified about, you will be able to do
9 that.

10 Any further questions on the Sykes Committee
11 Report before she moves on to some other questions you-all
12 had about other matters?

13 (No response.)

14 **MS. SMITH:** Go ahead.

15 **THE WITNESS:** The CrimeStoppers video in the
16 Bryson case, that, again, does not mention the toboggan. It
17 appeared that the purpose of that CrimeStoppers video was to
18 locate a third vehicle that was on the street that night
19 because the Harpers said that the victim's car had come into
20 the path of an ongoing vehicle, and so that new spot and
21 another newspaper CrimeStoppers article were both looking
22 for the driver of that unknown vehicle.

23 It appeared that that aired on TV on
24 January 13, 1986, and was set to air again on March 3rd,
25 1986.

Testimony by Beth Tanner

1 **MS. SMITH:** I'm going to allow Ms. Matoian to
2 step down.

3 (Witness stands down, 3:38 p.m.)

4 (Beth Tanner recalled.)

5 **MS. SMITH:** And Ms. Tanner has one more
6 follow-up to a question that was asked about the RMA report.

7 BY MS. SMITH: (3:38 p.m.)

8 Q. Is that correct?

9 A. The Silk Plant Forest Review Committee.

10 Q. Silk Plant Forest Review Committee.

11 A. So we do not have, like, a full testimony related
12 to Mr. Coleman though it says the committee did hear
13 testimony from him. We weren't able to find it.

14 It's mentioned a few times in the full report so
15 we have that. It says that the Duke Innocence Project,
16 which investigates cases involving possible wrongful
17 convictions, took up the Silk Plant Forest case and
18 participated in an effort to overturn Mr. Smith's
19 conviction.

20 It also says that the Committee heard testimony
21 from Professor James Coleman, the director of the Duke
22 Innocence Project. Professor Coleman was highly critical of
23 various aspects of the police investigation and he was
24 critical as well of the district attorney's office which, in
25 his view, failed to cooperate fully in reviewing the case

Testimony by Beth Tanner

1 after Smith's conviction.

2 The Committee also heard from former Chief
3 Patricia Norris, present Chief Scott Cunningham, and other
4 members of the Winston-Salem Police Department who made
5 presentations concerning general department policies and
6 particular investigative techniques, such as polygraph
7 exams.

8 This is the part I think we talked about, is that
9 Professor James Coleman, the director of the Duke Innocence
10 Project, who is intimately familiar with the record in this
11 case, has advised the Committee in a public hearing that, in
12 his view, it is likely that some of the testimony given by
13 some of the witnesses in this case, particularly Eugene
14 Littlejohn, was concocted by the investigators themselves.

15 The last place is where there is discussion in the
16 report about Calvin Smith. He says that he was visited and
17 interviewed twice by Attorney Clifford Britt while he was in
18 the Forsyth County jail. He said his then attorney, William
19 Speaks, told him that Attorney Britt would be visiting him.

20 Lastly, Mr. Smith said that he would like to take
21 a polygraph exam but Mr. James Coleman advised him against
22 it at this time.

23 So that's where Mr. Coleman is mentioned in the
24 report but we don't have the full testimony.

25 **MR. GLAZIER:** Thank you.

Testimony by Brian Ziegler

1 **THE WITNESS:** Yes, sir.

2 **MS. SMITH:** Any other questions?

3 **MR. BOSWELL:** The video we had had a
4 Crimestopper part and then there was video of, it looked
5 like, just maybe from the police, of the crime scene or
6 something.

7 **THE WITNESS:** Yes.

8 **MR. BOSWELL:** Is that what that is?

9 **THE WITNESS:** Oh, yes. Yes. In the brief.
10 Yes.

11 **MR. BOSWELL:** It's just somebody was
12 videotaping the crime scene?

13 **THE WITNESS:** The crime scene.

14 **MR. BOSWELL:** Okay.

15 **MS. SMITH:** Okay. You may step down,
16 Ms. Tanner.

17 **THE WITNESS:** Thank you.

18 (Witness stands down, 3:40 p.m.)

19 **MS. SMITH:** All right.

20 We are now going to turn our attention to the
21 Wilson case. The Commission calls Staff Attorney Brian
22 Ziegler.

23 * * * * *

24 Thereupon, BRIAN ZIEGLER, a witness having been called by
25 the Commission, was sworn and testified as follows:

Testimony by Brian Ziegler

1 **MS. SMITH:** Commissioners, Detectives Robert
2 Spillman, Riley Spoon, Randy Weavil, Michael McCoy, Teresa
3 Hicks, Otis Belton, and Mike Wilkins are all under telephone
4 standby and will be available by phone on Friday if you-all
5 have additional questions for them at the conclusion of
6 Mr. Ziegler's testimony.

7 If you'll just let me know at the conclusion
8 of his testimony whether you want to hear from them, we will
9 make sure that they are available; otherwise, I'll ask the
10 judge to release them at the conclusion of this.

11 EXAMINATION

12 BY MS. SMITH: (3:42 p.m.)

13 Q. Did the Commission interview law enforcement
14 related to the Wilson case?

15 A. Yes. We deposed several of the former law
16 enforcement officers who worked on this case. We
17 interviewed others related to the crime scene, the 1983
18 investigation, and the 1986 investigation. And all of those
19 interviews and depositions were recorded and transcribed.

20 Q. Who did you speak with about the crime scene?

21 A. We talked with retired Officer Sandra Boland on
22 April 9 of this year. She was one of the first responders
23 to the scene. She had very little memory of the case prior
24 to reviewing her report other than she remembered
25 Mr. Williams was convicted of a homicide and that she was in

Testimony by Brian Ziegler

1 training at the time she went to the scene.

2 Officer Boland did review her report. She
3 described being zeroed in on her particular assigned tasks
4 and mentioned helping to take measurements but did not have
5 much memory of what else happened at the scene.

6 She could not recall whether there were any
7 onlookers standing around or talking to any of the officers
8 and she did not recall seeing any objects in the street but
9 she did say that she would have documented in her report any
10 object that appeared to be connected to the crime.

11 Q. Did you talk to any other law enforcement officers
12 about the crime scene?

13 A. We did.

14 We spoke with Officer Stephen Hairston on May 8,
15 2019. His report in the file documents canvassing of the
16 1700 block of Claremont on the night of the crime. The
17 neighbors that he spoke with that night did not have any
18 information to provide.

19 In his interview with the Commission, Officer
20 Hairston remembered bystanders around the crime scene. He
21 stated that he went inside the drink house and spoke to the
22 operator. His report indicates that he talked to Ezelle
23 Clowers, who said the victim had been drinking coffee in the
24 home. And his memory at the time of our interview was that
25 he saw Sammy Mitchell inside the drink house that night but

Testimony by Brian Ziegler

1 he could not recall whether he spoke with him.

2 Q. Is there any documentation in the report that
3 Officer Hairston saw Sammy Mitchell that night?

4 A. No. There is no documentation that he spoke with
5 or saw anyone at the drink house other than Mr. Ezelle
6 Clowers.

7 Q. What else did Officer Hairston say?

8 A. He didn't recall seeing any objects around the
9 victim that could've been used in the crime, and he would've
10 noted that in his report. He said that he did remember
11 hearing a rumor later on or maybe remembering from the
12 trials that Sammy Mitchell and Darryl Hunt were involved but
13 he said that was not something he heard from the street
14 because he didn't get any names from the street.

15 Q. Has the Commission spoken with any other law
16 enforcement officers that were at the crime scene on the
17 night of the crime?

18 A. Yes.

19 As Ms. Matoian testified, we deposed retired
20 Assistant Chief of Police Michael McCoy. He was at the
21 scene that night. We refreshed him with his testimony from
22 Sammy Mitchell's second trial and he did remember seeing
23 people around the scene. He stated that if an officer
24 talked with them, it should have been documented in the
25 report.

Testimony by Brian Ziegler

1 The only reports that we have of any interviews
2 from that night are from Linda Walser, Ronald McGee, Ezelle
3 Clowers, and the certain residents of the 1700 block.

4 Q. Did you speak with any detectives about the 1983
5 investigation?

6 A. We did.

7 Detective Wilkins was the original lead detective.
8 He was deposed on April 12, 2019. Detective Wilkins
9 remembered that Sammy Mitchell and Darryl Hunt were involved
10 in the case but he did not know about Merritt Williams until
11 the Commission contacted him.

12 He recalled not being able to solve the case and
13 he did not recall whether the new detectives in 1986 spoke
14 to him when it was reopened.

15 He did remember going to the crime scene and
16 finding the victim "in the position where he was killed."

17 He recalled going to the autopsy and he
18 described -- this is Detective Wilkins -- described the
19 victim's wound as "unusual," with lateral lines he called
20 striations.

21 Detective Wilkins described conducting
22 neighborhood canvasses and interviews with people in the
23 area. These were not documented in any reports. He stated
24 that he was sure he did these things and that he must've
25 been lax on documentation.

Testimony by Brian Ziegler

1 He did recall showing witnesses Linda Walser and
2 Ronald McGee photographs that night, the night of the crime,
3 that came from the ID section and also later showing them
4 photographs of the people that were named in the
5 CrimeStoppers calls. And he recalled that neither
6 Ms. Walser nor Mr. McGee ever made any identifications.

7 Q. Did he recall anything else?

8 A. He did.

9 During the 1983 investigation, Detective Wilkins
10 could not recall whether he heard Sammy Mitchell, Darryl
11 Hunt, or Merritt Williams Drayton's names come up, but he
12 said that it would be in one of his reports if he had heard
13 their names. It was not in any report that the Commission
14 received in the file other than a CrimeStoppers report
15 naming "Samuel Mitchell, Richie Davis, and a black male
16 named Darryl."

17 And at the time Detective Wilkins was working the
18 case, he was very familiar with Mr. Mitchell due to his
19 reputation as a frequent criminal who would get in fights
20 and terrorize the neighborhood.

21 Detective Wilkins used the word "terrorize."

22 Wilkins heard a rumor that Mitchell used sticks,
23 clubs, or golf clubs in his fights but in his experience,
24 Mr. Mitchell always would use his hands.

25 After looking at the CrimeStoppers report that

Testimony by Brian Ziegler

1 named Mitchell, Detective Wilkins recalled showing his
2 picture -- that is Mr. Mitchell's picture -- to Walser and
3 McGee, which they did not identify. And he did not know
4 Williams and did not think he knew Darryl Hunt at the time
5 of the crime.

6 He also did not recall James Ford and did not
7 recall Detective Belton ever talking to him about
8 information from James Ford.

9 Detective Wilkins closed the case as inactive in
10 December of 1983.

11 After our interview, we were able to -- or I
12 should say after our deposition, we were able to locate a
13 transcript from Sammy Mitchell's second trial in the Wilson
14 case which contained testimony from Detective Wilkins. And
15 in his testimony, he said that he did not recall any
16 conversations with Detective Belton but he did get a note
17 card from Belton referencing a subject named Wright --
18 that's W-r-i-g-h-t, like a name. He also remembered going
19 to see Mr. Ford with Detective Belton but that he had to
20 leave on another case and he didn't remember any
21 conversation with him.

