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NORTH CAROLINA GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION

WAKE COUNTY, C.S.C.

BY 

State of North Carolina,

WAKE COUNTY

v

83 CRS 84695

James Blackmon,

Defendant.

TRANSCRIPT, Volume 1 of 3

NOVEMBER 14, 2018, through NOVEMBER 16, 2018

Special Session

Before

The North Carolina Innocence Inquiry Commission

COMMISSION HEARING

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APPEARANCES

COMMISSIONERS:

Judge Anna Mills Wagoner, Chair

Nigle B. Barrow, Jr., Discretionary Member

John Boswell, Discretionary Member

Camilla Cover, Public Member

Seth Edwards, Prosecuting Attorney

Kevin Frye, Sheriff, Avery County

Michael A. Grace, Defense Attorney

Jennifer Thompson, Victim Advocate

Deborrah L. Newton, Alternate, Non-deliberating

COMMISSION STAFF:

Lindsey Guice Smith, Executive Director

Beth Tanner, Associate Director

Julie Bridenstine, Staff Attorney

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1 Wednesday, November 14, 2018 (10:07 a.m.)

2 **THE COURT:** All right. Good morning to
3 everyone. We will be proceeding in the hearing of the State
4 versus James Blackmon, 83 CRS 84695. As everyone knows,
5 this hearing is open to the public pursuant to North
6 Carolina General Statute 15A-1468(a).

7 Although the hearing is open to the public,
8 distractions are to be kept to a minimum. The door will
9 remain closed during the hearing and no one with the
10 exception of commission staff should go in and out of that
11 door unless we are on a break. If there are disruptions,
12 you may be asked to leave.

13 And, of course, no one should speak with the
14 commissioners during the hearing and no one from the public
15 should come from behind the rope behind me.

16 At this time, we'll go around the table and
17 have the commissioners and commission staff who are at the
18 table say and spell their names for the court reporter. If
19 you are serving as a commissioner for today's hearing,
20 please indicate that; if you are an alternate who is serving
21 as a commissioner, please indicate that as well. If you are
22 an alternate who is attending as an alternate, just please
23 indicate that.

24 All right. Now let's go around the table and
25 we'll start with y'all.

1 **MS. BRIDENSTINE:** I'm Julie Bridenstine, last
2 name is B-R-I-D-E-N-S-T-I-N-E. I'm a staff attorney with
3 the Commission.

4 **MS. TANNER:** Beth Tanner, T-A-N-N-E-R,
5 Associate Director.

6 **MS. GUICE SMITH:** Lindsey Guice Smith,
7 G-U-I-C-E, S-M-I-T-H, Executive Director of the Commission.

8 **MS. NEWTON:** Deborrah Newton, N-E-W-T-O-N. I
9 will be attending as an alternate commissioner.

10 **MS. COVER:** Camilla Cover, C-A-M-I-L-L-A,
11 C-O-V-E-R. I am an alternate attending as a commissioner.

12 **MR. EDWARDS:** Seth Edwards, S-E-T-H
13 E-D-W-A-R-D-S. I am attending as an alternate commissioner.
14 I'm the District Attorney for District 2, Beaufort, Martin,
15 Hyde, Tyrell, and Washington Counties.

16 **JUDGE WAGONER:** I'm Anna Mills Wagoner. I
17 believe you can see that so I don't have to spell it. I'm
18 chairperson of the Commission and I'm a superior court judge
19 from District 19C.

20 **MR. GRACE:** I am Mike Grace, G-R-A-C-E, and
21 I'm serving as a commissioner. I'm a defense attorney from
22 Winston-Salem.

23 **SHERIFF FRYE:** Kevin Frye, F-R-Y-E. I'm
24 serving -- I'm the sheriff in Avery County serving as a
25 commissioner.

1 **MR. BARROW:** Tex Barrow from Wake County.
2 I'm a practicing attorney and I'm serving as a commissioner.
3 Barrow is B-A-R-R-O-W.

4 **MR. BOSWELL:** I'm John Boswell. I am a
5 commissioner here in Wake County. B-O-S-W-E-L-L.

6 **MS. THOMPSON:** Jennifer Thompson. I am the
7 victim's advocate alternate commissioner but serving as a
8 commissioner this hearing.

9 **JUDGE WAGONER:** All right. Thank you.
10 At this time -- and just for the record, we
11 have eight voting members of the commission present as
12 required by statute.

13 At this time, I'm going to make a formal
14 inquiry as to whether any commissioner needs to recuse
15 himself or herself pursuant to Rule 7(c)(1) of our rules and
16 procedures.

17 The rule reads "A commissioner shall recuse
18 himself or herself if he/she has had any involvement during
19 the original trial or any postconviction motions. A
20 commissioner should recuse himself or herself if some event
21 has caused him or her to become biased about a case and
22 unable to participate in the hearing in a fair and impartial
23 manner."

24 Are there any commissioners who need to
25 recuse themselves at this time?

Presentation of the Case - by Ms. Guice Smith

1 (No response.)

2 JUDGE WAGONER: All right. Seeing none, we
3 will move right on.

4 Also, as you all know, Rule 7(c)(3) prohibits
5 any commissioners from conducting any independent
6 investigation of the case.

7 Has any Commissioner conducted an independent
8 investigation of this case?

9 (No response.)

10 JUDGE WAGONER: No. All right.

11 And I'll just remind you again, to those of
12 you who are attending the hearing as an alternate, that our
13 rules and procedures state that "If an alternate
14 commissioner is not fulfilling full commission duties, he or
15 she may attend hearings of the Commission but may not
16 participate in deliberations and may not vote. However,
17 during the hearing, alternate commissioners may ask
18 questions of the witnesses and alternate commissioners will
19 be asked to leave prior to deliberations."

20 At this time, we will turn the hearing over
21 to our Executive Director, Lindsey Guice, for the
22 presentation of the case.

23 (10:12 a.m.)

24 MS. GUICE SMITH: Thank you. Good morning.

25 This case involves the 1979 murder of Helena

Presentation of the Case - by Ms. Guice Smith

1 Payton at Saint Augustine's College in Raleigh, North
2 Carolina.

3 James Blackmon entered an *Alford* plea and was
4 convicted of second degree murder on January 14, 1988.

5 On January 18, 2012, Mr. Blackmon applied to
6 the Commission after referral from North Carolina Prisoner
7 Legal Services in December 2011. Mr. Blackmon submitted a
8 questionnaire and consent form to the Commission. He has
9 asserted his complete factual innocence related to the
10 homicide of Helena Payton.

11 Throughout this inquiry, Mr. Blackmon has
12 cooperated with commission staff in accordance with North
13 Carolina General Statute 15A-1467(g).

14 Pursuant to NCGS 15A-1460, a claim of factual
15 innocence means a claim on behalf of a living person
16 convicted of a felony in the General Court of Justice of the
17 State of North Carolina asserting the complete innocence of
18 any criminal responsibility for felony for which the person
19 was convicted and any other reduced level of criminal
20 responsibility relating to the crime and for which there is
21 some credible verifiable evidence of innocence that has not
22 previously been presented at trial or considered at a
23 hearing granted through postconviction relief.

24 Pursuant to the Commission's rules and
25 procedures for claimants who entered *Alford* pleas, new

Presentation of the Case - by Ms. Guice Smith

1 evidence is evidence that wasn't reasonably available to the
2 claimant at the time of the plea. The new evidence will be
3 presented throughout this hearing.

4 Commissioners, you have all been provided
5 with a 632-page brief that describes the law enforcement
6 investigation, Mr. Blackmon's motion to suppress, his *Alford*
7 plea, and appeal and postconviction activity in the case.
8 For the most part, we will not review that material in depth
9 during this hearing but will be presenting the Commission's
10 investigation.

11 I will refer you to page numbers in your
12 brief throughout the hearing as it relates to topics on
13 which the commission staff is testifying, but we will
14 typically just not go into detail about the information
15 contained in your brief.

16 Commission Staff Attorney Julie Bridenstine
17 is the lead investigator on this case. Throughout the
18 hearing, I will be calling Ms. Bridenstine to testify about
19 the Commission's investigation.

20 Several witnesses have been subpoenaed to
21 testify, including expert witnesses. The claimant, James
22 Blackmon, is currently incarcerated in the North Carolina
23 Department of Public Safety. Judge Wagoner issued a writ
24 for his presence, and he will testify later in this hearing.

25 Commission staff has interviewed numerous

Presentation of the Case - by Ms. Guice Smith

1 individuals who will not be called to testify during this
2 hearing. Commission staff will instead testify about these
3 interviews. Commission staff will testify as to whether
4 each interview has been recorded and transcribed, and
5 although I do not intend to hand out transcripts of each of
6 those interviews and will only hand out some, if at any
7 point a commissioner would like to review a transcript of an
8 interview in full, please let me know and we will provide
9 those to all commissioners to review. That will either be
10 on a break or on the overnight break.

11 During the hearing, commissioners are going
12 to have an opportunity to tour the area surrounding Latham
13 Hall, where the crime occurred, the first floor of Latham
14 Hall and the sixth floor of Latham Hall at Saint Augustine's
15 University. At the time of the crime, it was Saint
16 Augustine's College.

17 Latham Hall is still used today; however, the
18 sixth floor currently does not have any students living on
19 it. That particular dorm has not undergone significant
20 renovation since the time of the crime so we will be able to
21 take a trip out to that tomorrow afternoon. Only
22 commissioners and commission staff will be able to attend
23 that tour. The visit will be videotaped for the record.

24 Judge Wagoner has signed an order this
25 morning related to that visit, and that is a consent order

Presentation of the Case - by Ms. Guice Smith

1 that we worked out with Saint Augustine's College.

2 The State in this case is represented by
3 District Attorney Lorrin Freeman and Assistant District
4 Attorney Mark Stevens. Mr. Blackmon is represented by Beth
5 McNeill and Jonathan Brown. All four of those individuals
6 are here this morning.

7 Pursuant to NCGS 15A-1468(a)(2), Ms. Freeman,
8 the district attorney, has provided a written statement
9 which shall become part of the record.

10 Commissioners, this is going to be designated
11 as handout 47 in your hearing handout notebooks and you will
12 have an opportunity to review that later in the hearing.

13 At the end of the hearing, you'll be asked to
14 determine whether there is sufficient evidence of factual
15 innocence to merit judicial review. Mr. Blackmon's case
16 will only move forward if five of eight commissioners vote
17 that there is sufficient evidence of factual innocence to
18 merit judicial review. If less than five commissioners vote
19 for the review, Mr. Blackmon's case will be closed with the
20 Commission and no appeal is available.

21 Commissioners, as always, you also have the
22 opportunity to request that this case be continued and that
23 Commission staff conduct additional investigation in the
24 case. I will remind you that, as of December 31 of this
25 year, we have several commissioners whose terms end and who

Julie Bridenstine - by Ms. Guice-Smith

1 are not eligible for reappointment; so any continuance would
2 have to take place between now and the end of the year.

3 Any questions?

4 (No verbal response.)

5 **MS. GUICE SMITH:** Okay.

6 The Commission calls Staff Attorney Julie
7 Bridenstine.

8 * * * * *

9 Thereupon, JULIE BRIDENSTINE, a witness having been called
10 by the Commission, was examined and testified as follows:

11 BY MS. GUICE SMITH: (10:19 a.m.)

12 Q. Ms. Bridenstine, will you please state your full
13 name for the record.

14 A. Julie Bridenstine.

15 Q. And what is your title?

16 A. I'm a staff attorney with the Commission.

17 Q. And how long have you been employed with the
18 Commission?

19 A. Since February of 2016.

20 Q. Were you assigned to the Blackmon case?

21 A. I was.

22 Q. And in the course of the Commission's
23 investigation, did the staff obtain and review files and
24 records from other agencies?

25 A. Yes, we did.

Julie Bridenstine - by Ms. Guice-Smith

1 Q. Please tell us what files and records were
2 obtained and reviewed.

3 A. The Raleigh Police Department file, which included
4 portions of the Dorothea Dix records for Mr. Blackmon; the
5 City County Bureau of Investigation file, which we will
6 refer to as CCBI; the North Carolina State Crime Lab file;
7 portions of the Wake County Superior Court file. We
8 received portions of the file that were preserved on
9 microfilm. The paper files had been destroyed prior to our
10 request.

11 We also have reviewed portions of the Attorney
12 General's file as received from Assistant Attorney General
13 William Hart. He had kept portions of the file in his
14 office. The AG's office did not otherwise maintain the
15 file. The portions provided by Mr. Hart include the State
16 and defense appellate briefs with partial attachments and
17 the Court of Appeals opinion.

18 We also obtained DPS records for James Blackmon
19 and alternate suspect James Leach. Those records included
20 education records, parole commission records, combined
21 records, and medical and mental health records.

22 We obtained the North Carolina Prisoner Legal
23 Services file for Mr. Blackmon. We obtained the North
24 Carolina Center on Actual Innocence file for Mr. Blackmon.

25 Q. Did commission staff obtain and review the

Julie Bridenstine - by Ms. Guice-Smith

1 district attorney's file for this case?

2 A. No. We had been previously informed that the file
3 had been destroyed.

4 Q. Did the Commission obtain and review defense
5 attorney files in this case?

6 A. No. We contacted defense attorneys Thomas Manning
7 and Frank Jackson, and neither of those attorneys had
8 retained a file.

9 Q. Did the Commission obtain and review the
10 transcript of Mr. Blackmon's motion to suppress?

11 A. No. We checked with the North Carolina Court of
12 Appeals, the district attorney's office, the attorney
13 general's office, and the defense attorneys and none had
14 retained a copy of the transcript of that motion to suppress
15 hearing.

16 MS. GUICE SMITH: Commissioners, do you have
17 any questions for Ms. Bridenstine on this material?

18 (No verbal response.)

19 MS. GUICE SMITH: Can you-all hear
20 Ms. Bridenstine?

21 JUDGE WAGONER: Maybe a little bit louder.

22 Q. Okay. Ms. Bridenstine, who is William Hart?

23 A. During the initial investigation, William Hart was
24 an assistant district attorney at the Wake County District
25 Attorney's Office who was assigned to this case. In 1986,

Julie Bridenstine - by Ms. Guice-Smith

1 he became an assistant attorney general at the North
2 Carolina Attorney General's Office. He remained on
3 Mr. Blackmon's case throughout the pendency of the case and
4 the appeal.

5 Q. Did the Commission staff interview Mr. Hart?

6 A. Yes. We interviewed him by phone on January 18,
7 2013.

8 Q. Was that interview recorded and transcribed?

9 A. No.

10 (Discussion off the record.)

11 JUDGE WAGONER: Thank you. All right.

12 Q. Can you please tell the commissioners about that
13 interview with Mr. Hart.

14 A. Sure.

15 The interview with Mr. Hart was generally about
16 the attorney general's office search for a file in this
17 case.

18 Mr. Hart recalled that although he initially
19 believed he had completed his work on the case when he left
20 the district attorney's office in 1986, since getting the
21 Commission's request for files, he now recalled that he
22 remained on it throughout the appeal.

23 He also recalled that the file would have only had
24 an RPD police report since the case did not go to trial and
25 that there would not have been any trial preparation

Julie Bridenstine - by Ms. Guice-Smith

1 documents.

2 He stated that the file may have included notes
3 about the suppression hearing if there were any taken. He
4 recalled that the defense attorney approached him and they
5 worked out a plea after the defense lost the motion to
6 suppress.

7 Q. And did commission staff later talk to Mr. Hart
8 again?

9 A. Yes. We contacted Mr. Hart on October 23, 2013,
10 to ask whether he recalled the plea in this case was entered
11 pursuant to *North Carolina versus Alford*.

12 Q. You just said October 23, 2013.

13 Did you mean 2018?

14 A. I did. 2018.

15 Q. And what did he tell you?

16 A. He stated that the case resulted in an *Alford*
17 plea.

18 Q. Did Mr. Hart provide an affidavit to that effect?

19 A. He did.

20 MS. GUICE SMITH: Commissioners, if you would
21 will refer to handout 1 in your hearing handout notebooks,
22 this is the affidavit of attorney William Hart.

23 Please take a moment to review Mr. Hart's
24 affidavit.

25 Commissioners, do you have questions for

Julie Bridenstine - by the Commissioners

1 Ms. Bridenstine about the Commission's interview of William
2 Hart?

3 (10:25 a.m.)

4 **MR. BARROW:** Could you remind me of what page
5 the transcript of plea appears on that?

6 **JUDGE WAGONER:** It's in the book that we
7 received this morning.

8 **MS. GUICE SMITH:** It's behind the affidavit.

9 **MS. TANNER:** It's attached to the affidavit
10 but I can also ...

11 **MR. BOSWELL:** You asked a different question.
12 You're asking about the transcript of plea?

13 **MR. BARROW:** No, this is it.

14 **MR. BOSWELL:** The plea here?

15 **MR. BARROW:** Is it your understanding that
16 that word which is, to me, illegible is "answer"? On number
17 10 -- or maybe number 9.

18 **THE WITNESS:** Which handout number is it?

19 **JUDGE WAGONER:** Where it says "Do you
20 personally plead guilty?" And then the next question is --

21 **THE WITNESS:** Are you talking about number 9
22 or number 10?

23 **MR. BARROW:** Well, it's unclear to me which
24 the line is, but it says "will not" and there's a word I
25 can't read.

Julie Bridenstine - by Ms. Guice Smith

1 **THE WITNESS:** So on question number 9, where
2 "guilty" is circled, it looks like "Will not answer" is
3 crossed out and "Yes" is written above that, and the answer
4 for number 10 is "Will not answer."

5 **MR. BARROW:** So that word is "answer"?

6 **THE WITNESS:** Yes.

7 **MR. BARROW:** Thank you.

8 **MS. GUICE SMITH:** Any other questions?

9 (No verbal response.)

10 (10:27 a.m.)

11 Q. Who is Susan Edwards?

12 A. In the early 1980s, Susan Edwards was an assistant
13 district attorney with the Wake County District Attorney's
14 Office.

15 Q. Did Ms. Edwards have an opportunity to work on any
16 case related to James Blackmon?

17 A. Yes. She was assigned as the assistant district
18 attorney in the prosecution of two Dorothea Dix employees
19 who were alleged to have abused James Blackmon on April 17,
20 1983.

21 **MS. GUICE SMITH:** Commissioners, information
22 related to the case can be found on pages 237 to 253 of your
23 brief.

24 Q. What happened with the abuse allegations by
25 Mr. Blackmon against the Dorothea Dix employees?

Julie Bridenstine - by Ms. Guice Smith

1 A. Ms. Edwards was the prosecutor at the trial that
2 was held in district court on September 15 and 16 of 1983.
3 The charges were assault against a handicapped person. The
4 handicapped portion of the charge was nonsuited and the two
5 employees were acquitted by the Court.

6 Q. Was Ms. Edwards involved in the prosecution of
7 Mr. Blackmon related to the murder of Helena Payton?

8 A. Yes.

9 She requested the court order for the medical
10 records from Dorothea Dix on behalf of Detectives Holder and
11 Munday on September 20, 1983. She was also present for the
12 interview of Mr. Blackmon on the afternoon of October 26,
13 1983, following the visit to Saint Augustine's campus.
14 There is no record of her involvement in this case after
15 Mr. Blackmon was interviewed by the police.

16 William Hart's signature is on the indictment
17 dated December 12, 1983. And there is no record of her in
18 the Wake County court file.

19 **MS. GUICE SMITH:** Commissioners, the
20 October 26, 1983, interview after the visit to Saint
21 Augustine's campus can be found beginning on page 406 of
22 your brief.

23 Q. Did Ms. Edwards have any other involvement with
24 Mr. Blackmon?

25 A. Reports indicate that Mr. Blackmon also visited

Julie Bridenstine - by Ms. Guice Smith

1 Ms. Edwards' office on November 3, 1983. Information
2 related to this visit can be found on page 439 of your
3 brief.

4 Mr. Blackmon told the detectives on November 9,
5 1983, that he was going to walk over and see, quote, "Susan"
6 today.

7 The transcript of that interview also indicates
8 that Mr. Blackmon asked the detectives whether Susan Edwards
9 liked the candy and that one of the detectives in turn asked
10 him where he bought it.

11 Information related to this visit can be found on
12 page 444 of your brief.

13 Q. Did commission staff interview Ms. Edwards?

14 A. Yes. We interviewed her over the phone on
15 November 1st, 2018, and in person on November 8, 2018.

16 Q. Were those interviews recorded and transcribed?

17 A. Yes.

18 Q. What did she tell you?

19 A. After explaining to her the facts of this case and
20 the abuse allegations from Dorothea Dix, she said she did
21 not remember either case at all.

22 She then reviewed some of the documents from the
23 SBI case and looked through the transcribed interview
24 Mr. Blackmon had with Detectives Munday and Holder to see if
25 that refreshed her memory. After she finished reading those

Julie Bridenstine - by Ms. Guice Smith

1 materials, she said that she did not remember either case.

2 She did not remember being involved in a case --
3 excuse me -- she did remember being involved in a case where
4 there was an assault on a patient, but she did not know if
5 this was the case involving Mr. Blackmon at Dorothea Dix
6 Hospital.

7 Q. What else did she tell you?

8 A. She did not remember Mr. Blackmon and she did not
9 remember if he testified at the trial on September 15th and
10 September 16th of 1983.

11 Q. Did she tell you anything else?

12 A. She said she did not she know if she met
13 Mr. Blackmon when she was prosecuting the abuse case at
14 Dorothea Dix, but she stated it was her general rule to meet
15 with victims.

16 Q. Did she remember Detective Holder and Detective
17 Munday?

18 A. She did.

19 Q. Did you ask her about whether or not she saw
20 anything in the medical records about Mr. Blackmon
21 discussing murdering women in his past?

22 A. I did. She did not recall that and stated that
23 she did not recall anything about this case.

24 Q. Did she review the court order that she obtained
25 on September 20, 1983, following her application for

Julie Bridenstine - by Ms. Guice Smith

1 Mr. Blackmon's medical records?

2 A. She did.

3 Q. What does that order indicate?

4 A. It indicates that Ms. Edwards made an oral
5 application for Mr. Blackmon's complete medical records from
6 Dorothea Dix. Among other things, it states that
7 Mr. Blackmon fits the physical description of the person
8 seen near the crime scene at the time of the alleged murder.

9 It also states that Raleigh Police Department has
10 received information that Mr. Blackmon made incriminating
11 statements concerning his participation in this crime to
12 staff personnel at Dorothea Dix Hospital and that the
13 Raleigh Police Department has reason to believe that these
14 statements are contained in Mr. Blackmon's medical records.

15 Q. And did that order mention Raleigh Police
16 Department receiving a tip or information from any patient
17 at Dorothea Dix?

18 A. It does not.

19 Q. Is there any indication that the source of at
20 least -- or at least one of the sources could have been a
21 patient at Dorothea Dix?

22 A. As mentioned in the brief, one of the pages from
23 the hearing on the motion to suppress statements includes
24 testimony that Lieutenant Lockey obtained information from
25 an unidentified Dorothea Dix patient, and those pages were

Julie Bridenstine - by Ms. Guice Smith

1 attached to the appellate briefs for the State and the
2 defense. There were a few pages from the motion to suppress
3 that were attached to those documents.

4 Q. Did you ask Ms. Edwards about the source at
5 Dorothea Dix that is mentioned in the 9/20/1983 order for
6 Mr. Blackmon's medical records?

7 A. I did. She reviewed the order and said that she
8 did not remember anything about the information Raleigh
9 Police Department received about Mr. Blackmon making
10 incriminating statements to staff personnel at Dorothea Dix.

11 Q. And could she recall whether anyone in any of her
12 cases had ever brought her any candy?

13 A. She could not.

14 Q. Did you ask her why she was involved in the
15 investigation of the Helena Payton case?

16 A. I did. She said that she did not have a clue.
17 She said that she would usually be involved in the case to
18 the end if she was involved in the investigation.

19 Q. Did you ask her how she became involved in the
20 questioning with Mr. Blackmon?

21 A. I did. She said that she did not recall being
22 involved in the interview or being present. She said that
23 there were times she was present when defendants were being
24 interviewed. She said that maybe Mr. Blackmon asked to have
25 her there but she did not know.

Julie Bridenstine - by the Commissioners

1 Q. Did you ask her any follow-up questions about
2 that?

3 A. I did. When asked if it had happened in her
4 career that someone had requested her to be present, she
5 said she could not recall any.

6 Q. What did she say about her involvement in
7 investigations generally?

8 A. She said that if a case had been assigned to her
9 that had not yet been charged, the police would frequently
10 call her if they had legal questions. She said she was more
11 involved in the investigations of white-collar crimes. She
12 said she was not directing investigations at all.

13 Q. Is there anything else the commissioners should
14 know about Ms. Edwards and her interviews that were done by
15 commission staff?

16 A. She reiterated several times that she did not
17 remember Mr. Blackmon and that she didn't remember anything
18 about either case.

19 MS. GUICE SMITH: Commissioners, do you have
20 any questions of Ms. Bridenstine about the Commission's
21 interview?

22 (10:35 a.m.)

23 JUDGE WAGONER: I do.

24 Just to be clear, Ms. Edwards prosecuted
25 him -- prosecuted the two people from Dix who were accused

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1 of assaulting him; right?

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

3 **JUDGE WAGONER:** And did she also do some
4 things in the murder or not?

5 **THE WITNESS:** She was present on October 26,
6 1983, at a recorded interview that took place at the Raleigh
7 Police Department. She was also present on November 3 for a
8 brief meeting or encounter with Mr. Blackmon. And then
9 there is some discussion following those days about a Susan,
10 whether or not she liked the candy.

11 **JUDGE WAGONER:** Did Mr. Blackmon -- I mean,
12 he requested to meet with her at some time? Or do you know?

13 **THE WITNESS:** We don't see -- there's nothing
14 in the file to indicate that he requested that. We don't
15 know.

16 (10:36 a.m.)

17 **Q.** Was she also the one who submitted the motion for
18 the order for his medical records from Dix?

19 **A.** That's right. On September 20, she -- after
20 making an oral application for his medical records, she got
21 a court order his medical records involving the Helena
22 Payton case.

23 **MR. GRACE:** Tell me again what happened to
24 the two cases against the Dix employees.

25 **THE WITNESS:** It went to court in front of a

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1 district court judge. It went to trial, and they were
2 acquitted.

3 Q. Was there any additional follow-up by Dorothea
4 Dix?

5 A. Those two employees were fired by Dorothea Dix
6 following an internal investigation.

7 MR. GRACE: Did Ms. Edwards prosecute those
8 cases in district court? Was she the DA assigned that day?

9 THE WITNESS: She was the DA assigned to the
10 case where Mr. Blackmon was the victim that went to trial on
11 September 15 and 16 of 1983.