22 In that testimony, Detective Wilkins said that he
23 did get a nontestimonial identification order to get a photo
24 of "the Wright subject" -- again, that's spelled
25 W-r-i-g-h-t -- and he showed the picture to Linda Walser and

Testimony by Brian Ziegler

1 Ronald McGee, who did not identify that person. He did not
2 show the photo to Mr. Ford because Ford was "on the run."

3 Q. Can you remind the Commissioners if the name
4 Wright came up in any other context in this case?

5 A. It did.

6 Richard Wright was named in a CrimeStoppers call
7 from 1983.

8 Q. Was Detective Belton interviewed about James Ford?

9 A. He was.

10 We spoke with Detective Belton on April 4, 2019.
11 He remembered talking to James Ford in 1983 and recalled
12 that Ford must have provided good information because he got
13 him out of jail but Detective Belton did not specifically
14 recall whether that information was about the Arthur Wilson
15 case.

16 After that interview, we located the transcripts I
17 mentioned a moment ago which also contained testimony from
18 Detective Belton in which he was called as a defense
19 witness.

20 In his testimony, he said that he did talk with
21 James Ford in 1983. He testified that he went to the jail
22 to talk with Ford about a breaking and entering and Mr. Ford
23 told him he had information related to a murder, that he
24 knew what the perpetrators looked like, and if he got out of
25 jail, he would be able to provide their names.

Testimony by Brian Ziegler

1 Detective Belton further testified that sometime
2 after talking with Mr. Ford in the jail, he brought him to
3 the police department for an interview to further discuss
4 the murder. He could not recall the specifics of that
5 interview but he did talk to his supervisor and Assistant
6 District Attorney Lyle about possibly releasing Ford from
7 jail. At that time, Mr. Ford did give a suspect's name to
8 Detective Belton, and that is the person who is referred to
9 as "the Wright subject," W-r-i-g-h-t.

10 During that testimony from Detective Belton, a
11 note was read into evidence that he had written to Detective
12 Wilkins, who was the lead on the Wilson case. The note was
13 dated October 20, 1983, and it read "Mike, James Ford called
14 and said that the Wright subject lives at 1122, Apartment D,
15 East 19th Street. Ford further advised that he did not have
16 the other suspects' names as of yet but would try to get
17 them to me tonight."

18 **MS. SMITH:** Commissioners, do you have any
19 questions about the 1983 investigation in the Wilson case?
20 That's the original investigation.

21 **MR. BOSWELL:** Whatever happened with
22 Mr. Wright? Did they ever find him? Was he -- do you know?

23 **THE WITNESS:** Based on that information, they
24 got a nontestimonial identification order, took his picture
25 and showed it to the witnesses, who did not identify him in

Testimony by Brian Ziegler

1 1983.

2 He came up again later in 1986, when Mr. Ford
3 came forward, which we will get to, in the 1986
4 investigation.

5 **MR. BOSWELL:** But as of 1983, when they
6 didn't identify him, they dropped him?

7 **THE WITNESS:** That's correct.

8 **MR. BOSWELL:** Okay.

9 **MS. COLBERT:** Can you help me with the dates?
10 So the actual murder occurred of Mr. Wilson
11 in September?

12 **THE WITNESS:** September 17, 1983.

13 **MS. COLBERT:** And then they -- it was then
14 declared unsolved in December of the same year?

15 **THE WITNESS:** Correct.

16 **MS. COLBERT:** And is it -- so it would've
17 been McCoy who did -- who closes out? I mean, who does
18 that? Would it be him in charge of that division? How does
19 that work?

20 **THE WITNESS:** My understanding is that --
21 well, I can tell you there is a report where Detective
22 Wilkins requests that the case be closed. My understanding
23 is that that has to be approved by someone above him.

24 **MS. COLBERT:** Oh.

25 **THE WITNESS:** Sergeant McCoy was not above

Testimony by Brian Ziegler

1 him in 1983, and in his deposition, Sergeant McCoy -- I
2 think he used the word "ridiculous" that the case was closed
3 that quick.

4 **MS. COLBERT:** Do you know who was above him?
5 Any of these other people that's on this list?

6 **THE WITNESS:** I don't recall that person's
7 name. It's not someone on that list, but I'm sure that we
8 can find that information.

9 **MS. SMITH:** Commissioners, more detailed
10 information about James Ford will be provided later in the
11 hearing.

12 Q. Mr. Ziegler, was the case reopened after it was
13 closed in 1983?

14 A. Yes. The Winston-Salem police file indicates that
15 Detective Dorn was assigned to reinvestigate the case on
16 January 6 of 1986.

17 Q. And did the Commission learn why that case was
18 reopened?

19 A. Yes.

20 Retired Assistant Chief McCoy told us in his
21 deposition that he was promoted to sergeant over the crimes
22 against persons division after what he called "problems" in
23 the Deborah Sykes investigation.

24 He said that he couldn't specifically recall what
25 those problems were but they were documented in the city

Testimony by Brian Ziegler

1 manager's report of that case. He said that he thought that
2 the problems in the Sykes investigation were due to a lack
3 of training rather than ill will, but that as a result of
4 the problems, the former supervisor was put back on patrol
5 and McCoy was promoted to supervise the future
6 investigations.

7 Retired Chief McCoy also said that he was
8 instructed to reopen old cases at the time of his promotion
9 and that he drafted a memo to that effect. None of the
10 other officers that we spoke with remembered any official
11 effort to look at the old cases.

12 Q. Did Chief McCoy explain further his oversight of
13 the reinvestigation?

14 A. He did.

15 He said that he would sign off on the supplemental
16 reports that the detectives would write as an approval and
17 he would be kept abreast of what was happening in the
18 investigations but that he would likely not see the written
19 witness statements or the recordings of witness interviews.

20 He also said that the physical tapes of those
21 recorded interviews should've gone into the evidence file
22 but he clarified that was not a policy; that's just the way
23 that he would've done it.

24 **MS. SMITH:** Commissioners, this memo was
25 intended to be included in your brief at page 74 but an

Testimony by Brian Ziegler

1 alternate memo was inadvertently included twice. So Handout
2 35 is that unsolved cases memo. It's just a couple of
3 pages. If you'll take a moment to review it now.

4 **MR. BOSWELL:** Mr. Ziegler, is there a report
5 of unsolved homicides for the Bryson case as well as the
6 Wilson case? I see the one for Wilson in here, but I didn't
7 see one for Bryson.

8 **THE WITNESS:** There is. I believe that was
9 included in the brief. I will tell you a page number in
10 just a second.

11 **MR. BOSWELL:** Okay. That's fine.

12 **MS. SMITH:** That's on page 880 to 881 of the
13 brief.

14 Your Honor, just a matter of logistics, James
15 Ford was subpoenaed for this hearing in case you-all wanted
16 to hear from him. We have left him a message on a voice
17 mail that he is to be available via phone. We have not been
18 able to reach him at all this week via phone. I don't --
19 there's going to be more testimony about him probably
20 tomorrow, but I didn't want to wait until tomorrow in case
21 the commissioners wanted to hear for him and we need to
22 start some other process by which to try to make him
23 available to you-all.

24 So if anyone knows right now that they want
25 to hear from James Ford, we probably need to get that

Testimony by Brian Ziegler

1 process sorted.

2 **JUDGE LOCK:** Physically, where do you believe
3 he is?

4 **MS. SMITH:** He is in Winston-Salem.

5 **JUDGE LOCK:** All right. We can issue a show
6 cause order against him if anyone thinks that they might
7 want to hear from him.

8 **MR. BOSWELL:** Who is it again?

9 **MS. SMITH:** James Ford.

10 He is supposed to be available by phone. He
11 is the individual who, in 1983, may have spoken with -- it
12 appears spoke with Officer Belton indicating he saw the
13 crime and then later came forward in '86 and said that
14 again, testified at one of the trials in Mitchell's --

15 **THE WITNESS:** Both of Sammy Mitchell's
16 trials.

17 **MS. SMITH:** Both of Sammy Mitchell's trials.

18 **SHERIFF FRYE:** Saying that Wright was --

19 **MS. SMITH:** He is the one who identified the
20 "Wright", W-r-i-g-h-t, subject -- the information that
21 Mr. Ziegler just testified about.

22 **JUDGE LOCK:** Do we have any reason to believe
23 his testimony before this Commission would be any different
24 than his testimony at trial?

25 **THE WITNESS:** I interviewed him, which I will

Testimony by Brian Ziegler

1 testify about tomorrow. Other than saying we spoke with him
2 recently, I don't know that I can speak to how he would --
3 what he would say today.

4 **MR. BOSWELL:** Well, does it make sense for us
5 to hear what he said to you so that we can make a decision
6 as to whether we want to hear from him?

7 **JUDGE LOCK:** That's what I was about to ask.

8 **SHERIFF FRYE:** Is it consistent? I mean --

9 **JUDGE LOCK:** Yes. Was his statement to you
10 consistent with his testimony at trial?

11 **THE WITNESS:** There were some differences. I
12 don't want to characterize too much.

13 **JUDGE LOCK:** I understand.

14 **MS. SMITH:** We'll just turn to that section
15 and we'll just take that testimony that Brian would give
16 about Mr. Ford out of order and then you-all can make a
17 decision and then we'll go back to where we were.

18 **JUDGE LOCK:** All right. I think that's
19 reasonable.

20 **MS. SMITH:** That's going to be section 15.

21 **SHERIFF FRYE:** Would that be in any of our
22 notebooks?

23 **MS. SMITH:** It will be on Handouts 59 and 60
24 for this particular section. That's going to be the third
25 notebook.

Testimony by Brian Ziegler

1 (Discussion off the record.)

2 MS. SMITH: 59 is going to be James Ford's
3 criminal record, if you want to go ahead and just take a
4 quick look at that.

5 Commissioners, you've also already received
6 Handout 47, which was the full testimony of James Ford at
7 Sammy Mitchell's second trial in the Wilson case along with
8 a summary of that testimony. That was provided ahead of the
9 hearing; so you've probably already read that.

10 Q. Mr. Ziegler, just remind everybody who James Ford
11 is.

12 A. James Ford was first mentioned in the police file
13 as coming forward at the time of Sammy Mitchell's first
14 trial in September of 1986.

15 He came forward to Larry Little to say that he had
16 witnessed a crime in progress and that Sammy Mitchell and
17 Darryl Hunt were not involved.

18 Q. Mr. Ziegler, we've already heard testimony about
19 what Imam Griggs, Larry Little, Detectives Belton and
20 Wilkins had to say about Mr. Ford both from the Commission's
21 interviews and in transcripts from the defense of Sammy
22 Mitchell's second trial --

23 MS. SMITH: Do any of you need any
24 information, A refresher on what other people have said
25 related to James Ford? We just -- Brian just went through

Testimony by Brian Ziegler

1 that a few moments ago. So ...

2 (No response.)

3 Q. Was there any additional information in the
4 transcripts we collected related to Ford that we've not
5 previously mentioned?

6 A. Yes. There is testimony from Mr. Ford's attorney,
7 B.R. Browder. He represented James Ford on the breaking and
8 entering charge during the time that Mr. Ford provided
9 information on the Wilson case.

10 And Mr. Browder is now deceased.

11 Q. What did Mr. Browder testify to at the trial?

12 A. He testified that he didn't have very much
13 recollection of even representing Mr. Ford but he looked in
14 his file and he had contemporaneous notes from a meeting
15 with Ford indicating that Ford told him about witnessing a
16 murder and being able to identify the people involved.