12 MS. GUICE SMITH: Commissioners, we do have
13 Ms. Edwards under subpoena. If you-all want to hear from
14 her, she can be made available tomorrow or Friday. If
15 you'll just let me know if you wish to hear from her.

16 MR. BOSWELL: It indicated she didn't know
17 anything about the case we're here to talk about. She
18 couldn't remember anything; right?

19 THE WITNESS: She couldn't remember anything
20 about either or Mr. Blackmon.

21 MR. BOSWELL: Okay.

22 JUDGE WAGONER: We can probably decide at
23 lunch.

24 MS. GUICE SMITH: That would be great.

25 JUDGE WAGONER: We don't have to decide that

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1 now. Okay.

2 **MS. GUICE SMITH:** Commissioners, for your
3 reference, the information about that case with the SBI and
4 the -- Mr. Blackmon being a victim at Dorothea Dix begins on
5 page 237 of your brief, if you wish to look.

6 (10:38 a.m.)

7 Q. Ms. Bridenstine, I'm going to turn your attention
8 now to the attorneys who represented Mr. Blackmon.

9 Who were his trial attorneys?

10 A. Mr. Blackmon was initially represented by Frank
11 Johnson -- excuse me -- Frank Jackson until Mr. Jackson
12 withdrew from his case when he took a job with the district
13 attorney's office. He was then represented by Thomas
14 Manning. Both attorneys were appointed.

15 Q. Did the Commission have an opportunity to
16 interview Frank Jackson?

17 A. Yes. Commission staff interviewed Mr. Jackson by
18 phone on October 28, 2014.

19 Q. Was that interview recorded and transcribed?

20 A. Yes.

21 Q. What did Mr. Jackson say during the interview?

22 A. Mr. Jackson stated that he did not remember
23 anything about the case and did not remember working on the
24 case but that if he was provided some information, he may
25 remember.

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1 He stated that the office where he kept files had
2 burned and he, therefore, no longer retained a file for this
3 case.

4 Q. I'm going to turn your attention now to Thomas
5 Manning.

6 Did the Commission interview Mr. Manning?

7 A. Yes. Commission staff interviewed Mr. Manning on
8 March 12, 2014.

9 Q. Was that interview recorded and transcribed?

10 A. Yes.

11 Q. What did Mr. Manning tell the Commission?

12 A. Mr. Manning recalled that he filed a motion to
13 suppress in the case but could remember little else.

14 **MS. GUICE SMITH:** Commissioners, if you will
15 refer to handout 2 in your hearing handout notebooks, this
16 is an excerpt from the recorded and transcribed interview of
17 Mr. Manning on March 12, 2014.

18 If you will turn your attention, we have
19 given you pages 4, line 6, through page 5, line 17.

20 Take a moment to review that portion of the
21 transcript.

22 Q. What else did Mr. Manning say?

23 A. Mr. Manning stated that he believed that
24 Mr. Blackmon was low functioning and that he believed he had
25 him evaluated. He then recalled sending him to Dorothea Dix

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1 to have him evaluated and stated that he believed he had an
2 IQ of 74 or 75. He stated he remembered that it wasn't
3 close to 70, which would have been enough to do a
4 retardation issue.

5 He recalled that Mr. Blackmon was, quote, "slow"
6 and that was why he thought that Mr. Blackmon was tricked by
7 Detective Holder's interrogation. He stated that he
8 believed that the confession trumped all the absence of
9 everything else and that it seemed hopeless to try the case.
10 He said that he really believed he would win the suppression
11 hearing and that he thought he would win it on appeal.

12 Q. Did Mr. Manning indicate whether Mr. Blackmon made
13 any statements to him regarding his guilt or innocence in
14 this case?

15 A. Yes. He stated that Mr. Blackmon -- quote, "I
16 thought the police had taken advantage of a weak-minded
17 person and gotten a statement and he never, ever said
18 anything to me that indicated that he knew shit about this
19 or that he had done anything. And I don't know if he's made
20 subsequent statements or not, but he never admitted doing
21 anything wrong to me. He always maintained that he hadn't
22 done anything. He didn't know why he was charged. He
23 didn't know why he was in jail."

24 Q. Did the Commission obtain an affidavit from
25 Mr. Harrell [sic]?

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1 A. Yes.

2 **MS. GUICE SMITH:** Commissioners, if you will
3 turn to handout 3 in your hearing handout notebooks, this is
4 the affidavit of attorney Thomas Manning.

5 Please take a moment to review Mr. Manning's
6 affidavit.

7 (10:43 a.m.)

8 **JUDGE WAGONER:** I think we're ready. I have
9 a question, though.

10 **MS. GUICE SMITH:** Yes, ma'am.

11 **JUDGE WAGONER:** Perhaps I misunderstood.

12 I believe that Mr. Manning was obviously one
13 of Mr. Blackmon's attorneys. As was Mr. Jackson?

14 **THE WITNESS:** Yes. He was initially his
15 attorney. Mr. Blackmon was arrested at the end of 1983.
16 Mr. Jackson was his attorney until somewhere in 1986. He
17 withdrew to go to the district attorney's office and then
18 Thomas Manning was appointed.

19 **JUDGE WAGONER:** Okay. And maybe I
20 misunderstood you again. I thought you said Mr. Jackson
21 said that his files were burned up in a fire but it was
22 really Mr. Manning's files that were burned up; is that
23 right?

24 (Discussion *sotto voce* among commission staff.)

25 **MR. BARROW:** I believe it was Jackson.

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1 JUDGE WAGONER: Jackson?

2 MR. BOSWELL: And Manning. Manning says his
3 file was --

4 JUDGE WAGONER: Manning says his burned up,
5 too, in his affidavit.

6 MR. BOSWELL: Maybe it was the same fire.

7 JUDGE WAGONER: They didn't practice
8 together, did they?

9 MS. GUICE SMITH: Commissioners, let us check
10 on that and we'll --

11 JUDGE WAGONER: If you could do that. I
12 thought that was very strange.

13 MR. GRACE: Do we have Tommy Manning's
14 complete affidavit? Or the transcript -- complete
15 transcript of his interview?

16 MS. GUICE SMITH: We have a complete
17 transcript of the interview with him on March 12, 2014.

18 MR. GRACE: I'd like a copy of that.

19 MS. GUICE SMITH: Okay. We will pull that
20 and pass it out to you.

21 We also had a short interview with him
22 recently, in 2018. That one has not been transcribed but we
23 do have a recording of that if you wish to hear that as
24 well.

25 MR. GRACE: After I read the complete

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1 transcription of the earlier interview, I might want to hear
2 it.

3 **MS. GUICE SMITH:** Okay. One moment.

4 (10:46 a.m.)

5 Q. Ms. Bridenstine, do you have clarification about
6 whether Mr. Jackson and/or Mr. Manning's files were burned?

7 A. It's -- in both transcripts, he indicated that his
8 files were burned and also it looks like he gave that
9 information to the North Carolina Center on Actual
10 Innocence.

11 **JUDGE WAGONER:** When you see "he," you mean
12 Mr. Manning?

13 **THE WITNESS:** Mr. Manning. That's correct.

14 **JUDGE WAGONER:** So it wasn't Mr. Jackson?

15 **THE WITNESS:** Mr. Jackson said it burned in
16 his office. Mr. --

17 **JUDGE WAGONER:** -- Jackson?

18 **THE WITNESS:** Yes.

19 **JUDGE WAGONER:** We had two fires?

20 Q. Where did Mr. Manning's file burn?

21 A. Mr. Manning said his burned at his farm.

22 **JUDGE WAGONER:** Okay.

23 Q. Let me turn your attention now to Beth McNeill.
24 Who is Beth McNeill?

25 A. Beth McNeill is an attorney for the North Carolina

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1 Prisoner Legal Services. She represented Mr. Blackmon
2 postconviction and referred the case to the Commission. She
3 is currently representing Mr. Blackmon through the formal
4 inquiry.

5 Q. And did Mr. -- Ms. McNeill indicate whether
6 Mr. Blackmon made any statements to her regarding his guilt
7 or innocence?

8 A. Yes. Ms. McNeill indicated that Mr. Blackmon has
9 always maintained his innocence to her and has never
10 admitted guilt.

11 Q. Did the Commission staff obtain an affidavit from
12 Ms. McNeill?

13 A. Yes.

14 **MS. GUICE SMITH:** Commissioners, if you will
15 refer to handout 4 in your hearing handout notebooks, this
16 is the affidavit of Attorney Beth McNeill.

17 If you'll take a moment to review that.

18 Commissioners, do you have any questions of
19 Ms. Bridenstine regarding Beth McNeill?

20 (No verbal response.)

21 Q. Ms. Bridenstine, did the Commission interview law
22 enforcement in this case?

23 A. Yes. We interviewed the law enforcement officers
24 that was involved -- who were involved in the investigation
25 of this case.

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1 Q. Let me turn your attention to Detective Carl
2 Brinson.

3 What was his role in the investigation?

4 A. He was initially assigned to the case as the lead
5 detective.

6 Q. Did the Commission interview him?

7 A. No. The Commission determined that Detective
8 Brinson is deceased. He died on July 31, 2017.

9 Q. Let me turn your attention to Detective James
10 Holder.

11 What was Detective Holder's role in the
12 investigation?

13 A. Although Detective Holder was not initially
14 assigned to the case, he later was assigned as a lead
15 detective on the case along with Detective Andrew Munday.

16 Q. Is Detective Holder still employed by the Raleigh
17 Police Department?

18 A. No. He is retired.

19 Q. Did the Commission interview Detective Holder?

20 A. Yes. Commission staff interviewed Detective
21 Holder by phone on February 5, 2014, and in person on
22 October 30, 2018.

23 Q. And were these interviews recorded and
24 transcribed?

25 A. Yes.

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1 Q. Did Detective Holder recall his involvement in the
2 case?

3 A. Yes.

4 MS. GUICE SMITH: Commissioners, because the
5 interviews with Detective Holder and Detective Munday
6 address many topics related to the Commission's
7 investigation, we're going to testify about those interviews
8 interspersed throughout the Commission hearing as we get to
9 areas where they are relevant.

10 James Holder has been subpoenaed and is on
11 standby if you decide at a later time in the hearing that
12 you want to hear from him and ask questions of him. If
13 you'll just let me know, we will make him available to
14 testify on Friday. So anytime prior to end of the day
15 tomorrow, as you hear more about those interviews, you can
16 let me know and we'll make sure to have him here Friday
17 morning.

18 Q. I want to turn your attention now to Detective
19 Andrew Munday.

20 What was his role in the investigation?

21 A. Just like Detective Holder, Detective Munday was
22 not initially assigned to the case. He later was assigned
23 as a lead detective on the case along with Detective Holder.

24 Q. And is he still employed by the Raleigh Police
25 Department?

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1 A. No. He is retired.

2 Q. Did the Commission staff interview Detective
3 Munday?

4 A. Yes. Commission staff interviewed Detective
5 Munday in person on February 20, 2014, and again via phone
6 on October 14, 2014; May 1st, 2018; and May 18, 2018. And
7 he was interviewed again in person on November 1st, 2018.

8 Q. And were those interviews recorded and
9 transcribed?

10 A. The February 20, 2014; May 18, 2018; and
11 November 1, 2018, were recorded and transcribed. The
12 May 1st, 2018, phone call was not recorded.

13 Q. Did Detective Munday recall his involvement in the
14 case?

15 A. Yes.

16 MS. GUICE SMITH: Commissioners, as with
17 Detective Holder, Detective Munday has also been subpoenaed
18 and is on standby, and we can make him available to you-all
19 on Friday. We will testify about what he said in those
20 interviews throughout the hearing.

21 Q. Ms. Bridenstine, can you please remind the
22 commissioners what items of relevant physical evidence were
23 collected in this case?

24 A. There was a dashiki with blood that matched the
25 description of what the perpetrator was wearing. It was

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1 located in the woods near the dorm which was near the area
2 where the suspect was last seen.

3 There was a knife with blood located on the first
4 floor of Latham Hall in the game room under a table.

5 Law enforcement believed that this knife was the
6 murder weapon.

7 There were latent prints lifted from the outside
8 of the stall door in which the victim was stabbed.

9 Q. Can you tell the commissioners about any requests
10 for evidence searches prior to the Commission's involvement
11 in the case?

12 A. There is a memo in the North Carolina Center on
13 Actual Innocence file that indicates that Raleigh Police
14 Department no longer maintains any physical evidence in this
15 case. According to the file, the evidence custodian
16 informed the Center on January 3, 2008, that because of the
17 date of the case, it could not confirm when the evidence
18 destroyed but they were 100 percent confident that the
19 evidence was no longer at RPD.

20 There is a letter in the North Carolina Prisoner
21 Legal Services file from attorney Beth McNeill to
22 Mr. Blackmon on October 20, 2011, that states that she had
23 heard from the Raleigh Police Department attorney who
24 indicated that Raleigh Police Department no longer had the
25 evidence from Mr. Blackmon's case.

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1 Q. And what efforts did commission staff undertake to
2 locate the physical evidence in this case?

3 A. On May 28, 2013, commission staff spoke with RPD
4 evidence custodian Wendy Lancaster. She advised that RPD
5 had no record of the evidence in this case and had no record
6 of how the evidence was disposed.

7 After that conversation, the Commission requested
8 an affidavit from Ms. Lancaster about her efforts to locate
9 the evidence in this case. After not receiving that
10 requested affidavit, on September 19, 2013, the Commission
11 sent a letter to RPD attorney Ashby Ray indicating the
12 Commission's intent to conduct a search of the RPD evidence
13 storage facility.

14 Q. And did commission staff then meet with
15 representatives from RPD?

16 A. Yes. On October 29, 2013, commission staff met
17 with RPD attorney Ashby Ray and evidence custodian Wendy
18 Lancaster. The purpose of this meeting was to discuss
19 searching the evidence room for the evidence in this case.

20 During this meeting, Ms. Lancaster explained that
21 the evidence room had been moved to its present location in
22 2010. At the time of the move, an inventory was conducted
23 and the evidence related to Mr. Blackmon's case was not in
24 the bin in which it was supposed to be located. The
25 inventory was done both at the old evidence facility before

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1 the move and at the new evidence facility as items during --
2 as items were brought into it.

3 There were some unmarked items located in the
4 freezer section during the move but they were identified and
5 placed with their proper cases. There were some items
6 located in the wrong bin but they were transferred to the
7 correct bin when they were discovered. No evidence for this
8 case was discovered during the move.

9 Ms. Lancaster explained how she searched for the
10 evidence when the Center requested it and stated that she
11 could not locate any record of destruction for the evidence
12 in this case. She stated that her predecessor would throw
13 away evidence records for items that had been destroyed
14 pursuant to RPD's record retention schedule. She stated
15 that she now keeps all evidence records indefinitely.

16 Q. Did commission staff later have an opportunity to
17 tour the RPD evidence facility?

18 A. Yes. On October -- excuse me -- January 22, 2014,
19 Ms. Lancaster gave commission staff members a tour of the
20 RPD evidence facility. During this tour, Ms. Lancaster
21 provided a detailed description of the security of the
22 evidence facility and showed commission staff around the
23 evidence facility.

24 During the tour, she detailed how evidence is
25 stored and secured. During this tour, commission staff

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1 requested to see the bin where the Blackmon evidence was
2 originally kept. Most of the evidence in this bin was from
3 cases from 1995 to 2009. All items were clearly labeled.

4 Ms. Lancaster again described the inventory
5 process from 2010. Two-person teams worked together to
6 inventory the evidence. One person would call out the item
7 from the bin and the other person would log it down. The
8 items were placed in a box and sealed and initialed.

9 The boxes were placed on pallets, they put
10 shrinkwrap around the items, and then they placed them on a
11 truck. The evidence staff remained with the items.

12 Once the evidence got to the new location, it was
13 inventoried again before being placed in a new bin. Except
14 for some items and paperwork associated with some larcenies,
15 any unmarked item of evidence from the inventory has been
16 placed with the correct corresponding case.

17 She keeps the unmarked evidence from the larcenies
18 together and none of the items are a dashiki or a knife.

19 She estimated that there were about 20 to 25 items
20 of unmarked evidence, and her best guess for how many items
21 of evidence they had as of January 2014 was 500,000 items.

22 Q. Ms. Bridenstine, when you're talking about the
23 "bin" that commission staff looked in, did this bin house
24 evidence from multiple cases?

25 A. It did.

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1 Q. What else did Ms. Lancaster show commission staff?

2 A. She showed commission staff where the evidence
3 cards are kept. She had a photocopy of the page that listed
4 the dashiki and the knife from this case as being in bin
5 number 6P. There was no notation next to the evidence.
6 Other items of evidence have a notation indicating that they
7 have been destroyed, but not all items had this notation.

8 Ms. Lancaster advised that sometimes this would be
9 noted in the computer and not on the card. In the 1980s,
10 the evidence started to be tracked by officer name. She
11 checked the records for the officer names, including
12 Detectives Holder and Detective Munday, and didn't see any
13 records. The oldest item of evidence she has is from the
14 late 1960s or early 1970s.

15 Q. What else did she show commission staff?

16 A. She showed commission staff the boxes where
17 records of evidence that have been destroyed are kept.
18 There are three boxes in particular from this time period.
19 She and another staff member looked through those boxes to
20 see if they contained any documentation from this case, and
21 they did not. She offered for commission staff to look
22 through those three boxes and the other boxes with
23 documentation from the 1980s. She indicated that her
24 predecessor destroyed some of the records of evidence that
25 had been destroyed in the early 2000s but she was not sure

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1 of the date.

2 Q. And did commission staff later review those
3 evidence records?

4 A. Yes. On March 5, 2014, commission staff went back
5 to RPD to review the evidence records. Commission staff
6 went through the remaining records from the oldest boxes
7 through 1990 since Mr. Blackmon wasn't convicted until 1988.
8 No evidence records for this case were located.

9 Q. Did the Commission obtain an affidavit from RPD?

10 A. Yes. On April 2nd, 2014, the Commission received
11 the signed affidavit from Ms. Lancaster at RPD which was
12 executed on April 1, 2014.

13 MS. GUICE SMITH: Commissioners, if you will
14 refer to handout 5 in your hearing handout notebooks, this
15 is an affidavit of RPD evidence custodian Wendy Lancaster.

16 Please take a moment to review it.

17 Q. Ms. Bridenstine, did commission staff or RPD
18 evidence staff ultimately locate any evidence related to
19 Mr. Blackmon's case at RPD?

20 A. No.

21 Q. What other efforts did commission staff undertake
22 to locate physical evidence in this case?

23 A. Although this case did not go to trial, commission
24 staff contacted the Wake County Clerk of Superior Court to
25 determine if they had evidence or an order for destruction

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1 for this case. The court file had to be recreated from
2 microfilm. There was nothing in the recreated file
3 pertaining to evidence or an order for destruction.
4 However, this was only a partial file.

5 On February 6, 2014, commission staff spoke to
6 Assistant Clerk Rick Brown, who supervised the evidence room
7 staff at the Wake County clerk's office at the time of the
8 call. As result of this phone call, Mr. Brown executed an
9 affidavit related to his search for evidence and evidence
10 records in Mr. Blackmon's case. He did not locate any
11 evidence related to this case.

12 **MS. GUICE SMITH:** Commissioners, if you will
13 refer to handout 6 in your hearing handout notebooks, this
14 is the affidavit of Assistant Clerk Rick Brown dated
15 February 7, 2014.

16 Please take a moment to review that.

17 (11:04 a.m.)

18 **MR. BOSWELL:** Can I ask a question?

19 **MS. GUICE SMITH:** Yes.

20 **MR. BOSWELL:** Would it be normal for there to
21 be evidence at a courthouse if there was a guilty plea?

22 **MS. GUICE SMITH:** Can you answer that?

23 **THE WITNESS:** No, not unless it was
24 introduced into the hearing for some reason. There was no
25 indication here that that happened, but there was a motion

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1 to suppress. So on the off chance that they did introduce
2 it for some reason, we just checked there to make sure. We
3 also wanted to make sure that they didn't have some sort of
4 record for the evidence being destroyed.

5 **MR. BOSWELL:** But do we have any reason to
6 believe there would be evidence at the courthouse based on
7 the facts as we understood them?

8 **THE WITNESS:** No.

9 **MR. BOSWELL:** Okay.

10 **MR. GRACE:** Is it your understanding, and am
11 I reading the affidavit correct, that not only the property
12 that you were looking for could not be found and presumed
13 destroyed, but that the log that -- attendant log, check-in
14 log that went with that was destroyed as well?

15 **THE WITNESS:** We never saw a log in the file.
16 And the entire file doesn't exist, only partial; so I don't
17 know if there was an evidence log in the file or not.

18 **MR. GRACE:** Doesn't the police maintain an
19 evidence log at the evidence room where -- when property's
20 checked in and out, a log has to be -- you have to make an
21 indication in the log?

22 **THE WITNESS:** Current practices are that. I
23 don't know exactly what they were doing at the time that
24 this case was being heard. Ms. Lancaster indicated that
25 they were keeping their logs but that someone before her,

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1 when evidence had been destroyed and those records went up
2 to their retention policy -- the record of destruction, that
3 that predecessor was destroying those records. So we don't
4 know if these records were -- this evidence was destroyed at
5 RPD or not, but RPD no longer has the evidence.

6 **MR. GRACE:** And they no longer -- and they
7 don't keep, in perpetuity, logs for records?

8 **THE WITNESS:** They do. That's their current
9 practice now.

10 **MR. GRACE:** But not then?

11 **THE WITNESS:** My understanding from
12 Ms. Lancaster was that practice continued until the early
13 2000s but that now RPD maintains those logs forever.

14 **MS. GUICE SMITH:** Any other questions related
15 to that before we move on?

16 (No verbal response.)

17 (11:07 a.m.)

18 Q. What other efforts did commission staff undertake
19 to locate physical evidence in this case?

20 A. The Commission contacted Assistant Attorney
21 General Joy Strickland, who was assigned to the North
22 Carolina State Crime Laboratory. We requested that the
23 crime lab conduct a search to determine whether the crime
24 lab retained any physical evidence, cuttings, extracts, or
25 other byproducts of testing in the case. We explained that

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1 the dashiki and knife were last examined by the lab in 1982.

2 On February 5, 2014, Ms. Strickland informed the
3 Commission that Sarah Clay of the forensic biology section
4 had searched and was unable to locate any evidence remaining
5 in that section from this case.

6 Q. What other efforts did commission staff undertake
7 to locate physical evidence in this case?

8 A. On March 21, 2014, staff went to the Wake County
9 Sheriff's Office to review destruction records for evidence
10 received from the Wake County Clerk's Office. The documents
11 related to items destroyed for the clerk were in three
12 manila envelopes. The dates of the cases ranged from 1975
13 to 2012. None of the court orders were related to evidence
14 in this case.

15 Q. And were any additional efforts made by commission
16 staff to locate physical evidence in this case?

17 A. The Commission contacted CCBI in Raleigh and
18 inquired about the latent prints in this case on July 18,
19 2013. On July 19, 2013, CCBI informed the commission staff
20 that they had located the latent lifts in storage. Rebecca
21 Heinrich of CCBI informed the Commission that there had been
22 a lot of comparisons but no identifications were made for
23 the prints.

24 On August 15, 2018, commission staff spoke to
25 Tanyon Rainey who was in charge of records management and

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1 asked whether the other physical evidence -- that being the
2 dashiki and the knife -- if they were in the CCBI evidence
3 vault.

4 Ms. Rainey stated that they did not retain the
5 evidence and they do not have evidence from this time
6 period.

7 With respect to this case, Ms. Rainey indicated
8 that the evidence records show that the evidence came to
9 them from RPD and they were then sent to the SBI crime lab.
10 Their records do not show that CCBI received the evidence
11 after it was sent to the crime lab.

12 Q. What evidence was commission staff able to locate
13 during its investigation?

14 A. The latent prints that were lifted from the
15 bathroom stall door where the victim was stabbed.

16 Q. Has the commission staff been able to locate the
17 dashiki and knife collected?

18 A. No.

19 Q. Has the commission staff been able to locate any
20 record of destruction for the dashiki or knife?

21 A. No.

22 MS. GUICE SMITH: Commissioners, do you have
23 any additional questions about the search for evidence in
24 this case?

25 (No verbal response.)

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1 Q. Ms. Bridenstine, I'm going to turn your attention
2 now to the latent lifts in this case.

3 **MS. GUICE SMITH:** Commissioners, the latent
4 lifts were discussed on page 632 in your brief. You may
5 wish to refer to that page during this testimony.

6 If you will refer also to handout 7 in your
7 hearing handout notebooks, these are photocopies of the
8 latent lifts from the crime scene. There are two pages of
9 the latent lifts followed by a third page, which is -- and a
10 fourth page -- which are the front and back of the envelope
11 in which the latent prints are stored and are currently
12 stored -- this is how they have been stored since they were
13 collected.

14 You may wish to refer to these pages as well
15 during Ms. Bridenstine's testimony and during our latent
16 print expert testimony.

17 **MR. BOSWELL:** Lindsey, what page did you say?

18 **MS. GUICE SMITH:** In the brief, that's page
19 632.

20 **JUDGE WAGONER:** The very last page.

21 **MS. GUICE SMITH:** Yes, the last page in your
22 brief.

23 **MR. BOSWELL:** Okay.

24 **MS. GUICE SMITH:** And then I'm also referring
25 to handout 7 in your hearing handout notebooks. These are

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1 the actual photocopies of the prints themselves and the
2 envelope in which the prints were stored.

3 Page 632 of your brief is the forensic
4 testing chart that discusses the latent lifts and other
5 forensic testing that was conducted as well.

6 Q. Ms. Bridenstine, can you remind the commissioners
7 what latent lifts were collected from the crime scene?

8 A. The bathroom stall was processed for latent prints
9 and latent prints were developed from outside and inside the
10 bathroom stall door.

11 Although the initial report indicates that latent
12 prints were developed from outside and inside the bathroom
13 stall door, all later reports and submissions for testing
14 indicate the latent prints were only developed from the
15 outside of the bathroom stall door.

16 Q. And who processed that original crime scene?

17 A. Crime scene investigator James Hardy of CCBI.

18 Q. And did Commission staff interview Mr. Hardy?

19 A. Yes. We interviewed him on October 31, 2018.

20 Q. And was that interview recorded and transcribed?

21 A. It was.

22 Q. Did Mr. Hardy recall processing the crime scene?

23 A. After reviewing his reports from the case,
24 Mr. Hardy recalled processing the crime scene.

25 Q. What did Mr. Hardy say was his practice as it

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1 relates to where he would take photographs?