17 His notes indicated that he talked with Detective
18 Belton and that the assistant district attorney agreed to
19 reduce the bond and that the bond actually was reduced to
20 5,000 unsecured.

21 Q. Did the Commission interview Mr. Ford?

22 A. We did. We interviewed him on April 3, 2019.

23 **MS. SMITH:** And Commissioners, Handout 60 in
24 the hearing handout notebooks are excerpts from the
25 transcript of the Commission's April 3, 2019, interview of

Testimony by Brian Ziegler

1 James Ford.

2 There are references to Exhibit 22, which is
3 a statement from Mr. Ford that is found in your briefs at
4 page 479, and Exhibit 26, which is a map, and that is
5 included at the back of Handout 60.

6 If you'll take some time to review that
7 transcript.

8 Do you have any questions about the interview
9 with James Ford?

10 **MS. COLBERT:** Something he said in the
11 interview about a brick or a rock. Was that -- I didn't see
12 anything that that was located at the scene and they took
13 pictures.

14 **THE WITNESS:** There was no brick or rock
15 recovered.

16 **MS. COLBERT:** Yeah.

17 **MR. GLAZIER:** I have a question, Mr. Chair.

18 **JUDGE LOCK:** Yes, sir.

19 **MR. GLAZIER:** I don't -- in answer to the
20 Court's question at the beginning, I don't have any
21 questions I would ask Mr. Ford, but I am concerned with the
22 precedent of the Commission issuing a subpoena and the
23 witness defying that subpoena, not being available.

24 And I wonder what your thought is on whether
25 the Court ought to issue its order so that there is staff

Testimony by Brian Ziegler

1 present on the record.

2 **JUDGE LOCK:** The subpoena was served on him;
3 is that correct?

4 **MS. SMITH:** Yes. The subpoena was served.

5 **JUDGE LOCK:** I suppose we could go with a
6 material witness order if we need to hear from him.

7 **MS. SMITH:** That's correct.

8 Mr. Ford is a witness that the Commission
9 staff felt like we had asked the questions that we needed to
10 ask of him but wanted to make available to the commissioners
11 in the event that you-all had questions with no thought that
12 you-all definitely would have questions but just that we
13 felt he was someone that probably should be made available.

14 **JUDGE LOCK:** I agree with Commissioner
15 Glazier in that, after reading this interview and reading
16 his testimony, I don't think I need to hear from him.

17 Yes, Ms. Welch.

18 **MS. WELCH:** Have we checked the jail? I
19 mean, this sort of reminds me of court, where people don't
20 show up and --

21 **MS. SMITH:** We will do that now.

22 **MS. WELCH:** It may not be intentional.

23 **MS. SMITH:** I do have just a few follow-up
24 questions of Mr. Ziegler related to some additional
25 interviews we did because of our interview with Mr. Ford. I

Testimony by Brian Ziegler

1 can ask those while we check jail records real quick and
2 then we can readdress that.

3 **JUDGE LOCK:** Let's do that.

4 (Discussion off the record.)

5 Q. Mr. Ziegler, did the Commission speak with anyone
6 else regarding Mr. Ford?

7 A. We did.

8 We interviewed Al Barnhill on April 3, 2019.
9 Mr. Barnhill was not familiar with the name Merritt Williams
10 Drayton although he said he knew a lot of people that went
11 by the name Junior. He stated that he recalled Mr. Ford
12 bringing his name into this case and being taken downtown to
13 be questioned by police.

14 **MS. SMITH:** Commissioners, Handout 61 in your
15 notebooks is the criminal record of Al Barnhill, if you want
16 to take a moment to look at that.

17 Q. Did Mr. Barnhill recall anything about the night
18 of the crime?

19 A. He remembered Mr. Ford, Bobo Lewis, who we know to
20 be Melanie Lewis, and a person named Ulysses Huff coming to
21 his house to buy cocaine. He did not recall Mr. Ford coming
22 alone to buy cocaine earlier in that night.

23 Q. Did you share with Mr. Barnhill the report of his
24 police interview?

25 A. We did.

Testimony by Brian Ziegler

1 **MS. SMITH:** Commissioners, that is on
2 page 487 to 488 of the brief.

3 Q. What did he say?

4 A. He confirmed that the report was accurate. He
5 said that Mr. Ford has never told him anything about Arthur
6 Wilson.

7 Mr. Barnhill stated that although police did not
8 say anything to him about Darryl Hunt or Sammy Mitchell, he
9 felt that the reason they talked to him was related to the
10 Deborah Sykes case because Ford was saying that the Hunt and
11 Mitchell did not kill Arthur Wilson.

12 Q. And did Mr. Barnhill say anything else about
13 Mr. Ford?

14 A. He said that he doesn't know whether Mr. Ford saw
15 the crime, just that Ford never said anything to him about
16 it. He said that Ford was involved with the Black Panthers
17 and that if Ford "can say or do something to help the black
18 race, you know he's going to do it."

19 He also said that he did not think Ford would name
20 other black people in order to help out Mitchell and Hunt.

21 Mr. Barnhill stated that one time he asked James
22 Ford why he brought Barnhill's name into it and Mr. Ford's
23 reply was "politics." Barnhill did not know what Ford meant
24 by that.

25 Q. And who else did the Commission interview in

Testimony by Brian Ziegler

1 relation to Mr. Ford?

2 A. We also interviewed Melanie Lewis on April 3,
3 2019.

4 We located Ms. Lewis at a convenience store on
5 Liberty Avenue and she offered to ride with us to the crime
6 scene which is where the interview mainly took place.

7 Prior to getting in the car, Ms. Lewis threw away
8 a paper bag that contained a can she had been drinking from.

9 **MS. SMITH:** Commissioners, Handout 62 in your
10 hearing handout notebooks is the criminal record of Melanie
11 Lewis. If you'll take a moment to look at that.

12 **MR. GLAZIER:** Just for the record, and I
13 would note, if I'm correct, 28 convictions including most
14 recently last year; is that right?

15 **MR. BRITT:** Of Mrs. Lewis?

16 **MS. SMITH:** That's correct.

17 Q. What did Ms. Lewis remember?

18 A. She stated that she was walking with James Ford,
19 just the two of them, to buy cocaine from a person she
20 called Indian Leroy who is now deceased and that they saw
21 the victim in the street with his feet by a manhole.

22 She said that police and an ambulance were there
23 as well as eight to nine people gathered around, including
24 Barbara Bason and Barbara's sister Juanita.

25 She stated that she possibly knew more of the

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1 people who were around but she was not paying attention
2 because she was high.

3 Ms. Lewis said that she had sent Ford to get some
4 cocaine earlier and they used it immediately upon his
5 return. She said that it took about three minutes to use
6 the cocaine and that they immediately left together to go
7 get more.

8 Ms. Lewis said that Mr. Ford never told her that
9 he saw the crime and that she thought he would tell her if
10 he had seen it because "cocaine is like a truth serum."

11 Q. Did the Commission ask Ms. Lewis about
12 Mr. Williams?

13 A. We did.

14 She did not recall him by name or by his nickname
15 of Junior. But when we showed her a picture, she said "If
16 I'm not mistaken, he is the one who used to be with Sammy
17 Mitchell and Darryl Hunt but I'm not sure and I don't want
18 to tell no lie."

19 She said that the three of them used to hang out
20 and drink together and she thinks that Williams is the one
21 who told police that Mitchell and Hunt killed the victim.

22 But then she -- but she could not member his name.

23 But then she later added that Barb and Juanita
24 told police that Mitchell and Hunt were the ones who killed
25 the victim. She was not sure because she was not there and

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1 ultimately she said that it was Barb and Juanita who told
2 police who killed the victim, not the man in the picture.

3 Q. And did Ms. Lewis say anything about why the
4 police came to talk to her?

5 A. She said police came to talk to her because James
6 Ford told Darryl Hunt's attorney that he told her who did
7 the crime. She said that James Ford never told her that and
8 that she would have reported it if he did.

9 She said that they wanted her to go to court but
10 she never had to get on the stand. It's unclear about
11 whether she was ever brought to court.

12 She also said that she told police about going to
13 get cocaine with Mr. Ford and seeing the victim in the
14 street. She said that police suggested that she and Ford
15 were the ones who killed the victim, which she denied.

16 **MS. SMITH:** Commissioners, any questions
17 about those interviews?

18 (No response.)

19 **MS. SMITH:** Mr. Ford is not in the Forsyth
20 County jail, according to their current jail records. We
21 are making an effort right now to call him again and see if
22 we can get him on the phone and we will just put him on hold
23 until -- if we get him for a few minutes. That way you'll
24 know that we've reached him or not.

25 He does have some health issues.

Testimony by Brian Ziegler

1 Q. If Mr. Ziegler can expand on that.

2 A. We found Mr. Ford through our interview with Larry
3 Little, who had indicated that Mr. Ford recently got out of
4 the hospital for some serious affliction. I don't recall
5 specifically what that was, but he told us the apartments
6 for elderly folks where Mr. Ford was living, which is where
7 we found him, Mr. Ford was using a walker and appeared to be
8 infirm. But beyond that, I can't speak to his condition.

9 MS. SMITH: Now is actually an appropriate
10 time for our afternoon -- late afternoon break if we want to
11 do that for 10 minutes, and we will see if we can get him on
12 the phone to see if we have been able to reach him and them,
13 otherwise, you can make any ruling that you wish to make at
14 that time.

15 That is one of the reasons that we put him on
16 phone standby as opposed to making him travel to Raleigh is
17 because of his health.

18 JUDGE LOCK: 10-minute recess.

19 (Recess taken, 4:25 to 4:42 p.m.)

20 JUDGE LOCK: All right. Looks like
21 everyone's in place. Let's come back to order.

22 MS. SMITH: Commissioners, we made an effort
23 to reach Mr. Ford again. We are unable to reach him via
24 phone.

25 JUDGE LOCK: Well, Madam Director, it's my

Testimony by Brian Ziegler

1 belief that given what you've told us about his health,
2 given the fact that we have the benefit of his statement and
3 his testimony, and given the limited time available to us --
4 I fully appreciate what Commissioner Glazier has suggested
5 about any precedent might be set, but I'm not sure it's
6 worth the effort to try to secure his attendance at this
7 proceeding.

8 Does anyone strongly disagree?

9 Does anyone very much want to hear from him
10 live?

11 (No response.)

12 **JUDGE LOCK:** All right. Let's move on.

13 **MS. SMITH:** Okay.

14 **JUDGE LOCK:** Thank you.

15 **MS. SMITH:** Thank you.

16 Q. Mr. Ziegler, I want to turn your attention now
17 back to the law enforcement in this case. We just -- prior
18 to moving on to information about Mr. Ford, we had just
19 completed talking about the 1983 investigation.

20 I'm going to turn your attention now to the 1986
21 investigation.

22 Who did the Commission speak with regarding the
23 1986 investigation?

24 A. We deposed retired Detective Jeff Dorn on
25 April 16, 2019. He was very briefly assigned to this case

Testimony by Brian Ziegler

1 prior to Merritt Williams coming forward.

2 We deposed retired Detective Teresa Hicks on
3 April 16, 2019. She was the lead investigator throughout
4 most of the 1986 investigation.

5 We also deposed retired detectives Randy Weavil on
6 April 23 and Robert Spillman on May 3 of 2019. Detectives
7 Weavil and Spillman worked on the case with Detective Hicks.
8 As previously testified, we also deposed retired Assistant
9 Chief Michael McCoy, who was the sergeant over the homicide
10 detectives in 1986.

11 Q. And did any of these detectives raise any concerns
12 about their ability to testify?

13 A. Detective Spillman indicated that he had suffered
14 a stroke several years ago that affected his memory. And,
15 indeed, he did not have much recollection of the case. He
16 did not recall doing any interviews on the case. He
17 questioned whether he had written a report that had his name
18 and initials on the bottom and he was unfamiliar with the
19 transcript of an interview that had his name on it that was
20 in the police file.

21 Q. And you mentioned that Detective Dorn was assigned
22 to the investigation.

23 What did he recall about his assignment to the
24 Wilson case?

25 A. He didn't recall much other than remembering that

Testimony by Brian Ziegler

1 the assignment was changed to Detective Hicks because of her
2 involvement with the Deborah Sykes case and the overlapping
3 suspects.

4 MS. SMITH: Commissioners, please take a
5 moment to refer to page 77 of your brief for details
6 concerning the limited role that Detective Dorn played in
7 the reinvestigation of the Wilson case.

8 Q. Mr. Ziegler, now let's turn our attention to the
9 investigation after Detective Hicks was assigned to the case
10 in 1986.

11 Who worked with her on this investigation?

12 A. Primarily Detectives Weavil and Spillman, although
13 we also deposed Detective Spoon. He didn't have much
14 involvement with the Wilson case. He was the lead detective
15 on the Mary Smith case and he worked on the reinvestigation
16 of the Deborah Sykes case that was going on around this
17 time.

18 Q. And what were the topics that you covered with
19 Detectives Hicks, Weavil, and Spillman during the
20 Commission's investigation?

21 A. In addition to general questions about their
22 practices, we talked to them about specific documentation
23 that was in the Wilson case file.

24 We talked to them about discrepancies in various
25 witness statements. We also asked them what they remembered

Testimony by Brian Ziegler

1 from trial although none of them had any additional
2 recollection outside of what we were able to gather from the
3 documents we collected regarding the trial. We did ask them
4 about certain documents related to the trials in this case
5 that we were able to obtain. And we talked to them about
6 the public response and media coverage of the time of these
7 cases and related to these defendants.

8 Q. Let's start with the questions the Commission had
9 about specific documents in the Wilson case.

10 A. We had a question related to the polygraph that
11 was administered to Merritt Williams on April 11, 1986. I
12 know you have heard some testimony about polygraph reporting
13 from Ms. Matoian.

14 The very brief polygraph report in this case
15 indicated that Mr. Williams was truthful, although the file
16 also contained a document that was like a summary of the
17 investigation written by Detective Hicks that said during
18 the polygraph Williams "at first, he said that he was not
19 involved in the actual assault of Mr. Williams [sic]."

20 But we didn't have the questions that the
21 polygraph examiner asked so we are trying to determine what
22 he was being truthful about.

23 **MS. SMITH:** Commissioners, Detective Hicks'
24 investigative summary was included in the brief on pages 80
25 to 83, and that polygraph is mentioned on page 82 of the

Testimony by Brian Ziegler

1 brief.

2 Q. What did you learn?

3 A. Detective Hicks stated that she thought that
4 Williams admitted some involvement to the robbery of the
5 victim but not to assaulting him, although she did
6 acknowledge that her investigative summary did not mention
7 any admission to the robbery.

8 When we asked Detective Weavil about the
9 polygraph, he stated that Detective Hicks' summary was not
10 an official report and that his recollection was that
11 Mr. Williams originally denied hitting the victim and that
12 when he was interviewed again after the polygraph, he
13 admitted that he did hit the victim.

14 Both Detective Hicks and Detective Weavil stated
15 that it stuck out to them that when they were transporting
16 Mr. Williams from the jail to the police department for an
17 interview before this polygraph, he spontaneously asked what
18 would happen when they find out he was involved in this.

19 Q. Were there any other questions about the
20 documentation in the Winston-Salem Police Department file
21 that you discussed with these detectives?

22 A. Yes.

23 We asked about a transcript of an interview with
24 Patricia Williams that was done on April 16, 1986, at
25 6:30 p.m.

Testimony by Brian Ziegler

1 Q. And why did you have a question about that
2 particular interview?

3 A. This was her second interview of the day. The
4 transcript of the morning interview is 7 pages long and,
5 based on the times noted in the transcript, it lasted for 13
6 minutes. But the transcript of the evening interview is 3
7 pages long and, based on the times noted in the transcript,
8 lasted for an hour and 7 minutes.

9 MS. SMITH: Commissioners, those transcripts
10 were provided in your brief beginning on page 171.

11 Q. Mr. Ziegler, what did you learn about that from
12 Ms. Hicks?

13 A. Detective Hicks did not recall what happened
14 between Ms. Williams' morning statement and her evening
15 statement but she believed that Ms. Williams would have gone
16 home during that time.

17 She also said that she did not know whether the
18 recorder was stopped and started during that second
19 interview but she didn't have an explanation for why a
20 3-page transcript would last over an hour.

21 She did say that if a witness was -- asked to stop
22 or wanted to go to the bathroom during an interview, they
23 would stop the recording.

24 Q. Is there any indication in the transcript that
25 there were breaks during the interview?

Testimony by Brian Ziegler

1 A. No.

2 Q. What did Detectives Weavil and Spillman recall
3 about that interview?

4 A. We didn't ask them about this document because
5 they were not noted as being present for that interview.

6 Both Detective Weavil and Detective Spillman
7 indicated that they couldn't recall whether recorders would
8 generally be stopped and started during a recorded
9 statement.

10 Q. What other documents did you ask about?

11 A. There is a folder that contained lineup photos
12 that was in the Winston-Salem police file. When it was
13 provided to us, the photos of the defendants were no longer
14 in there but the other photos that would be included in the
15 lineups were.

16 Q. And why did you ask about the lineups?

17 A. Our general understanding is that when witnesses
18 look at a lineup, they would initial and date a photo that
19 they identify. But these photos all had witness initials
20 and dates on the back, and we were trying to understand what
21 that meant.

22 None of the detectives nor Sergeant McCoy recalled
23 what it meant, although Detective Weavil speculated that it
24 could have been to record which photos the witnesses had
25 looked at.

Testimony by Brian Ziegler

1 And the police reports about the administration of
2 the lineups don't indicate that the witnesses identified any
3 of these people with the initials on the back.

4 **MS. SMITH:** Commissioners, the report related
5 to Patricia Williams viewing the lineups is on pages 167 to
6 168 of your brief.

7 The report related to Mattie Mae Davis
8 viewing lineups is on pages 124 to 125 of the brief.

9 Q. Did you ask the detectives about any documents
10 related to the trials in the case?

11 A. We did.

12 We showed Sergeant McCoy a part of his testimony
13 from Sammy Mitchell's second trial where he references
14 speaking with unnamed potential witnesses that were there
15 that were people in the street at the crime scene that he
16 did not know. And he clarified that the potential witnesses
17 he was talking about were people that were named in the
18 other officers' reports. And he clarified that the people
19 he mentioned that he did not know were citizens that were on
20 the crime scene.

21 Q. Did you ask detectives about any other documents
22 related to the trials in the case?

23 A. We did.

24 The file contained some handwritten notes from
25 Sammy Mitchell's trial that were included in the police

Testimony by Brian Ziegler

1 file. These notes had Detective Weavil and Detective
2 Spillman's name on them so we asked them and Sergeant McCoy
3 about the notes.

4 **MS. SMITH:** Commissioners, Handout 36 in your
5 hearing handout notebooks are the handwritten notes from
6 Sammy Mitchell's file.

7 Sorry. It's a typo. It's 63.

8 Sorry. We are back in handout notebook
9 number 2 and it is Handout 36. These are the handwritten
10 notes from Sammy Mitchell's file that were included in the
11 Winston-Salem Police Department file.

12 If you'll take just a moment to look at those
13 notes.

14 (Exhibit 36 marked.)

15 (Discussion off the record.)

16 **MR. BRITT:** There's a scoreboard on the
17 notes. One side has the letter P and the other side has the
18 letter N.

19 Do you know what that is?

20 **MR. EDWARDS:** Tell me again whose notes these
21 are.

22 **MS. SMITH:** These are handwritten notes that
23 were included in the Winston-Salem Police Department file
24 from Sammy Mitchell's trial.

25 **MR. BRITT:** But we don't know whose they are?

Testimony by Brian Ziegler

1 Q. Mr. Ziegler, what did the officers say about the
2 notes?

3 A. We showed the notes to Detective Weavil and he
4 said he did not believe it was his handwriting. He didn't
5 recall anything about the testimony of the witnesses who
6 were listed or why all of the State's witnesses were marked
7 as okay except for Ezelle Clowers.

8 Detective Weavil recalled a group of officers
9 sitting together and taking notes, which he said included
10 their supervisor, who was Sergeant McCoy. He said that the
11 officers would regularly keep scores during trial to keep up
12 and give notes to the DA and that they would use hashmarks
13 for what he termed "good points and negative points."

14 He stated that one side would be for the State and
15 one side for the defense and that they would use a
16 scoreboard to keep up with the trial.

17 Detective Weavil said that he remembered the
18 fishing doodle as referencing a fishing trip that he missed
19 because of the trial.

20 We also showed the notes to Detective Spillman.
21 He recognized it to be his handwriting. We asked him about
22 the list of State's witnesses but he didn't recall anything
23 about their testimony and he didn't recall why he thought
24 Ezelle Clowers was "trouble and a bastard."

25 We asked him about the list of defense witnesses

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1 as well but he did not recall anything about their
2 testimony.

3 Detective Spillman remembered the fishing doodle
4 as related to a planned fishing trip that was to take place
5 right after the trial. He said that he remembered keeping
6 score at the trials he attended and he volunteered that the
7 P and N on the scoreboard stand for positive and negative
8 points.

9 We also showed these notes to Sergeant McCoy.
10 They did not refresh his recollection of what happened at
11 the trial, and he said that he had never seen the notes
12 before and it should not have been in the case file because
13 it was unprofessional and unacceptable.

14 Sergeant McCoy recalled that Ezelle Clowers had a
15 speech impediment, and he speculated that that -- it may
16 have been difficult for the jury to understand Mr. Clowers
17 and that may be why the labels were next to his name.

18 Q. Did any other witnesses have anything else to add
19 about the notes?

20 A. Former District Attorney Don Tisdale indicated
21 that he did not recognize the notes to be Detective
22 Spillman's handwriting and he thought that he would
23 recognize Detective Spillman's handwriting.

24 He said he had no knowledge of the police keeping
25 score and does not know what P or N stand for.

Testimony by Brian Ziegler

1 We showed the notes to former District Attorney
2 Warren Sparrow during his deposition. He said he couldn't
3 say for certain that he had seen this particular thing but
4 that he had seen something like it and that the scoreboard
5 was something the Winston-Salem police did.

6 He said the DAs had nothing to do with it. He did
7 not recall what P or N stood for -- excuse me. He did not
8 know what P or N stood for.