2 A. He said that he would have taken photographs of
3 anything that he saw that was relevant to the crime.

4 Q. What did he say about taking photographs of blood
5 in this case?

6 A. He said that he would've taken photographs of all
7 the areas where he saw blood at the crime scene. He said he
8 would have taken a photo of every footprint that he saw that
9 day. He said that if there was not a photo of a specific
10 area, more than likely there wasn't anything there connected
11 to the crime.

12 When asked if he would have taken a photo of a
13 sink if it had blood in the sink or near it, he said yes.

14 Q. What did he say was his practice as it relates to
15 where he would dust for latent prints?

16 A. He stated that it was his practice to dust for
17 prints anywhere that the perpetrator might have touched.

18 Q. And what did he say with respect to the areas he
19 printed at this particular crime scene?

20 A. He stated that, other than the bathroom stall
21 door, he did not remember processing any other areas for
22 prints. He further stated if he had processed any other
23 areas, it would be reflected in his report even if he didn't
24 find anything in those areas.

25 Q. Did he tell you anything else about his

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1 practice -- practices generally as they related to
2 collecting latent lifts in the late 1970s?

3 A. He stated that he would only turn in the prints
4 that he believed could be identified and not things like
5 smudges. He also indicated that if he had collected other
6 prints that he didn't believe could be identified and that
7 he didn't turn in, that this would not be reflected in his
8 report.

9 Q. You said that these prints that he did collect
10 were from the stall door.

11 Did Mr. Hardy provide any information about the
12 orientation of the prints that he collected?

13 A. Although he did not recall where on the door
14 specifically these prints were collected from, he believed
15 that the prints on lift card number 2 were from a hand that
16 was grasping the edge of the stall door. He indicated that
17 this would explain why his report stated that prints were
18 developed from both the inside and the outside of the door
19 as the fingers would have wrapped around the door and the
20 prints would have been on both the outside and the inside.
21 He was not otherwise able to orient the prints.

22 Q. Did Mr. Hardy recall whether elimination prints
23 for the victim or the other women from the sixth floor of
24 the Latham Hall were ever taken?

25 A. He stated that he did not remember going to the

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1 morgue in this case. When he was reminded that the victim
2 was in a coma at the hospital for about a month before she
3 passed away, Mr. Hardy indicated that he didn't get
4 elimination prints because the victim was at the hospital.

5 With respect to the other women who lived at
6 Latham Hall, he stated that the investigating agency would
7 have arranged for those elimination prints to be obtained
8 since there was such a large number of people. He stated
9 that he did not know why that was never requested.

10 We also confirmed with Detective Munday that
11 elimination prints would have been requested by
12 investigators on the case though he did not recall the
13 specifics of this case.

14 Q. Can you remind the commissioners what analysis was
15 conducted on the latent lifts from the crime scene during
16 the original investigation.

17 A. Throughout the investigation, these prints were
18 compared to various individuals. Based on our review of the
19 file, it appears that CCBI wrote the names of some
20 individuals they compared to the prints collected at the
21 scene on the back of the envelope that contained the prints.
22 This list on the envelope is under a heading, quote, "No
23 Ident."

24 There is also list from CCBI of more individuals
25 who appeared to have been compared to the prints though this

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1 list is not as clear as to the results of those comparisons.

2 There are some corresponding comparison request
3 reports to these names, but not every name listed has a
4 corresponding report. However, based on the review of both
5 RPD and CCBI's files, it appears that no match was made
6 during any police investigation to any of the prints at the
7 scene.

8 Q. Was Mr. Hardy able to provide any additional
9 information about the print comparisons that were originally
10 conducted by CCBI?

11 A. He told the Commission staff that most of the
12 handwriting on the back of the envelope appeared to be that
13 of a Mr. Parker, the latent print examiner at the time. He
14 stated that the names on the back of the envelope were more
15 than likely names of individuals that the latent examiner
16 compared the fingerprints against. He stated that the
17 notation at the top of the envelope that says "no ident"
18 means that they made no identifications of any of the people
19 to the prints.

20 Q. Did you uncover any additional information to
21 confirm that the person's handwriting on the back of the
22 envelop was that of Mr. Parker?

23 A. We contacted Marty Ludas, who also worked at CCBI.
24 He did the later latent print comparisons in this case. He
25 stated that the initials WMP would've belonged to William

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1 Parker. According to Mr. Ludas, Mr. Parker was working at
2 CCBI until a Friday in 1982 when Mr. Parker retired.
3 Mr. Ludas began working at CCBI the following Monday as
4 Mr. Parker's replacement.

5 **MS. GUICE SMITH:** Commissioners, James Hardy
6 has also been subpoenaed and is on standby. If any of you
7 would like to ask questions of him, if you can let me know
8 by the end of the day today, then we can make arrangements
9 to have him testify either tomorrow or Friday.

10 Q. During the Commission's investigation, did
11 commission staff inquire as to whether CCBI retained the
12 latent lifts in this case?

13 A. Yes. Commission staff requested that CCBI
14 determine if they retained the latent lifts for this case in
15 July of 2013. CCBI then located them on July 19, 2013.

16 Q. Did commission staff submit those latent lifts for
17 additional analysis?

18 A. Yes. On August 2nd, 2013, commission staff
19 requested that CCBI run the latent lifts through AFIS and
20 SPEX.

21 **MS. GUICE SMITH:** Commissioners, in a moment,
22 we'll call our expert witness from CCBI to testify about
23 that analysis.

24 Before we do that, do any of you have
25 questions for Ms. Bridenstine related to the latent prints

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1 or her interview with Mr. Hardy?

2 (No verbal response.)

3 **MS. GUICE SMITH:** I would say now might be a
4 good time for just a 10-minute break before we call the
5 expert.

6 **JUDGE WAGONER:** Okay. All right. We will be
7 in recess for 10 minutes.

8 (Recess, 11:19 to 11:33 a.m.)

9 **JUDGE WAGONER:** Okay.

10 **MS. GUICE SMITH:** The Commission calls Renee
11 Minella.

12 * * * * *

13 Thereupon, RENEE MINELLA, a witness having been called by
14 the Commission, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. GUICE SMITH: (11:33 a.m.)

17 Q. Good morning.

18 A. Good morning.

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

20 A. Renee Lynn Minella.

21 Q. And how are you employed?

22 **JUDGE WAGONER:** Okay. I think maybe if you
23 would spell that for the court reporter and speak up a
24 little bit as well.

25 **THE WITNESS:** M-I-N-E-L-L-A.

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1 Q. How are you employed?

2 A. I am a forensic supervisor employed with the City
3 County Bureau of Identification.

4 Q. And how long have you been employed with CCBI?

5 A. I am going on 10 years.

6 Q. What are your duties there?

7 A. Generally, I am responsible for the supervision of
8 four individuals under me, they are latent print examiners.
9 I'm responsible for providing them training, support,
10 troubleshooting. I conduct technical reviews on their case
11 analysis. I conduct verifications. I also do case work
12 myself. I'm responsible for ensuring that their
13 certification hours are met through the IAI by monitoring
14 their training credits.

15 I'm also responsible for every incoming lab
16 request that comes in to City County Bureau of ID. We serve
17 43 agencies. Anything they want done -- comparisons, AFIS
18 searches -- runs through a management system that I monitor.
19 And then I assign daily duties as well.

20 Q. How long have you been employed doing latent print
21 work?

22 A. I started my study of forensic, I would say,
23 specialty fingerprints in 1991. Since that time, I have
24 accrued probably -- approximately 1100 hours' worth of
25 fingerprint identification and comparison along with

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1 different types of forensic courses that are relevant to our
2 duties specifically. So I would say 26 years generally in
3 the study of fingerprint science; specifically as a latent
4 print examiner, 18 years.

5 Q. I think you just touched on this, but do you have
6 any specialized training relating to latent print analysis?

7 A. Yes, ma'am. I am a Certified Latent Print
8 Examiner by the International Association of Identification
9 since 2010, and I have acquired approximately 1100 hours of
10 forensic science classes. I also have a certificate diploma
11 from the American Institute of Applied Science, which was a
12 specific home-study correspondence course that specialized
13 in forensic science.

14 Q. And are you a member of any professional
15 organizations?

16 A. Yes, ma'am. I'm a member of the International
17 Association for Identification. I recently gave a
18 presentation at our international conference in August. I'm
19 also on the board of directors and I am the conference
20 chairperson for the North Carolina branch of the IAI.

21 Q. Approximately how many times have you testified as
22 an expert in latent print analysis?

23 A. Approximately about 26. When I did my time in
24 Pittsburgh as an officer and detective, we didn't keep track
25 like we do now; so that's a gross estimation, between 25 and

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1 30 times.

2 Q. Have you ever testified for the Commission before?

3 A. No, ma'am.

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

6 A. Yes, ma'am.

7 Q. I'm handing you what I believe is the most recent
8 version of your CV.

9 If you'll just take a look at that and let me know
10 if that's correct.

11 A. Yes.

12 **MS. GUICE SMITH:** Commissioners, if you will
13 refer to handout 8 in your hearing handout notebooks, this
14 is the CV of Ms. Minella that is the same copy that she is
15 looking at.

16 Your Honor, at this time, I would ask to
17 qualify Ms. Minella as an expert in latent print analysis.

18 **JUDGE WAGONER:** She may testify as an expert
19 in latent print analysis.

20 Q. Ms. Minella, can you tell the commissioners how
21 you became involved with the Commission in this case.

22 A. Yes, ma'am. I received a request from my
23 supervisor the time, Rebecca Heinrich, that I was asked to
24 run AFIS prints -- prints through our AFIS system, local and
25 state, from this case.

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1 Q. Do you know when that was?

2 A. Yes. The original request was on August 2 of '13.
3 There was an e-mail on 8/23 [sic]. And then I received the
4 official lab request and I started the chain of custody on
5 August 5.

6 JUDGE WAGONER: And, again, the request was
7 from whom?

8 THE WITNESS: My supervisor, Rebecca
9 Heinrich, at the time.

10 JUDGE WAGONER: Thank you.

11 THE WITNESS: Yes, ma'am.

12 Q. And did you complete the analysis that was
13 requested by the Commission in this case?

14 A. I did.

15 Q. I'm going to hand you the report. It's a 13-page
16 report followed by 6 pages of notes.

17 Do you recognize that as the report related to the
18 various analysis that the Commission has requested since
19 2013 of CCBI?

20 A. Yes.

21 Q. Have you had an opportunity to look at that prior
22 to today?

23 A. Yes, ma'am.

24 MS. GUICE SMITH: Commissioners, if you will
25 refer to handout 9 in your hearing handout notebook, this is

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1 the CCBI report for the latent print examination in this
2 case. It's one report, but it includes individual reports
3 within it from 2013, 2014, and 2018.

4 And then at the back, it includes six pages
5 of CCBI's notes for the 2018 analysis.

6 Q. Ms. Minella, do you also have a copy of your case
7 file with you today?

8 A. I do.

9 Q. Would it help you to refer to that during your
10 testimony?

11 A. Probably with specific dates, yes.

12 Q. Okay. What type of analysis were you initially
13 asked to conduct by the Commission?

14 A. I was asked to assess the value for AFIS, which is
15 Automated Fingerprint Identification System. AFIS is a
16 computer-based search system in which impressions are
17 entered in and they are cataloged. There is an algorithm
18 created which is essentially a series of steps where
19 different points are assigned to that finger or ridge
20 characteristics are plotted by the examiner themselves. It is
21 sent off to that repository which we have local, state, and
22 federal access to, and that particular algorithm is compared
23 against the existing algorithm in that software system of
24 AFIS.

25 They create a candidate list based on the

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1 agreement of the two impressions and it renders a candidate
2 list to the examiner, myself in this scenario, and we have
3 to go through each candidate and determine if, in fact, it
4 is an ID or an exclusion.

5 Q. If you will look at page 5 of the report that I
6 gave you --

7 MS. GUICE SMITH: Commissioners, again, that
8 is handout 9 -- page 5 of handout 9.

9 Q. -- is this portion of the report the case
10 supplemental report that's dated August 23, 2013?

11 A. Yes.

12 Q. And is that related to your search of the local
13 and state systems?

14 A. Yes, ma'am.

15 Q. Okay. And the state system -- you referred to all
16 of these as AFIS; is that correct?

17 A. Yes.

18 Q. Are the state and local systems -- do they have
19 individual names as well?

20 A. Yes. There's different vendors, companies that
21 make the AFIS. The local Wake County repository vendor is
22 SPEX, S-P-E-X. That is Wake County. The state system we
23 refer to as SAFIS, which is State AFIS. And then the
24 federal system -- at this time, it was called IAFIS.
25 Currently it's called NGI.

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1 Q. Prior to 2013, when CCBI received this request
2 from the Commission, had the latent prints in this case ever
3 been run through AFIS or any of those local, state, or
4 national systems?

5 A. No, ma'am.

6 Q. So when you got this request in August of 2013,
7 which databases did you run those prints through in August?

8 A. Initially, ran it through -- we always start
9 with -- our protocol, we typically start with Wake County.
10 And then if we don't achieve any results there, we escalate
11 to the state repository, and then we would continue with the
12 IAFIS or federal database search based on the request of the
13 customer.

14 Q. And so when you did that search in SPEX, the local
15 system, did you get any hits at that time?

16 A. I did not.

17 Q. So then you moved on to the state system?

18 A. Yes, ma'am.

19 Q. And did you get any hits at that time?

20 A. I did.

21 Q. Can you tell us what the results were?

22 A. Yes.

23 I -- the number one candidate was to a subject
24 bearing the name on the card James Edward Leach, and that
25 would be SID number North Carolina 01547138.