9 At the time of his deposition with the Commission,
10 Mr. Sparrow did not recall being involved in the Sykes
11 Committee but the minutes from a Sykes Committee meeting
12 show that he addressed the Committee and he told the
13 Committee about a scoreboard that was used in Darryl Hunt's
14 first trial that had police on one side and bad guys on the
15 other.

16 Q. Were there any other questions specific to the
17 Wilson case -- actually, let me stop there.

18 **MS. SMITH:** Let me let commissioners ask
19 questions about the note for now.

20 **JUDGE LOCK:** Mr. Britt?

21 **MR. BRITT:** On page 231 of the handout,
22 beginning with they said "not to say that she saw them run
23 away. Not saw -- saw and went inside. I did not see anyone
24 run away."

25 Do you know whose handwriting that is? Is

Testimony by Brian Ziegler

1 that Mr. Spillman?

2 **THE WITNESS:** I'm sorry. I'm having trouble
3 looking for the page.

4 **MS. SMITH:** 2310.

5 **MR. BRITT:** I'm sorry. 2310. I'm sorry.

6 **THE WITNESS:** I don't have any indication
7 whose handwriting this is other than Detective Spillman
8 generally said that he recognized his handwriting although
9 he was not looking at this particular page when he said
10 that.

11 **MR. BRITT:** Did you ask anyone at that --
12 that those lines indicated that the witness was being
13 coached as to what his testimony was to be?

14 **THE WITNESS:** I did not specifically ask if
15 the witness was being coached. I showed them this document
16 and asked if it refreshed their recollection of what
17 happened at trial and the answer was no.

18 **MR. BRITT:** Okay.

19 **MS. SMITH:** Any other questions related to
20 the notes?

21 (No response.)

22 **MS. SMITH:** Okay.

23 Q. Mr. Ziegler, were there any other questions
24 specific to the Wilson case documentation that you asked the
25 detectives?

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1 A. Yes.

2 There was a memo that was called a documented
3 counseling for Detective Hicks. This was basically a
4 reprimand from Sergeant McCoy because Detective Hicks had
5 left photos from the case somewhere they were not supposed
6 to be.

7 There were reports in the file that referenced a
8 certain number of photographs that had been taken and the
9 file included a lesser number of photographs and we were
10 trying to understand if the incident in this documented
11 counseling was why there were fewer photographs.

12 Q. Did you determine that was the reason for the
13 missing photographs?

14 A. Both Sergeant McCoy and Detective Hicks said that
15 would be unrelated and that neither of them remembered this
16 incident but the photos would've been returned to the file
17 as soon as they were found.

18 Q. Were there any other questions specific to the
19 Wilson case documentation that you asked the detectives?

20 A. No.

21 Q. Okay. Let's turn our attention now to questions
22 you asked law enforcement about discrepancies in various
23 witness statements.

24 **JUDGE LOCK:** Before we do that, Mr. Britt had
25 another question.

Testimony by Brian Ziegler

1 **MR. BRITT:** Thank you.

2 With respect to the missing photographs, was
3 the reprimand before or after the trials?

4 **THE WITNESS:** I would have to double-check
5 the date on that.

6 **MR. BRITT:** Okay. It's important if the
7 photographs were missing before.

8 **THE WITNESS:** We do know that what was
9 introduced at trial no longer exists or that we haven't been
10 able to locate it.

11 **MR. BRITT:** Okay.

12 **MS. SMITH:** We will get you an answer to that
13 momentarily, Mr. Britt.

14 Q. Turn your attention to the questions you asked law
15 enforcement about any discrepancies in witness statements.

16 A. We asked Detective Hicks and Detective Weavil
17 about discrepancies in Barbara Bason's statements. On
18 April 29, 1986, she named Sammy Mitchell and Darryl Hunt as
19 committing this crime with something that looked like a
20 brick. And the following day, on April 30, 1986, she added
21 Williams' name and said that the weapon was a stick.

22 **MS. SMITH:** Commissioners, all those
23 statements were provided in your brief on pages 157 to 159.
24 They were also summarized in Appendix C to the brief.

25 Q. What did you ask about these particular

Testimony by Brian Ziegler

1 statements?

2 A. Detective Hicks and Detective Weavil were both
3 present for Ms. Bason's April 30 interview and Sergeant
4 McCoy signed off on that report. So we asked the three of
5 them about whether Ms. Bason was ever questioned about the
6 differences in her statements.

7 None of them could recall whether detectives ever
8 asked her about those differences. Detective Hicks pointed
9 out that the words "stick" and "brick" rhyme. Both
10 Detective Hicks and Detective Weavil said that Ms. Bason
11 would've been cross-examined about that when she testified.

12 Q. And was Ms. Bason cross-examined about the
13 differences in these two statements?

14 A. Not in the trial transcripts that we have located
15 which are for -- from Sammy Mitchell's second trial and
16 Darryl Hunt's first trial, although there are two other
17 trials that we don't know.

18 Q. Was there any other witness statement
19 discrepancies that you asked the officers about?

20 A. We asked about Merritt Williams' descriptions of
21 the attack which at various times he describes multiple hits
22 to the victim with an ax in the neck, the head, the hand,
23 and the arm. And we asked about whether that raised any
24 questions about his credibility in light of the autopsy
25 report which indicated a single head wound.

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1 Sergeant McCoy didn't recall having seen the
2 autopsy report in the past. He pointed out that it also
3 referenced past scars and healed wounds on the victim. He
4 stated that the discrepancies in general should have raised
5 red flags with investigators but that he was not involved in
6 any conversations about the reliability of any particular
7 witness.

8 He did say that, regarding the reliability of
9 Williams in particular, as Ms. Matoian testified earlier,
10 that Williams would call detectives to talk whenever he was
11 in trouble and he wanted to benefit himself, and Sergeant
12 McCoy said that he instructed all the detectives that worked
13 under him to corroborate any information provided by
14 Williams because Williams was not believable.

15 When we asked Detective Hicks about this, she also
16 did not recall ever seeing the autopsy report. She stated
17 that she didn't know how "kicking somebody as they're
18 rolling down the street and going through their pockets
19 would affect the body."

20 And when we asked Detective Weavil, he recalled
21 talking to the medical examiner about this issue and said
22 that it would be up to the expert to testify.

23 Q. Is there anything else related to discrepancies in
24 witness statements that you asked law enforcement about?

25 A. We asked about whether the various witnesses who

Testimony by Brian Ziegler

1 claimed to have seen the crime but did not see any -- each
2 other raised any questions about their reliability.

3 Detective Hicks was not concerned because she said
4 the drink house witnesses were reliable and that people
5 would see things differently. She said that she wouldn't
6 put words into someone's mouth to make it match.

7 Detective Weavil said that reliability was always
8 a question but that it was up to the district attorney and a
9 jury rather than the detectives to evaluate that
10 credibility. And he said that the investigation didn't
11 dwell on who else a witness saw on the street. They just
12 focused on the crime itself.

13 And Sergeant McCoy indicated that there were
14 concerns about the reliability of any of the witnesses
15 because it was 2:00 o'clock in the morning and they had been
16 drinking.

17 Q. Anything else related to discrepancies in witness
18 statements?

19 A. Yes.

20 We asked Detective Spillman about the transcript
21 of an interview with Linda Walser from April 16, 1986, which
22 is on pages 183 to 184 of the brief.

23 In the transcript, Detective Spillman suggested
24 that Ms. Walser could not see the face of the assailant and
25 she agreed with him.

Testimony by Brian Ziegler

1 We asked him about this because Ms. Walser had
2 assisted in the creation of a composite sketch of the
3 suspect on the night of the crime.

4 Detective Spillman said that he didn't know that
5 Ms. Walser had assisted in the creation of a composite and
6 he described the creation of a composite sketch as the
7 witness describing the facial features to ID personnel.

8 When we asked him about it, he said that the ID
9 personnel would still talk to a witness who did not see a
10 suspect's face in order to "get what information you could"
11 even though it would be difficult.

12 Detective Weavil also provided that, in the Wilson
13 case, he had been instructed to go back multiple times to
14 witnesses though he found that to be problematic.

15 **JUDGE LOCK:** Mr. Ziegler?

16 **THE WITNESS:** Yes.

17 **JUDGE LOCK:** Commissioner Glazier.

18 **MR. GLAZIER:** Thank you very much.

19 This is to Exhibit 36. On the fourth page,
20 where he mentions Linda Walser, I'm just curious, in light
21 of what you just said, is there anything we understand the
22 diagram under her to be and the particular attached smaller
23 diagram to her name on these notes?

24 **THE WITNESS:** Are you looking at Bates stamp
25 2309?

Testimony by Brian Ziegler

1 We didn't specifically ask about that picture
2 although -- are you asking about Detective Spillman?

3 **MR. GLAZIER:** Well, I'm trying to figure out,
4 in light of this idea of not seeing the face and then
5 assisting in the composite sketch -- I'm just trying to
6 figure out if there is some symbolism or notes or what that
7 meant -- why that is there as to her name.

8 **THE WITNESS:** We didn't learn anything in
9 particular about that drawing. He did characterize the
10 whole document as filled with doodles. But beyond that, no.

11 **MR. GLAZIER:** Okay. Thank you.

12 **MS. SMITH:** Any other questions?

13 **MS. COLBERT:** Walser -- Ms. Walser was the
14 one in the car with McGee; right?

15 **THE WITNESS:** That's correct.

16 **MS. SMITH:** Commissioners, Handout 37 in your
17 hearing handout notebooks is an excerpt from the
18 Commission's deposition with Detective Weavil related to
19 this practice.

20 Please take a moment to review that excerpt.

21 Any questions about that, Commissioners?

22 Handout 37?

23 (No response.)

24 Q. Mr. Ziegler, I believe you have in front of you a
25 document related to the counseling and the missing photos.

Testimony by Brian Ziegler

1 Can you answer Mr. Britt's question based on what
2 you have in front of you?

3 A. I can.

4 The documented counseling was reported on 8/26/86.
5 And the day that Sergeant McCoy found the photos was the
6 previous day, August 25, '86.

7 Mr. Mitchell's first trial was the first trial in
8 this case, which was the following month, in September. It
9 started on the 13th. And his second trial was a month after
10 that.

11 Q. Mr. Ziegler, I'm going to turn your attention now
12 to the public response and media coverage at the time of
13 these cases and related to these defendants.

14 What did you ask law enforcement about that?

15 A. We asked the detectives about any added pressure
16 as a result of the media coverage related to the Deborah
17 Sykes case and whether it added any pressure to this
18 investigation.

19 We also asked whether they knew any of these
20 defendants prior to their involvement in the Wilson case.

21 Q. Did the detectives know these defendants before
22 the case?

23 A. Detective Spoon and Detective Weavil knew Merritt
24 Williams Drayton from the Mary Smith case in March of '86,
25 just prior to his coming forward in Arthur Wilson.

Testimony by Brian Ziegler

1 The other detectives did not know Mr. Williams at
2 all until this case.

3 Q. When you say "this case," does that mean in 1986,
4 after he has come forward?

5 A. Correct. That is in 1986 when he came forward in
6 April.

7 All of the detectives knew Darryl Hunt because of
8 the Deborah Sykes case. And all of the detectives had at
9 least an awareness of Sammy Mitchell. Some of them knew him
10 personally since the 1980s, the early 1980s, because of his
11 reputation as a repeat offender that would commit crimes and
12 scare people. Some of them had personal dealings and had
13 arrested him in the past.

14 Detective Weavil also knew Sammy Mitchell from
15 high school.

16 Assistant Chief McCoy, who was the supervising
17 sergeant, knew Sammy Mitchell and knew him to be violent but
18 did not know him to use weapons.

19 Detective Belton said that Williams would hang out
20 with Sammy Mitchell and Darryl Hunt. But none of the other
21 officers stated that Williams had any connection with them,
22 including Detective Wilkins, who said that he had arrested
23 Mitchell approximately 10 times.

24 Sergeant McCoy stated that he did not know
25 Williams to run with Mitchell and Hunt. He and Detective

Testimony by Brian Ziegler

1 Wilkins both stated that they did not know Mitchell to use
2 weapons and though he would often fight, he used his hands.

3 Detective Dorn did recall an incident when Sammy
4 Mitchell had a knife to a citizen's throat.

5 Q. Did you ask anything else related to whether
6 detectives previously knew the defendants?

7 A. We did.

8 There was a memo in the file from a narcotics
9 detective that referenced Merritt Williams being an
10 informant using the nickname New York. None of these
11 detectives knew of Merritt Williams ever being used as an
12 informant.

13 Q. Did any of the detectives indicate whether there
14 was any added pressure in this case given the media coverage
15 and public response to the Sykes case?

16 A. Detective Hicks recalled that the publicity
17 surrounding the Sykes case had died down by the time this
18 case was under investigation in 1986.

19 Detective Weavil indicated that because Darryl and
20 Sammy Mitchell's names came up, there was an added pressure
21 that came from the media and the city. He stated that, in
22 his opinion, the police department wished that it had been
23 other names that came up as the suspects and that Sergeant
24 McCoy in particular was under a lot of pressure because he
25 is an African-American supervisor. And according to

Testimony by Brian Ziegler

1 Detective Weavil, the pressure was not to make a quick
2 arrest and get them off the street or they would have
3 arrested Sammy Mitchell much earlier.

4 Q. What do the others recall about any additional
5 pressure in the investigation?

6 A. Detective Spillman said he was not aware of any
7 other pressure -- or any pressure to solve unsolved
8 homicides. He personally did not feel it. He stated that
9 he was unaware of the public perception of the Sykes case
10 affecting this investigation and that he didn't know much
11 about that case.

12 He knew Sammy Mitchell to be "a bad guy" but there
13 was no pressure to arrest anyone for something they did not
14 do.

15 Sergeant McCoy stated that he personally felt
16 pressure to solve the old cases that he thought did not get
17 enough attention at the time but there was not additional
18 pressure related to get Sammy Mitchell off the street. And
19 he said that he couldn't answer whether the police
20 department felt extra pressure related to Darryl Hunt and
21 the reinvestigation of the Deborah Sykes case.

22 Q. Were these detectives involved in the city
23 manager's review of the Deborah Sykes case?

24 A. Most of the detectives were retired by then and
25 declined to participate with the exception of Detective

Testimony by Brian Ziegler

1 Spoon, who was interviewed. His interview with the city
2 manager's commission was strictly about Deborah Sykes.

3 Detective Weavil was still working at WSPD at that
4 time so he was required to participate, and we asked him
5 about a part of his interview with the Sykes Committee in
6 which he referred to the Arthur Wilson case witnesses from
7 the drink house as a "set of clowns."

8 He said that "set of clowns" referred to any group
9 of people that he dealt with a lot and that he says the same
10 thing about his sons. He said it was not a bad thing and
11 did not reflect a negative opinion about their cooperation
12 or reliability.

13 Q. I want to turn your attention now to the
14 Winston-Salem Police Department's general documentation and
15 police reports.

16 Did law enforcement tell you anything about the
17 written statements that were drafted for a witness's review
18 and signature?

19 A. Yes.

20 Detective Weavil said that it was his practice to
21 intentionally include errors in the written statements to
22 make sure that witnesses would read the statement carefully.
23 He specified misspellings as the type of errors he would
24 include. And he stated that his goal was not to have a
25 witness sign an inaccurate statement but to get their

Testimony by Brian Ziegler

1 initials throughout the statement because at one time he was
2 accused of having a witness sign a blank paper and later
3 writing in the statement.

4 **MR. GLAZIER:** I'm sorry. May I ask you to
5 repeat the first part of that statement about what he said
6 he had a policy of doing?

7 **THE WITNESS:** He said that it was his
8 practice to intentionally include errors in the written
9 statements for witnesses to sign to make sure that they
10 would read the statements.

11 **MR. GLAZIER:** Thank you.

12 Q. Did Detective Spoon add anything?

13 A. Yes.

14 Detective Spoon also told us that it was his
15 practice to include errors that could be easily corrected as
16 a way to make sure the witness was paying attention. He
17 said that these errors were minor and that if any of them
18 had gone uncorrected, it would not change the substance of
19 the statement.

20 Q. Did you ask about their practices related to
21 recording their interviews?

22 A. We did.

23 The detectives indicated that they would first
24 talk to the witness. And if they decided they were going to
25 take a recorded statement, or -- a handwritten or oral, they

Testimony by Brian Ziegler

1 would do that at the end of the interview after what the
2 witness was going to say has already been said so that these
3 written or oral statements would not reflect the entire
4 interaction between the witnesses and the officer but would
5 be taken after the officer knew what the witness would say.

6 Q. Were there any other practices you learned about?

7 A. We asked them about the process of generating
8 reports. All the officers stated that if the report was not
9 written contemporaneously with the investigative activity,
10 it would be dictated based on some combination of memory,
11 field notes, and any statements from the witnesses.

12 None of the detectives were aware of a department
13 policy about what to do with their field notes after a
14 report had been written. Detective Hicks said that she
15 would destroy her notes after writing a report. Detective
16 Spoon kept his field notes in his own personal case file but
17 only in cases where he was the assigned lead detective.
18 Detectives Weavil and Spillman could not recall how they
19 handled their notes.

20 Q. Did you learn anything about benefits that may or
21 may not have been given to informants?

22 A. We did.

23 The detectives generally described benefits to
24 informants to include cash payments and possible leniency on
25 pending criminal issues.

Testimony by Brian Ziegler

1 Detective Spoon in particular stated that Merritt
2 Williams would've had a reason to believe he could help
3 himself on the Mary Smith case if he provided information
4 about another unsolved case.

5 **MS. SMITH:** Commissioners, do you have any
6 questions for Mr. Ziegler regarding any of that information?

7 **JUDGE LOCK:** Mr. Perry.

8 **MR. PERRY:** Mr. Ziegler, Mr. Chairman -- so
9 there is consensus that he was never an informant?

10 **THE WITNESS:** That's correct. He denied that
11 as well. Merritt Williams also said he had not been an
12 informant.

13 **MR. PERRY:** But he says at other times that
14 he had been an informant; right?

15 **THE WITNESS:** We asked him if he had ever
16 been an informant and if he had ever gone by the nickname
17 New York because of that memo that referenced him as an
18 informant from a narcotics detective and he said no.

19 **MR. PERRY:** Which interview of Williams' are
20 you referencing on that?

21 **THE WITNESS:** That was the Commission's
22 interview on April 10.

23 **MR. PERRY:** On April 10. I thought he was
24 asked and he says on page 40 that he was an informant.

25 **THE WITNESS:** I think he was --

Testimony by Brian Ziegler

1 **MR. PERRY:** But not a confidential informant.

2 **THE WITNESS:** I think he described an
3 incident in another county.

4 **MR. PERRY:** He thinks --

5 **THE WITNESS:** But as it pertains to being a
6 confidential informant for Winston-Salem police, he said no.

7 **MR. PERRY:** But he thinks other people may
8 have been, like Smith and -- do you recall that?

9 **THE WITNESS:** I don't specifically recall
10 that.

11 **MR. PERRY:** Whether she was an informant.
12 I guess what I am getting at is there's no
13 reason to think that that would have played some role in his
14 pleading, to think that he would receive a favor from the
15 agency had he been an informant in the past for them.

16 **THE WITNESS:** I can't speak to what he was
17 thinking, just that he had said he was never an informant.

18 **MR. PERRY:** Thank you.

19 **MS. SMITH:** Commissioners, as I mentioned
20 earlier, we have several of the law enforcement officers of
21 telephone standby. I know there were several questions
22 about Handout 36, those notes.

23 Do any commissioners want to hear from any of
24 the officers? That would be Detectives Spillman, Spoon,
25 Weavil, McCoy, Hicks, Belton, or Wilkins.

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1 (No response.)

2 **JUDGE LOCK:** It appears no.

3 **MS. SMITH:** If that is the case, may we
4 release them from their subpoenas?

5 **JUDGE LOCK:** Yes, we may.

6 **MS. SMITH:** If there are no more questions
7 for Mr. Ziegler at this time, I'm going to ask that he step
8 down and recall Ms. Tanner.

9 **JUDGE LOCK:** All right.

10 (Witness stands down, 5:22 p.m.)

11 (Beth Tanner recalled.)

12 **MS. SMITH:** Commissioners, we have previously
13 discussed Handout 5, which provides to you an outline of all
14 the attorneys and parties involved in the various cases. We
15 are now going to talk about our interviews with the living
16 prosecutors involved in the prosecution of the Wilson case.
17 You may find it helpful to turn to that handout.

18 BY MS. SMITH (5:23 p.m.)

19 Q. Ms. Tanner, did the Commission interview the only
20 living district attorneys involved in the Wilson
21 prosecution?

22 A. Yes.

23 Q. And who were they?

24 A. Don Tisdale, Charlie Walker, and Warren Sparrow.
25 Saunders and Branch are deceased.

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1 Q. Can you tell us about that interview with Warren
2 Sparrow.

3 A. Yes.

4 Warren Sparrow did not have much independent
5 recollection of Mr. Williams except that he has a very sharp
6 memory of Williams testifying at one of Darryl Hunt's Wilson
7 trials. He recalls Williams acting out how Williams hit
8 Wilson with the ax handle.

9 Mr. Sparrow was the supervising attorney and was
10 not actually trying the case but he went to the trials
11 because of the media and community attention that Hunt
12 generally gathered.

13 He also recalled that when he took office, the
14 Wilson trial against Mr. Hunt was not completed and he felt
15 like it needed to be wrapped up. He did not know why the
16 Wilson case against Mr. Hunt had not been tried earlier.

17 As to the practices on discovery, Mr. Sparrow
18 expressed that he did have some difficulty with law
19 enforcement, particularly the sheriff's office, related to
20 producing documents to the defense which we have already
21 discussed earlier.

22 **MS. SMITH:** Commissioners, as you will
23 recall, commission staff was provided written answers to our
24 questions from Mr. Tisdale's son, Attorney Ken Tisdale.

25 Q. Ms. Tanner, can you tell us about the responses

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1 provided by Mr. Tisdale?

2 A. Sure.

3 As it relates to Wilson, Mr. Tisdale was the
4 elected district attorney and he was involved in trying
5 Sammy Mitchell in the Wilson case and was the DA when
6 Williams pled guilty in the Wilson case.

7 Mr. Tisdale did not know anything about the
8 scoreboard that is in the notes that we just looked at. He
9 said he did not believe this was Spillman's handwriting.