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1 Q. Did you later get a hit in SPEX to Mr. Leach?

2 A. Yes. I'll have to elaborate further.

3 Q. Yes, please.

4 A. Okay.

5 So after I generated that particular ID hit to
6 Mr. Leach, I wanted to take his fingerprint card and insert
7 it into our local database system because we discovered he
8 was not in there. He wouldn't have been in there because it
9 was an older card, and SPEX came on the scene in 2006.

10 So when I entered his card -- and I scanned it in
11 and I plotted the points and it gets sent off to the
12 repository, and essentially what happens is that card will
13 go through the entire unidentified latent print repository
14 in an effort to see if those algorithms that I previously
15 spoke of match up, and it did. And it also generated the
16 number one hit to James Edward Leach.

17 Q. And this was an expected result?

18 A. I don't want to say "expected" but most likely,
19 yes. Sometimes algorithms vary in systems.

20 MR. BOSWELL: So the two systems use
21 different algorithms, different proprietary algorithms?

22 THE WITNESS: Yes, sir.

23 Q. Were the prints later run through the IAFIS
24 national system?

25 A. The only print -- the print that was entered into

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1 the IAFIS, but because at that time I had already identified
2 that print that was -- that hit on -- was a tip impression
3 into the IAFIS.

4 JUDGE WAGONER: Was what? I'm sorry. What
5 was the last word you said.

6 THE WITNESS: Tip impression. T-I-P.

7 JUDGE WAGONER: Okay.

8 MR. BOSWELL: Is that the tip of a finger?

9 THE WITNESS: Yes, sir. Towards the upper
10 part, yes.

11 MR. BOSWELL: Okay.

12 Q. And when was that impression entered into IAFIS?

13 A. IAFIS -- I entered that on January 6, '14.

14 Q. In the report that you have in front of you that I
15 handed up, on page 8 of that report, is that related to that
16 January upload of the tip impressions into IAFIS?

17 A. Yes, ma'am.

18 Q. And is -- when that was uploaded, was there a hit
19 to Mr. Leach?

20 A. No, ma'am.

21 Q. Was there a hit to anyone?

22 A. No.

23 Q. Do you know if James Leach's prints are in IAFIS?

24 A. He should be, yes. If it's in the state, it
25 should be in the federal.

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1 Q. I want to go back to when you received that hit in
2 August of 2013 in SAFIS to Mr. Leach.

3 What did you do after getting the hit?

4 A. So I -- essentially, when you look at the images
5 on the screen, you are conducting what we call an ACE, is
6 our methodology. I don't know if you want me to expound now
7 or later.

8 Q. Now is fine.

9 A. Okay. So ACE is our methodology. It is an
10 acronym. It stands for analysis, comparison, and
11 evaluation.

12 In the analysis portion, we're looking at that
13 general ridge flow of that impression. We're looking to see
14 it is a finger, a palm, a joint -- what area is it
15 consistent with on the palm. So it's the overall ridge
16 flow.

17 And then we move on to the evaluation. The
18 evaluation is much more specific. We're looking for those
19 ridge path deviations. Ridge path deviations are random.
20 They are placed in random places throughout the hand or the
21 finger. They are in specific sequence, and they are also
22 relative to the spatial relationship to one another.

23 So we're looking at not only the relationship of
24 the spatial, but we're looking at the sequence of those
25 ridges to one another.

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1 So that's what we call level 2 detail.

2 Level 2 detail can be something as simple as a
3 ridge dot, which is kind of self-explanatory. It can be a
4 ridge that ends. That's called an ending ridge. It can be
5 what we call a bifurcation, which I would compare to a fork
6 in the road -- it's a ridge that divides into two ridges.
7 We also have many other what I will call level 2 details --
8 enclosures, islands. They are just the intrinsic shapes of
9 the ridges that are relative to that location.

10 So once we've done a rigorous comparison of the
11 unknown, the latent impression, and the known, the standards
12 in the repository, we come and we formulate a conclusion
13 based on what our observations were from that data.

14 In this particular scenario, there was agreement
15 with level 1 and level 2, and it was sufficient, and there
16 was no unexplainable discrepancies. And therefore, I
17 rendered a determination that it was an identification.

18 Q. And if you will look at pages 6 to 7 of the CCBI
19 report --

20 **MS. GUICE SMITH:** Commissioners, that is
21 still handout 9.

22 Q. -- the portion of the case supplemental report
23 dated August 27, 2013, does that part of the report relate
24 to that manual comparison of Mr. Leach's prints to the
25 latent lifts from the crime scene?

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1 A. Yes, ma'am.

2 Q. And you said that you made an identification to
3 Mr. Leach. Which -- if you can tell us, which print of his,
4 which finger did you make an identification to?

5 A. Lift card 1, there was an image on there that was
6 compared and a conclusion was rendered that it was the left
7 thumbprint of Mr. Leach -- of a card bearing the name Edward
8 Leach.

9 Q. And at that time, did you also do manual
10 comparisons from Mr. Leach to the other remaining prints,
11 both on lift card 1 and lift card 2?

12 A. I did.

13 Q. And at that time, what was the result of those
14 comparisons?

15 A. So there was a remaining tip of value on lift
16 card 1 that I excluded for Mr. Leach. And on lift card 2,
17 there were two impressions that I believe were simultaneous
18 impressions, which means they were deposited concurrently on
19 that surface, at the same time. I also excluded Mr. Leach
20 from those two individual impressions.

21 Q. And with respect to that identification of the
22 left thumb of Mr. Leach, did anyone at CCBI independently
23 verify that identification?

24 A. Yes, ma'am.

25 Q. And who did that?

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1 A. That would be my supervisor at the time, Rebecca
2 Heinrich.

3 Q. And at that time, in 2013, was that the standard
4 practice of CCBI?

5 A. Yes, ma'am.

6 Q. So are you able to tell us how confident that you
7 are that the card that was identified on card number 1 as
8 belonging to the left thumb of Mr. Leach is, in fact, the
9 left thumb of Mr. Leach?

10 A. I would have no reason to not think I was
11 absolutely certain. I wouldn't put my name or career on the
12 line if I had any reason otherwise.

13 **MS. GUICE SMITH:** Commissioners, if you will
14 refer back to handout 7 in your hearing handout notebook,
15 this was the photocopies of the latent lifts along with the
16 envelope that the latent lifts are stored in.

17 Q. Ms. Minella, I'm going to hand you these
18 photocopies and have you take a look at them and tell me if
19 those are photocopies of the actual latent lifts that were
20 collected from the crime scene in this case.

21 **MS. GUICE SMITH:** I'm also putting this,
22 Commissioners, on the screen.

23 A. Yes, ma'am.

24 Q. Okay. And do you also have with you today the
25 actual latent lifts?

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1 A. Yes, ma'am.

2 Q. Do the photocopies accurately depict the lifts
3 that were from card 1 and card 2 as you've seen them?

4 A. They do.

5 Q. Are these photocopies in black and white?

6 A. Yes, they appear to be. Yes.

7 Q. And the actual evidence -- does it have any color
8 on it?

9 A. No. It's fingerprint powder; so it's what I would
10 call scales of gray.

11 Q. And what about the handwriting, if you recall?

12 A. The handwriting, I believe, was blue or red. We
13 used different markers back then.

14 Q. Do cards number 1 and card number 2 provide any
15 description of the orientation of those prints?

16 A. No. There's no arrows. Sometimes the agents that
17 collect will indicate an arrow for upward, north. But that
18 wasn't the case here.

19 Q. Would that be the practice today?

20 A. Typically, they do try to do that on surfaces from
21 windows, exterior, to show the proper orientation.

22 Q. And are you involved in collecting prints out in
23 the field at all?

24 A. Not anymore.

25 Q. But you have been in the past?

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Renee Minella - by Ms. Guice Smith

1 A. Yes, ma'am.

2 Q. Are you able to describe to the commissioners the
3 process of collecting a print?

4 A. Yes.

5 Q. Please do so.

6 A. Okay. So when you arrive on a scene, you try to
7 evaluate what was potentially disturbed, what are the viable
8 surfaces that are conducive to collect latent prints.
9 Typically, nonporous surfaces are ideal, that are free of
10 debris or contamination. So you would methodically go
11 through the scene and try to determine what areas are best
12 suited.

13 I don't know what they did then, but generally,
14 depending on what you have at the scene, our staple that our
15 agents use today is magnetic powder. And the magnetic
16 powder has a wand, and it adheres to the magnetic powder,
17 and basically you kind of just paint, wave, I guess I would
18 say, the wand against that surface that you are attempting
19 to develop a latent fingerprint on.

20 If you are successful and you see latent prints
21 develop, because they are invisible, depending on how the
22 contrast is, you can continue to do it until you achieve
23 what I would call a good contrast, and that is black and
24 white. Sometimes if you keep what I would call painting or
25 however you want to call it, it can produce better results.

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1 So it's very -- you have to be very careful because it's
2 very fragile evidence and if you are haphazardly waiving it,
3 you could destroy evidence. So you have to be very careful
4 and methodical.

5 Once you develop that latent print on that
6 surface, you would take a piece of tape -- there are acetate
7 tapes, and our agents actually use packaging tape -- it
8 works very well -- and they would take a piece of that tape,
9 place it over the latent print that had been developed very
10 carefully, and the air bubbles would have to be pressed down
11 to remove it because that is not ideal when you are
12 collecting latent print evidence.

13 And once they believe that the air bubbles are out
14 and it's clearly capturing that latent evidence, they would
15 peel it off that surface and place it onto a white --
16 typically, a white backing card. On that white backing
17 card, very importantly, you would document the place, the
18 location that you are collecting it from; the orientation
19 sometimes, if they do it; the name; the date; and the CCBI
20 number. So that's typically how it's done.

21 After that scene is processed and the latent print
22 evidence is collected, it is sealed in a -- I can show you
23 with this case, in an envelope, a jacket, and all of the
24 information is put here and then it is sealed, a chain of
25 custody originates to establish the integrity of the

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1 evidence, and it is placed into a sealed vault where it
2 would be assigned.

3 Q. Okay. I want to direct your attention to lift
4 card 1.

5 And if you look with me on the screen -- there are
6 screens all over --

7 A. Okay.

8 Q. -- the card that is on the left, is that the one
9 that is identified as lift card 1?

10 A. Yes.

11 Q. Okay. And is this the card in which there's a
12 print that's identified as the left thumbprint of James
13 Leach?

14 A. Yes, ma'am.

15 Q. And is that the top print or the bottom print?

16 A. The top one.

17 Q. Can you tell, when you did your analysis, if that
18 top print appears to be from a single source?

19 A. I'm not sure what you mean "single source."

20 You mean a single lifting tape?

21 Q. A single -- I'm sorry.

22 Talking specifically about that print, I know when
23 we met with you, we talked a lot about whether it could be a
24 double tap or simultaneous --

25 A. Oh, okay.

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1 Q. -- or if it was just a single print.

2 Are you able to tell for the one that's identified
3 as to James Leach as to whether that is a single print?

4 A. It looked like a single deposit of the left thumb,
5 yes.

6 Q. Okay. So you didn't see any kind of overlap or
7 overlay with that print?

8 A. No. I mean, nothing that I felt compelled to
9 document that was significant enough.

10 Q. And when you look again at lift card 1, how many
11 additional identifiable prints do you see there?

12 A. Lift card 1 -- there was two independent lifting
13 tapes collected on that one lift card. The one on the top
14 is the one that was identified to that card bearing the name
15 Edward Leach.

16 And then the second piece of lifting tape had what
17 my observations looked -- were documented that it looked to
18 me like a partial tip impression. And it looked like it
19 could have been a double tap. And a double tap essentially
20 means, due to the way things are handled, the pressure, the
21 pliability of your fingers -- our skin is an organ, it's
22 movable -- sometimes, if you have slippage involved on a
23 surface, depending on the surface and if there is any oil or
24 debris on your hands, your skin may lift up and touch the
25 surface again. Or it could be a lateral movement, up, which

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1 could have happened here.

2 Because there are so many variables involved when
3 the skin comes in contact with a surface, there is always
4 distortion -- always. It just depends on the level of
5 distortion based on the conditioning of the hands, the
6 environment. Is there a substrate involved like dirt,
7 grease, grime, oil? What is the condition of the surface
8 that the latent print is being obtained from? Is that in
9 good shape? Is it textured? Is it corrugated?

10 So there's a lot of variables involved with why
11 we'll see distortion like double taps and overlapping
12 impressions.

13 Does that answer your question?

14 Q. It does.

15 A. Okay.

16 Q. And I believe that you've already testified to
17 this, but I just want to confirm.

18 That second print on lift card 1, in 2013, were
19 you able to exclude James Leach as the contributor of that
20 print?

21 A. Yes, ma'am.

22 Q. Now I want to turn your attention to lift card 2,
23 which on the screen is on the right.

24 How many identifiable prints are on lift card 2?

25 A. So the two prints that you see with the hoop on

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1 represents value. We put in hoops -- we call it a hoop.
2 It's a semicircle, I guess you would call it -- that
3 indicates there is some value.

4 Now, there's two different types of value. It can
5 be of value for identification. That means you can
6 attribute it to a single source donor. Or it can be of
7 value for exclusion. There is sufficient minutiae or ridge
8 characteristics to render a disagreement between those two
9 known and latent comparisons that you're doing.