10 He recalled believing that Williams' credibility
11 was better than some of the other witnesses and he said that
12 he believed Williams was not as closely associated with some
13 of the other witnesses.

14 His concern with using Williams at trial was
15 related to the fact that Williams was involved in several
16 investigations at the same time.

17 Mr. Tisdale's discovery practice at the time was
18 to "provide everything to defense counsel" and he is
19 confident that all required discovery was provided.

20 He would only interview witnesses with police
21 because he did not want to make himself a witness in a case.
22 And he said that no favors were given to cooperating
23 witnesses.

24 He knew that Mr. Hunt and Mr. Mitchell were young
25 males that had the reputation for being involved in a series

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1 of criminal acts.

2 In addition, Mr. Tisdale had been reported to have
3 kept a stick from a prior crime where he tried Mr. Mitchell
4 but Mr. Mitchell was not convicted. Mr. Tisdale let us know
5 that he did in fact keep that stick.

6 Mr. Tisdale also stated that, in his opinion, WSPD
7 was scared of fallout from the Sykes case and restrained
8 officers from participating in the investigation in the
9 Wilson case.

10 He felt like the aldermen members put pressure on
11 the police department and he specifically identified Larry
12 Little as one of the people who put that pressure on the
13 police department.

14 He remembers requesting that WSPD properly
15 investigate the matter.

16 **JUDGE LOCK:** There's a question.

17 **THE WITNESS:** I'm sorry.

18 **MR. GLAZIER:** I just had a question for
19 clarification.

20 The statement that former DA Tisdale made
21 with regard to not -- his office did not have a policy of
22 giving favors to witnesses, was he referring generally or to
23 the witnesses in these cases?

24 **THE WITNESS:** Generally.

25 **MR. GLAZIER:** Could you repeat what he said,

Testimony of Beth Tanner

1 please.

2 **THE WITNESS:** Yes.

3 He said that no favors were given to
4 cooperating witnesses. I believe that was generally. Let
5 me make sure with his responses because we have the actual
6 written responses.

7 **MR. GLAZIER:** All right. Because if it
8 becomes important later --

9 (Reporter clarification.)

10 **MR. GLAZIER:** If it becomes later on, I will
11 ask for follow-up. But it may not be important.

12 **THE WITNESS:** Sure. We'll find out.

13 As far as police practices, Mr. Tisdale said
14 the DA's office was not involved in the investigations
15 except once it was time to try the case or bring charges,
16 they might ask the police to refine the investigation or do
17 additional steps if questions came up however.

18 We asked -- back to your question,
19 Commissioner Glazier. We asked does Mr. Tisdale recall any
20 deals or favors given to cooperating witnesses.

21 The response was "No favors were given to
22 cooperating witnesses."

23 **MR. GLAZIER:** Thank you.

24 Q. Ms. Tanner, can you tell us --

25 **MS. SMITH:** Well, are there any questions

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1 related to Mr. Tisdale's responses?

2 (No response.)

3 Q. Can you tell us about your interview -- the
4 commission staff's interview with former Assistant District
5 Attorney Charles Walker?

6 A. Yes.

7 Mr. Walker was involved in prosecuting both Wilson
8 cases against Mr. Mitchell. He recalled that the reason the
9 two cases were tried so close together is because both he
10 and Mr. Tisdale were leaving; so they decided to just "Do
11 this one real quick noncapitally."

12 He did not remember what happened with Merritt
13 Williams in the case. He was familiar with Sammy Mitchell
14 prior to the Wilson case.

15 Mr. Walker stated that Mitchell was "an unpopular
16 figure in the prosecutor's office" and that he had a
17 horrible record and "was just a pain in the butt."

18 He also only recalled that Mitchell ever hung out
19 with Darryl Hunt. He did not have any other specific
20 details about the cases or the trials.

21 **MS. SMITH:** Commissioners, do you have any
22 questions of Ms. Tanner about the interview with Mr. Walker?

23 (No response.)

24 **MS. SMITH:** Commissioners, we are going to
25 turn our attention back to Merritt Williams. As I mentioned

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1 earlier, a copy of his criminal record is on page 1550 of
2 your brief.

3 Q. Ms. Tanner, did the Commission interview
4 Mr. Williams related to the Wilson case?

5 A. We did.

6 We interviewed Mr. Williams in detail about the
7 case on 4/10/2019 and conducted a brief follow-up on
8 4/11/2019.

9 And let me clarify -- about the Wilson case, yeah.

10 Q. And were those interviews recorded and
11 transcribed?

12 A. They were.

13 **MS. SMITH:** Commissioners, you've previously
14 been provided copies of the Commission's interview with
15 Merritt Williams related to the Wilson case along with a
16 digest of that transcript.

17 Those interviews -- the interview and digest
18 are labeled as Handout 38.

19 Do you have any questions for Ms. Tanner
20 about the Commission's interviews of Mr. Williams as they
21 relate to the Wilson case?

22 (No response.)

23 Q. Ms. Tanner, did the Commission do anything to
24 follow up on the interview with Merritt Williams?

25 A. Yes, we did.

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1 Mr. Williams made an assertion that he had been
2 made to collaborate with Mattie Mae Davis to get their
3 stories straight. We asked the officers we interviewed in
4 the case about that assertion. Law enforcement all denied
5 that this was done.

6 Q. And was there any additional follow-up?

7 A. We also got the police contacts for Darryl Hunt
8 and Sammy Mitchell in order to determine if there was any
9 overlap between them and Merritt Williams in their contacts
10 with police. Although there were several overlaps and
11 contacts between Hunt and Mitchell, we did not find any
12 overlap between Hunt and Williams or Hunt and Mitchell in
13 their contacts with WSPD.

14 **MR. BOSWELL:** Could you explain what you mean
15 by "contacts with WSPD"?

16 **THE WITNESS:** Sure.

17 So there is -- it's the PISTOL sheet. When
18 we earlier were talking to -- and I can't remember if it was
19 someone from the district attorney's office or from the
20 police department, they -- I understood them to refer to
21 that as, like, a contact sheet. It's like every time the
22 police department would have some kind of interaction with
23 someone -- I don't know that that is the official name for
24 it, like, the contact sheet is the P-I-S-T-O-L form, is what
25 it is. But it's basically showing that. And so the goal in

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1 looking at that was to see had they been arrested together,
2 had one of them been a victim, you know, of the other one
3 committing a crime back then.

4 **MR. BOSWELL:** Thank you.

5 **THE WITNESS:** Sure.

6 Q. Ms. Tanner, did the Commission review DPS records
7 for Mr. Williams?

8 A. We did.

9 That included combined records, medical and mental
10 health records, disciplinary records, probation records, and
11 phone calls.

12 **MS. SMITH:** Commissioners, you were
13 previously provided Handout 26, which described
14 Mr. Williams' education and mental health DPS records which
15 has been sealed by Judge Lock. You may wish to refer back
16 to it.

17 Q. Did the DPS records include any mention of the
18 Wilson case?

19 A. Outside of the official crime version which we
20 have already provided, there are no additional records from
21 DPS that mention the Wilson case specifically.

22 **MS. SMITH:** Commissioners, commission staff
23 has also already testified about Mr. Williams' phone calls
24 from DPS. That was in Handout 27. And staff has also
25 already testified about housing overlaps between

Testimony of Beth Tanner

1 Mr. Williams, Mr. Mitchell, and Mr. Hunt, which was in
2 Handout 4.

3 Do you have any additional questions for
4 Ms. Tanner about the information that Mr. Williams provided
5 either in his phone calls or any of the information related
6 to the housing chart?

7 (No response.)

8 Q. Ms. Tanner, we've already discussed several of the
9 defense attorneys in the Bryson case that may have also been
10 involved in the Wilson case.

11 Did the Commission interview or contact any other
12 defense attorneys related to the defense of any defendant in
13 the Wilson case that we have not yet fully discussed?

14 A. Yes.

15 Q. Who did the Commission contact?

16 A. We contacted now Judge Fine, now Judge Bedsworth,
17 Ben Dowling-Sendor, Gordon Jenkins, Richard McGough, James
18 Ferguson, and Adam Stein.

19 Q. Tell the Commissioners who Judge Fine is and about
20 your contact with him.

21 A. Williams was briefly represented by now District
22 Court Judge Fine in the Smith case. Judge Fine does not
23 have any records related to these cases. He had a very
24 limited recollection related to his representation of
25 Williams and did not remember the details of the crime or

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1 what Williams may have told him about the crimes.

2 Q. Tell the Commissioners who Judge Bedsworth is and
3 about your contact with him.

4 A. We also exchanged e-mails with now District Court
5 Judge Bedsworth who was involved in the defense of Sammy
6 Mitchell with Laurel Boyles.

7 Judge Bedsworth had no information related to the
8 case. He has been serving as a judge since 2005 and
9 recalled shredding Mitchell's file approximately two years
10 ago.

11 Mitchell maintained his innocence to Judge
12 Bedsworth and Judge Bedsworth remembered that Walser and
13 McGee did not identify Hunt, Mitchell, or Williams and also
14 remembered that Walser knew Sammy Mitchell from school.

15 He also recalled that Williams, Bason, and Mattie
16 Mae Davis testified to seeing the assault but that they
17 didn't see each other despite all being out on the street
18 near the attack.

19 Q. And when you just referred to Williams in that
20 context, were you referring to Patricia Williams?

21 A. I'm sorry. We did not, which one -- oh, yes. I'm
22 sorry.

23 He recalled that Patricia Williams, Barbara Bason,
24 and Mattie Mae Davis testified to seeing the assault. That
25 is what I meant. Sorry.

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1 Q. Tell the Commissioners who Ben Dowling-Sendor is
2 and about your contact with him.

3 A. We reached out to attorney Ben Dowling-Sendor, who
4 worked on Hunt's appeal in the Sykes case. He did not know
5 anything about the Wilson case and did not recall that Hunt
6 ever admitted guilt to that case -- the Wilson case.

7 Q. Tell the Commissioners who Gordon Jenkins is and
8 about your contact with him.

9 A. Gordon Jenkins represented Hunt also in the Sykes
10 case but was not involved in the Wilson case and never
11 talked to Hunt about the Wilson case.

12 Q. Tell the Commissioners who James Ferguson is and
13 about your contact with him.

14 A. Mr. Ferguson represented Darryl Hunt in the Arthur
15 Wilson case. Mr. Ferguson did not have an independent
16 recollection of the case and he and his paralegal, Vicky
17 Reddy, checked for documents and did not find any related to
18 the case.

19 Q. Tell the commissioners Who Adam Stein is and about
20 your contact with him.

21 A. Adam Stein, S-t-e-i-n, represented Hunt with
22 Ferguson on the Wilson case. He also did not have any
23 documents in the case and did not have much independent
24 recollection of the case.

25 What he did remember was that there was no

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1 question that Hunt and Mitchell was -- were at the drink
2 house that night.

3 I messed that up really bad.

4 What he did remember was that there was no
5 question that Hunt and Mitchell were at the drink house the
6 night of the crime though they were not there at the time
7 when Wilson was murdered.

8 He also stated that Hunt never admitted his guilt
9 in the case. We checked with his former paralegals, Brenda
10 White and Ann Marie DeLong, and they both confirmed that
11 they were not aware of any documents from the case
12 remaining.