10 Q. Okay. And are you able to provide any explanation
11 as to the areas on that card that appear to be voids?

12 A. Oh, voids? Yes.

13 So to me, my observations, I would draw a
14 conclusion that left side, those two -- the way it's
15 positioned now, it's a vertical void. That's consistent
16 with something, and possibly some type of a door frame or
17 something that is connected somehow, but there is a void
18 between those two vertical measures. I don't know for sure.
19 It's just an observation.

20 Q. That something may have interfered with the print
21 itself?

22 A. Yes.

23 Q. Some kind of surface?

24 A. It's very clear delineation between where the
25 powder adhered to and when the powder did not adhere to,

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1 which clearly means there is some type of a void area that
2 was collected there.

3 Q. Can you tell the commissioners what a simultaneous
4 impression is?

5 A. Yes. A simultaneous impression is what we refer
6 to as a one-touch circumstance. That would mean, depending
7 on which fingers, they would be deposited at the same time,
8 concurrently. It could be two fingers, three fingers, four,
9 five. Sometimes we will see a whole hand deposited on
10 surfaces. It just depends.

11 Q. Okay. Do you have an opinion as to whether the
12 print on -- prints on card 2 could be a simultaneous
13 impression?

14 A. Well, based on my observations over the years, I
15 believe that they are consistent with a left hand.
16 Anatomically speaking, the positioning, it looks like it
17 could be a 7, 8, and 9 finger. Our 7, 8, and 9 fingers are
18 left index, middle, and ring. I don't know that for sure,
19 but that's based on my observations and experience. It is
20 consistent anatomically with the way it is collected on that
21 lift card.

22 Q. And back in 2013, James Leach was compared to the
23 prints on this card number 2; correct?

24 A. Yes, ma'am.

25 Q. And he was excluded?

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1 A. Yes.

2 Q. Looking at cards 1 and 2, how many prints are
3 there that remain unidentifiable that could be identified?

4 A. So on lift card 1, the tip that I spoke of
5 previously, that's identifiable. On lift card 2, there are
6 two, the hoops that are over there -- there are two that are
7 of value for exclusion.

8 Q. Can you tell us again what "value for exclusion"
9 means?

10 A. Yes. So there's two different -- what I would
11 assign value to. A value for identification means there is
12 sufficient quality and quantity in that latent print to
13 render or attribute a single-source donor to that latent
14 impression.

15 A value for exclusion we kind of have a smaller, I
16 guess -- a lesser threshold for a value for exclusion.
17 That's also based on a disagreement of the minutiae or the
18 level 1 and level 2 detail that is present in the latent
19 impression.

20 Q. So that means you could exclude someone as being
21 the contributor, but you wouldn't be able to conclusively
22 say that print belongs to a specific person?

23 A. Yes. And it's typically based on the quantity and
24 the quality of the friction ridge detail that's present.

25 Q. And the prints that were uploaded into SAFIS and

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1 SPEX back in 2013, and the one that was uploaded into IAFIS
2 back in 2014 -- are those still being routinely queried?

3 A. Yes. The way it works is we have -- every new
4 card that is uploaded into our system is constantly
5 searching against the unidentified latent impressions that
6 are entered. It's called a reverse queue.

7 So typically what we do is when we get the
8 evidence in, it's sent in what we call a front-end search.
9 That is the initial search. If it's negative, those latents
10 stay in that system until we manually delete them, and they
11 are constantly searching against that repository. And we
12 are getting incoming cards every day. So we have to
13 routinely, daily, as a matter of fact, look in that reverse
14 queue and see has anything hit. And that's done on the
15 local and the state system.

16 Q. And have there been any hits since that 2013 hit?

17 A. No, ma'am.

18 Q. But if there were, the Commission would be
19 notified. Is that accurate?

20 A. Yes, ma'am.

21 Q. Is it your understanding, during the initial
22 investigation back in the 1970s -- late 1970s and early
23 1980s, that latent print comparisons were done between
24 various individuals and these latent prints that were
25 collected from the crime scene?

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1 A. Yes.

2 Q. And is it your understanding that Mr. Blackmon's
3 prints were compared and excluded from the prints collected
4 at the crime scene by an examiner for CCBI back then?

5 A. Yes.

6 JUDGE WAGONER: Back in 2000 --

7 MS. GUICE SMITH: Back in 1983.

8 A. Yes. I opened the file up to see the
9 documentation.

10 Q. Okay. And do you know when that comparison was
11 done?

12 A. Yes. The first comparison -- like I said, it --
13 the notes back then were not -- they didn't have notes.
14 They would do their comparison. And on the back of the
15 jacket, they would put that person's name if they were
16 compared and it was negative.

17 So the first one that I saw documented was to
18 subject Poole comparison. Indicated subject Poole was
19 compared on October 31, 1979. And the initials of the
20 person were WMP, which I have since learned it was an
21 examiner named Parker.

22 Q. Do you know if the prints were compared to James
23 Blackmon?

24 A. Yes. Blackmon was compared by Marty Ludas on
25 February 24, 1983.

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1 Q. And was Mr. Ludas working for CCBI at the time of
2 that comparison?

3 A. Yes, ma'am.

4 Q. And based on the documentation that you do have,
5 understanding that it's different than they would have
6 documented today, can you tell if Mr. Blackmon and Mr. Poole
7 were excluded from the latent prints from the crime scene?

8 A. The only thing I can tell you, because I wasn't
9 employed then, is this was the typical practice back then.
10 If you compared a subject and it was negative, you would
11 list it on the side.

12 In addition, there were cards that I made
13 photocopies of that listed those two individuals as being
14 compared. So we kind of have reinforcement from another
15 note sheet from the file.

16 Q. Okay. And I've not asked you to go through all of
17 the names on the back of that envelope, but there are other
18 individuals who appear to have been compared with no
19 identification; is that correct?

20 A. Yes. Many.

21 Q. Are there practices in place now at CCBI for
22 verification of comparisons that were not in place back in
23 the 1970s, 1980s, and even some that weren't in place back
24 in 2013?

25 A. Yes.

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1 Q. Okay. Did the Commission recently request that
2 another comparison be done between Mr. Blackmon's prints and
3 the prints collected at the crime scene as well as
4 Mr. Poole's prints and the prints collected at the crime
5 scene?

6 A. Yes.

7 Q. And during that process, did CCBI also inform the
8 Commission that, although in 2013 the latent print
9 identification to James Leach's left thumb was verified by
10 Ms. Heinrich, that the exclusions that you did for Mr. Leach
11 on these other prints weren't verified based on the policy
12 at the time in 2013?

13 A. Correct. We had a technical review that occurred
14 but we did not verify exclusions at the time.

15 Q. So in November of 2018, did you compare the latent
16 prints from the crime scene to print standards for James
17 Blackmon, William Poole, and James Leach?

18 A. I did.

19 **MS. GUICE SMITH:** Commissioners, if you will
20 turn your attention to page 11 through 13 of handout 7,
21 that's the CCBI report, these are the three pages of that
22 report related to the November 2018 comparison.

23 And then following those three pages are the
24 six pages of notes from CCBI related to this comparison.

25 The first three pages of those notes, I

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1 believe, are related to Ms. Minella's comparisons. The
2 fourth page of the notes is related to the verification of a
3 Ms. McMannes. And the fifth page of the notes is a
4 technical review that was conducted by Ms. Heinrich.

5 Q. What was the result of your comparison of these
6 prints to those of Mr. Blackmon?

7 A. Exclusions. For lift card 1, I excluded. And
8 lift card 2, I excluded.

9 Q. And what were the results for William Poole?

10 A. Exclusion.

11 Q. And for James Leach?

12 A. Exclusion.

13 Q. That does not include the print, though, that
14 Mr. Leach has already been identified to; correct?

15 A. Oh, no. Not that one.

16 Q. We didn't relook at that print?

17 A. No. There would be no need to.

18 Q. Did you then submit the prints for verification by
19 another latent examiner at CCBI?

20 A. I did.

21 Q. And who was that?

22 A. Julianne McMannes, M-C-M-A-N-N-E-S.

23 Q. What did Ms. McMannes conclude about the print on
24 latent card 1?

25 A. So the lift on latent card 1 -- and I'm going to

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1 read her amendment. She agreed -- she agreed with lift
2 card 1 with the analysis and all of my documentation;
3 however, she would prefer to have major case impressions to
4 include tips before she would render an opinion of
5 exclusion.

6 Q. And what did she conclude about the prints on
7 latent card 2?

8 A. She said she agreed that the impressions were --
9 had the appearance of simultaneity and the documentation
10 that I had. She said "With the unclear pattern types, high
11 degree of distortion, movement, and shifting ridges, I could
12 not conclusively trust the minimal minutiae present to
13 exclude the subjects compared."

14 Q. So essentially, Ms. McMannes was not able to
15 exclude any of the three -- Mr. Poole, Mr. Blackmon, or
16 Mr. Leach?

17 A. Yes. Correct.

18 Q. So what happened after that?

19 A. So in our SOPs, our protocol is if we have a
20 disagreement with a conclusion in the verification stage, we
21 have a conflict resolution to address these issues.

22 And essentially what happens is it will escalate
23 to the technical leader, a forensic supervisor. In this
24 scenario, it was Rebecca Heinrich. She conducts her
25 analysis and comparison and reads the notes that I have,

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1 reads the notes that Ms. McMannes had, and decides if it is
2 justified or nonjustified. And that is totally her
3 discretion. She does her own independent analysis.

4 Q. And what did she conclude in this case?

5 A. She determined that it was -- there was no
6 erroneous exclusion -- I'm sorry -- erroneous conclusion in
7 the examination. An evaluation of the conclusion determined
8 that the indecision was justifiable. Therefore, according
9 to current policy guidelines, the conclusion would need to
10 be reported out as inconclusive.

11 So that's essentially what happens. If there is a
12 disagreement and you can't come to an agreement, it will
13 default to inconclusive.

14 Q. So I want to make sure that the commissioners
15 understand this process.

16 So you ultimately excluded the three individuals
17 from these prints. When Ms. McMannes looked at them, she
18 determined that she could not make exclusions but she also
19 couldn't make any identifications.

20 A. Correct. Yes.

21 Q. She just -- she was inconclusive in her review.

22 A. Well, the ultimate conclusion was inconclusive
23 based on our policy protocols, yes. Like I said, according
24 to her documentation -- and we looked at the print together.
25 I mean, it's -- we are very much what I would say -- we work

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1 very well together. And, you know, we do have disagreements
2 over things. That's why we discuss things and we go -- we
3 have a peer review process and we have protocols set up to
4 address differences of opinion. We want to be transparent
5 and we don't want to be biased.

6 So I would say it's evident here that there isn't
7 bias. I'm her supervisor and she came to a different
8 conclusion. So ...

9 Q. Okay. And so the purpose of the technical review
10 by Ms. Heinrich is to determine whether one of the examiners
11 has come to some erroneous conclusion or that both have come
12 to a correct conclusion, they're just different conclusions.

13 A. Yes. And it's typically based on value
14 insufficiency of the print.

15 Q. And so here there is no erroneous conclusion by
16 either analyst?

17 A. No. No, ma'am.

18 Q. Okay.

19 JUDGE WAGONER: Lindsey, question. Again,
20 these were not the thumbs. It was just rest of the hand?

21 THE WITNESS: I don't know what digit it came
22 from. It's -- tip impression on LC 1. And then this, to
23 me, is consistent with a simultaneous impression potentially
24 on the 7, 8, 9 finger.

25 Q. I think the clarifying question is nothing about

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1 this analysis here changes the conclusion from 2013 that
2 Mr. Leach's left thumb is that top print.

3 A. Oh, okay. I apologize. I misunderstood you.

4 JUDGE WAGONER: Okay.

5 THE WITNESS: No, ma'am. No.

6 Q. That one was actually verified?

7 A. Yes. And she -- Julianne didn't even look at
8 that. That wasn't the print in question.

9 Q. Is there any way -- this is just kind of taking a
10 big-picture look now -- to determine how long a latent print
11 has been on a surface at the time it's collected?

12 A. Unfortunately not. There is not a way to
13 determine the age of a print based on a technical
14 examination.

15 Q. What factors might affect the quality of a latent
16 print that's left behind?

17 A. There are various. I will start with the
18 condition of the hands. Some people sweat profusely; some
19 people have very dry hands. You might have what we call a
20 substrate on your hand -- grease, grime, some contaminant
21 that may limit your chances of depositing a latent with
22 clarity. The surface that you are touching. Your fingers
23 and your hands are a three-dimensional surface -- it's
24 pliable, it's moveable, it's an organ. When you touch an
25 area, you are basically translating this information of your

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1 ridges onto that surface. So there is going to be a factor
2 of distortion immediately because three-dimensional to
3 two-dimensional, you're going to lose information. That
4 information or data is going to be compromised in some way,
5 shape, or form.

6 Additionally, there's environmental factors.
7 Humidity -- latents tend to thrive in humid environments.

8 The other aspect is if you have rain or some type
9 of environmental contaminant -- sleet, snow, wind --
10 anything that can damage that latent evidence because it's
11 99.5 percent water and is very fragile. So, theoretically,
12 under ideal conditions, they could thrive and they could not
13 based on all of these different conditions.