13 **MS. SMITH:** Are there any questions about the
14 interviews with defense attorneys?

15 **MR. BOSWELL:** Were these appellate defense
16 attorneys or trial defense attorneys or a combination of
17 both?

18 **THE WITNESS:** It was a combination. We were
19 working very hard in this case to make sure we had all the
20 documentation that we could find just because we didn't have
21 any transcripts.

22 **MR. BOSWELL:** Got it.

23 Q. Did commission staff contact anyone else related
24 to the defense of any codefendant in the Wilson case?

25 A. Yes.

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1 We also contacted Les Burns, a private
2 investigator, who worked on the defense of Hunt in the
3 Wilson case. He did not have any documents related to his
4 work on the cases. He recalled the Sykes case but he
5 actually did not even recall the Wilson case.

6 Q. And we have mentioned throughout the hearing that
7 Attorney Mark Rabil had documents relevant to this
8 investigation.

9 Can you tell us more about what we learned from
10 Mark Rabil related to the Wilson case.

11 A. Yes.

12 Mark Rabil represented Darryl Hunt in the Sykes
13 case but as a result of his relationship with Hunt, he was
14 able to collect documents from Hunt and from his attorney
15 for the Wake Forest Law Library project that we talked about
16 earlier.

17 We were able to look through those documents and
18 found documents that provided more information on the
19 defense of Hunt in the Wilson case.

20 We found notes from some portions of the trials
21 but these notes did not add anything additional to what the
22 transcripts we ultimately collected provided.

23 There were also some notes from the Sykes case but
24 that didn't have any additional information related to
25 Wilson or Bryson. However, there were a few items that gave

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1 us some additional information in Wilson. There was a memo
2 from a meeting with Darryl Hunt on 4/21/1986 related to the
3 Wilson case, and that memo was from an attorney meeting with
4 Mr. Hunt.

5 There were handwritten notes related to another
6 discussion with Mr. Hunt on September 15, 1987.

7 There was a handwritten note related to McGee,
8 Walser, and Ford not wanting to testify, a 2004 letter from
9 Williams to then DA Tom Keith, and a May 2004 letter from
10 Williams that appears to have resulted in communication
11 between Vivian Burke, WSPD, and the city manager's office.

12 **MS. SMITH:** Commissioners, Handouts 39, 40,
13 41, 42 and 43 are the documents that Ms. Tanner just
14 described. If you'll take a moment to review those.

15 **MR. BOSWELL:** Will you tell us, please, what
16 is 40 and 41? Which ones -- what are these specific ones?
17 I know what 42 is.

18 **THE WITNESS:** So Handout 40 are handwritten
19 notes from an attorney meeting with Hunt on 9/15/1987.

20 And then what -- I'm sorry -- 41?

21 **MR. BOSWELL:** Yes.

22 So 40 was written by whom?

23 **THE WITNESS:** I want to be able to tell you
24 that but let me go back and look at my notes. I know it was
25 one of the attorneys for the defense and now I'm nervous

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1 that I've got the name wrong. So I will get back to you for
2 that. I promise.

3 **MR. BOSWELL:** How about 41?

4 **THE WITNESS:** Okay. 41 -- so Gail was a
5 woman who helped, kind of, in the defense. "Mark" refers to
6 Mark Rabil. And it's saying "Called Darryl at Nelson's. He
7 talked with Fergie."

8 That does refer to Mr. Ferguson.

9 And then the rest is -- it's just a note
10 between Gail and Attorney Mark Rabil.

11 **MR. BOSWELL:** Okay. Thank you.

12 **MS. SMITH:** Any commissioners need additional
13 time with these?

14 **JUDGE LOCK:** A little additional time.

15 Q. Ms. Tanner, can you tell us about the memo from
16 the Hunt meeting in Handout 39.

17 A. Yes.

18 So Mr. Hunt indicated that he had left the drink
19 house on Claremont around 11:00 o'clock p.m. He stated that
20 he got a ride from Roland Bernard Blackwell from the
21 Claremont drink house to another liquor house on Page Street
22 run by an individual named Lawrence Myers.

23 Mr. Myers was spending weekends in jail for a DUI
24 and Mr. Hunt tended bar for him.

25 Mr. Hunt also stated that Mr. Mitchell left the

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1 Claremont drink house at the same time with a woman named
2 Mary Johnson. He also said that Ezelle Clowers Junior was
3 at the Claremont drink house when he left and saw him leave.
4 At the Page Street house, Mr. Hunt stated that he saw
5 Alfonzo and the son of Mr. Myers' girlfriend.

6 Q. Ms. Tanner, the memo from the Hunt meeting and the
7 notes from Hunt, did that lead up to any further
8 investigative avenues?

9 A. Yes.

10 We attempted to identify, locate, and interview
11 the individuals provided in the memo that were listed as
12 potential alibis or individuals with knowledge related to
13 Darryl Hunt's whereabouts on the night of the Wilson crime.

14 Alfonzo was identified in Phoebe Zerwick's notes
15 as Alfonzo Singletary, who is deceased.

16 Roland Bernard Blackwell is also deceased.

17 We interviewed Lawrence Myers and Ezelle Clowers
18 Junior.

19 We also identified several reasonable potential
20 Mary Johnsons. Our initial search returned over 1000 Mary
21 Johnsons in Winston-Salem. We then narrowed our search
22 based on the area code of a grocery store where another
23 witness, Carolyn Ann Wilson, had told us she had recently
24 seen the Mary Johnson, and we narrowed those results even
25 further to African-American women within the age range of 50

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1 to 80.

2 Of the Mary Johnsons we spoke to after
3 limiting that search, we found only one to have known
4 Mr. Hunt and Mr. Mitchell.

5 Q. You said area code. Did you mean ZIP Code?

6 A. Yes, I did. Thank you. Sorry about that.

7 Q. You said that you only found one to have known
8 Mr. Hunt and Mr. Mitchell?

9 A. Yes.

10 Q. Do you know for certain that that is the Mary
11 Johnson that Mr. Hunt was referring to?

12 A. We don't.

13 Q. Is Mr. Hunt deceased?

14 A. Yes, he is.

15 Q. Tell us about the interview with Lawrence Myers.

16 A. We interviewed Lawrence Myers on 4/22/19. He
17 stated that Darryl Hunt was like a son to him and would stay
18 at his house but did not help run the liquor house.

19 He confirmed that he worked a lot.

20 He also confirmed that he was serving weekends in
21 jail around that time and it was possible that Hunt would
22 have been at his house on a Friday night but he could not
23 say with certainty.

24 Mr. Myers was unaware that Hunt had been charged
25 in any murder other than the Sykes case and did not have any

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1 knowledge of Arthur Wilson.

2 Mr. Myers could not recall who Mary Johnson was or
3 his girlfriend's son.

4 He knew a Bernard but did not know his last name
5 and thought that person was now deceased.

6 Q. Tell us about the interview with Mary Johnson.

7 A. We spoke with Mary Johnson who is now Jackson on
8 5/14/19. She knew Darryl Hunt and Sammy Mitchell. She
9 would go to Lawrence Myers' drink house and Ezelle Clowers'
10 drink house. She was Ms. Johnson in 1993. She said that
11 she worked at a bar called Tony's and would go to drink
12 houses after work around 2:30 a.m.

13 She stated that at 11:00 p.m. when Darryl Hunt
14 indicates he left the drink house, she still would have been
15 at work.

16 She stated that she may have given Sammy Mitchell
17 a ride somewhere but did not socialize with him and did not
18 go with him to stay at Rosemary's house as Hunt said
19 Mitchell told him.

20 Ms. Jackson also stated that most people,
21 including Darryl Hunt, knew her by the name -- nickname
22 DeeDee and she did not think people knew her real name was
23 Mary Johnson.

24 Q. Was anyone else mentioned as an alibi for Mr. Hunt
25 in the memo?

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1 A. Yes.

2 The Commission also spoke with Ezelle Clowers
3 Junior on 5/14/19. He remembered the crime and stated that
4 he heard Sammy Mitchell hit the victim with an iron pipe but
5 that he was not at his father's drink house that night and
6 did not hang out there socially.

7 Q. Were there any other -- was there any other
8 investigation into a possible alibi for Darryl Hunt?

9 A. No additional investigation.

10 Generally, it appeared that there was no question
11 that Hunt was actually present at some point at Clowers'
12 drink house on the night of the crime but he contended he
13 had left before Mr. Wilson died.

14 In addition, there is one other individual,
15 Rosemary Black, who was interviewed by the police in 1986.
16 She was the mother of Mitchell's son and is believed to be
17 the Rosemary whose house Hunt said Mitchell told him he
18 stayed at that night.

19 She told police that Mitchell did not stay there
20 that night.

21 **MS. SMITH:** Commissioners, are there any
22 questions regarding the interviews related to Mr. Hunt's
23 alibi?

24 **MR. BOSWELL:** Did you say Mr. Hunt is
25 deceased?

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1 **THE WITNESS:** He is.

2 **MR. BOSWELL:** And Mr. Mitchell is too?

3 **THE WITNESS:** Yes.

4 Q. Ms. Tanner, what did you learn about the note
5 about McGee, Walser, and Ford which was Handout 41?

6 A. So we asked all the attorneys involved in the
7 various cases about whether they knew why Walser, McGee, or
8 Ford would be reticent to testify.

9 Other than the fact that they believed that these
10 individuals simply did not want to be involved due to their
11 own criminal backgrounds, we did not ever uncover any
12 concrete reason.

13 We've testified previously about what some of the
14 community members have also said about it.

15 Gail from the note is deceased.

16 Q. And are you aware of any further investigation
17 from Mr. Williams' letters to Keith or the communication to
18 the City Manager's Office other than what is shown there?

19 A. No. Our investigation didn't turn up anything
20 further related to those letters other than what is in the
21 document themselves.

22 Q. What else did you learn from Attorney Mark Rabil,
23 if anything?

24 A. We interviewed Mark Rabil who asked that the
25 interview not be recorded. He represented Hunt in the Sykes

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1 case not in the Wilson case, though he went to the trial of
2 Wilson and listened generally as part of the overall Hunt
3 defense team.

4 Hunt always maintained to Mr. Rabil that he and
5 Mitchell were innocent. Rabil said that both Hunt and
6 Mitchell frequented drink houses. Rabil's perception of the
7 community at the time was that "everyone" knew the police
8 wanted to keep the Wilson case solid.

9 As to his interactions with WSPD, Rabil discussed
10 a "gang of four" police officers that he believed to have
11 problems. He identified those as Officers Weavil, Hicks,
12 Nifong, and Biggers.

13 He also said that WSPD Officer Spillman was
14 "fairly horrendous" and recounted a story where Spillman
15 called the defense investigator Les Burns a faggot at one of
16 the trials.

17 **MS. SMITH:** Commissioners, do you have any
18 questions for Ms. Tanner regarding this information?

19 (No response.)

20 **MS. SMITH:** All right. That is where we
21 would like to stop today, Your Honor.

22 **JUDGE LOCK:** Well, if nobody has any
23 objection, we will recess until tomorrow morning at
24 9:00 o'clock.

25 If there is any objection, I will overrule

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1 it.

2 (Overnight recess, 6:01 p.m.)

3 (Volume 3 begins on page 445.)

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