14 Also, a big contributing factor, pressure -- the
15 amount of pressure -- when you touch something, are you
16 smearing it, are you moving it. Depending on the pressure
17 or how hard is your finger slipping, based on the
18 environmental conditions, the conditions of the hand, the
19 surface area -- these are all contributing variable factors
20 with, I would say, the success of latent prints being
21 produced -- or nonsuccess.

22 Q. And is there any difference in how latent prints
23 are processed -- I'm sorry -- the process of how prints are
24 examined today than there would have been back in the late
25 '70s and early '80s?

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1 A. Well, I was not involved with latent prints at
2 that time. I can only speak when I started my career in
3 1991. Essentially, the ACE B -- the methodology that I
4 spoke of earlier was coined in the 1980s, and it wasn't
5 specific to latents. It was used in other forums. However,
6 the process essentially is the same. You're looking at the
7 overall pattern type -- arch, loop, whorl, palm, hypothenar,
8 thenar -- we have a lot of fancy terminology now to
9 specifically render areas on your hands. We standardize a
10 lot of our terminology that we use -- or standardized.

11 And the best thing I can tell you is essentially a
12 competent examiner that is trained is going to essentially
13 use that ACE B the same way. They're going to start with
14 that level 1, go into level 2, do your analysis, comparison
15 evaluation, and render a conclusion based on the data that
16 you observed.

17 **MS. GUICE SMITH:** Commissioners, do you have
18 questions for Ms. Minella?

19 (12:22 p.m.)

20 **SHERIFF FRYE:** At the risk of being made a
21 fool of later on, I want to go to something that Lindsey
22 touched on.

23 There -- in a bathroom, which is a controlled
24 environment, depending on how well that bathroom is cleaned,
25 a latent print can be there for a long time and still be a

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1 viable print to lift; correct?

2 THE WITNESS: Theoretically, yes, it's
3 possible.

4 SHERIFF FRYE: Stall door, very smooth
5 surface, it would -- unless it's cleaned, it could be viable
6 for -- potentially for a very long time.

7 THE WITNESS: It's definitely a possibility,
8 yes.

9 SHERIFF FRYE: And it's hard to tell where
10 the thumbprint was lifted in comparison to -- because I
11 don't think we have that information -- where the fingers
12 were at.

13 THE WITNESS: Yes.

14 SHERIFF FRYE: But obviously, there were
15 several different latent prints from different people on
16 this same door; correct?

17 THE WITNESS: Well, from the comparisons that
18 I have done, yes. I don't know where they were located
19 other than the documentation from the agent.

20 SHERIFF FRYE: Right. Outside the stall
21 door.

22 THE WITNESS: Yes.

23 SHERIFF FRYE: We don't know whether one of
24 them is 2 feet away from the other one.

25 THE WITNESS: Yeah. Unfortunately, I don't

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1 have that information. I can only base it on my
2 observations of the lift card.

3 **SHERIFF FRYE:** And you referred a while ago
4 to now the current methodology that most of us use is
5 using -- we love magnetic powder. I mean, that just seems
6 to be -- but in the 1980s, when I got started in '85 and on
7 up, the current standard at that time was usually volcanic
8 ash; correct?

9 **THE WITNESS:** Yes. That's correct. That's
10 what I used when I started.

11 **SHERIFF FRYE:** And the reason we use magnetic
12 is because volcanic ash is more difficult to get really good
13 prints from; correct?

14 **THE WITNESS:** Sometimes. It depends. I
15 guess it's a -- some people, it's a personal --

16 **SHERIFF FRYE:** It's easy to get too much
17 volcanic ash --

18 **THE WITNESS:** It's cleaner and neater, and
19 it's contained better with the magnetic one. You can
20 control it.

21 **SHERIFF FRYE:** It's not near -- you don't
22 stand near the likelihood of damaging the print as you do --

23 **THE WITNESS:** I would agree with that, yes.

24 **SHERIFF FRYE:** Okay.

25 **MS. GUICE SMITH:** Other questions?

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1 **MR. EDWARDS:** I do have a few questions.

2 Good afternoon.

3 **THE WITNESS:** Good afternoon.

4 **MR. EDWARDS:** Sort of -- in general,
5 obviously, we don't know whether the prints that were lifted
6 were left by the assailant; correct?

7 **THE WITNESS:** I don't know who -- yeah. I
8 couldn't answer that.

9 **MR. EDWARDS:** And it's also possible that the
10 assailant in this case touched that bathroom door and did
11 not leave identifiable prints; is that right?

12 **THE WITNESS:** It's possible, certainly.

13 **MR. EDWARDS:** It's also possible that the
14 assailant touched other areas in the bathroom, the handle to
15 the toilet, washing his hands, the spigot -- other areas,
16 and those prints just were not found; correct?

17 **THE WITNESS:** I don't really know because I
18 wasn't there. I don't know what was processed. I really
19 know minimal about the case, to be honest with you. So I
20 don't feel qualified to answer that, I guess I would say.

21 **MR. EDWARDS:** Okay. I do have a question in
22 regard to the local, state, and federal databases. And you
23 indicated that, I guess, you ran the print local and
24 initially there was no match, and then when you did the
25 state database, it was a match to Mr. Leach; is that right?

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1 **THE WITNESS:** Yes, sir.

2 **MR. EDWARDS:** And then when you ran it in a
3 federal database, there was no match to Mr. Leach in the
4 federal database; is that right?

5 **THE WITNESS:** Yes. But I had -- I only ran
6 the tip impression on the lift card 1.

7 **MR. EDWARDS:** Okay. One thing you said, if
8 you could explain, you said that, normally, if the print is
9 in the state database, it's also in the federal.

10 **THE WITNESS:** It should be. Now, back then,
11 I don't know. I would have to verify that with them.
12 Typically, depending on the agency and what their guidelines
13 are to submit to the federal government -- you'd have to
14 check with that.

15 **MR. EDWARDS:** Those are my questions. Thank
16 you.

17 **MR. BOSWELL:** Can you tell whether these
18 prints were made by a man or a woman?

19 **THE WITNESS:** No, sir.

20 **MR. BOSWELL:** I'm confused about one thing.
21 If card 2 -- the three fingers together, is that of
22 sufficient quality that it is still being searched through
23 AFIS?

24 **THE WITNESS:** It is. It is being searched.
25 If the algorithm wouldn't have picked up on the ridge

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1 characteristics, it won't search. It won't mark. It has to
2 have adequate characteristics plotted to even submit to the
3 repository.

4 **MR. BOSWELL:** Okay. And could you explain --
5 when you said it's not of a high enough -- I'm talking about
6 card 2 now -- it's not of a high enough quality to include
7 somebody, but it's of high enough quality potentially to
8 exclude somebody. Those two things seem to be at odds with
9 one another. If AFIS can search it, it seems like it would
10 be high enough quality to include somebody -- or maybe I
11 misunderstood your testimony.

12 Can you explain that?

13 **THE WITNESS:** Yes, sir. So AFIS -- it's a
14 tool that we use -- the local database requires -- I think
15 the minimal is six to send it off.

16 **MR. BOSWELL:** Six points?

17 **THE WITNESS:** Yeah. Like six characteristics
18 that we plot.

19 Essentially what that means is we're going to
20 see if something gets chosen as a candidate that's close.

21 Just because it's AFIS submission doesn't
22 mean that we can identify it. It really depends, when we
23 start getting into the comparison phase and we're looking at
24 the specifics of the minutiae and the spatial relationship
25 and we're -- I guess the rigor is much more intense in that

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1 comparison phase than it is for AFIS. AFIS essentially is a
2 tool. It's sending it off. They're saying, "Here's what we
3 think. What do you think?" And that's when we start doing
4 our own ACE methodology, which is we're scrutinizing.

5 MR. BOSWELL: Right.

6 THE WITNESS: Our rigor is high. We're
7 trying to find disagreement. We're trying -- in the
8 verification stage, they're trying to scrutinize the
9 previous conclusion, like science does.

10 MR. BOSWELL: And those prints are still,
11 every day, being run through AFIS to see if there's a match?

12 THE WITNESS: Yes. They're still in the
13 repository. Unless I manually go in and delete it, they're
14 still there.

15 MR. BOSWELL: When would prints -- when did
16 we start loading prints into AFIS?

17 THE WITNESS: The state?

18 MR. BOSWELL: Whomever -- state, town,
19 city ...

20 THE WITNESS: I'd have to look up that date
21 because that started before I came here.

22 So I know in Wake County, 2006 is when palms
23 were entered into the system. We had that SPEX system, and
24 it was the new thing. Palms were being entered because
25 typically fingerprints were only entered.

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1 Then, in 2008, Wake County started
2 incorporating fingers into the repository for searches as
3 well.

4 SAFIS -- since March 30, 1989, I was told
5 SAFIS began at CCBI.

6 And then IAFIS we've had access since 2006.

7 **MR. BOSWELL:** So when they started being
8 entered, did we take all of the fingerprint cards that
9 were -- you know, that everybody had in a storeroom and
10 start uploading all of those? Is that what happened?

11 **THE WITNESS:** No. Not all of the historical
12 cards were entered.

13 **MR. BOSWELL:** Okay.

14 **THE WITNESS:** Which is why I hit to him later
15 on, because Mr. Leach -- I entered it manually. He wasn't
16 in that Wake County repository initially.

17 **MR. BOSWELL:** Okay. Don't let me put words
18 in your mouth, but did I understand you to say that,
19 starting in -- you said '88? What was the earliest date you
20 said?

21 **THE WITNESS:** SAFIS was -- began being used
22 March 30, 1989.

23 **MR. BOSWELL:** Okay. So in 1989, we would
24 just be loading in new fingerprints that people --

25 **THE WITNESS:** And I wasn't there at the time,

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1 but this is what was relayed to me, yes, sir.

2 MR. BOSWELL: Sure. So fingerprint cards
3 that we had prior to 1989 may not be in AFIS or any of
4 these -- SAFIS or any of these things?

5 THE WITNESS: Well, definitely not in Wake
6 County. And from SAFIS, I don't know what the policy or
7 procedure was back then.

8 MR. BOSWELL: Right. I gotcha.

9 THE WITNESS: I don't want to tell you
10 because I don't know. I wasn't there. I'm sorry.

11 MR. BOSWELL: Okay. Perfectly
12 understandable. Those are my questions. Thank you.

13 THE WITNESS: Okay. You're welcome.

14 JUDGE WAGONER: I have two questions.
15 Do you know if any of the females who lived
16 in that dorm were fingerprinted?

17 THE WITNESS: I did not see any elimination
18 prints at all --

19 JUDGE WAGONER: Any females?

20 THE WITNESS: -- in the file.

21 JUDGE WAGONER: And I'm just curious -- if
22 one was in the military -- you're fingerprinted to be in the
23 military, would you be in AFIS and SAFIS and the rest of
24 them?

25 THE WITNESS: I believe they are in IAFIS. I

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1 believe. I'd have to confirm that.

2 And we're talking about different times.

3 JUDGE WAGONER: Yeah.

4 THE WITNESS: When I searched it, I would
5 have to verify because they have changed -- we've had
6 multiple software upgrades, and we've had actually
7 different -- NGI is different now than it was. NGI is the
8 federal now. It's different than what it was with IAFIS
9 when I entered it.

10 JUDGE WAGONER: So if I joined the military
11 in 1981 and was fingerprinted, you're not sure -- well, at
12 least in Wake County, they would not be in the system until
13 19 -- did you say -- 89?

14 THE WITNESS: Well, 2006 is when palms began
15 entering.

16 JUDGE WAGONER: Yeah.

17 THE WITNESS: And then 2008 is when the
18 fingers. And I'm talking latents -- the latent portion of
19 it. And then the ten-print cards began being entered in
20 2006.

21 JUDGE WAGONER: Okay. Thank you.

22 THE WITNESS: Okay.

23 SHERIFF FRYE: Can I ask you a question?

24 MS. GUICE SMITH: You may.

25 SHERIFF FRYE: Since she has card 2 up there

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1 with her --

2 MS. GUICE SMITH: Yes.

3 SHERIFF FRYE: -- and card 1, I'm making an
4 assumption that neither of those have been checked for DNA.

5 MS. GUICE SMITH: That is correct. We did
6 not do DNA on the prints.

7 SHERIFF FRYE: Okay.

8 JUDGE WAGONER: Anything else?

9 MR. BOSWELL: Can I ask you just one more
10 curiosity question?

11 Is there any effort to go back and load in
12 all of the cards that haven't been loaded in, you know, that
13 are prior to 2008 or 2006 or 2005?

14 THE WITNESS: There was an effort to put in
15 the palms, but I want to say the cutoff date -- I will have
16 to verify because that was before my time at CCBI, but I
17 know there was a date where -- or I would say a line in the
18 sand that they drew where they weren't going to upload all
19 of those historical cards.

20 I can find that out for you.

21 MR. BOSWELL: I was just -- if you knew. I
22 don't know that it's relevant to what we're doing here. I
23 was just wondering. Thank you.

24 MS. GUICE SMITH: Any other questions?

25 (No verbal response.)

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1 JUDGE WAGONER: Okay.

2 MS. GUICE SMITH: May she be released?

3 JUDGE WAGONER: Yes. She may be released.

4 Ma'am, you may be released from your
5 subpoena.

6 THE WITNESS: Thank you.

7 (Witness stands down, 12:34 p.m.)

8 MS. GUICE SMITH: I'm going to recall
9 Ms. Bridenstine. I thought maybe ten more minutes and then
10 we'll break for lunch.

11 JUDGE WAGONER: Okay.

12 And you are still under oath.

13 (Julie Bridenstine, having been previously sworn,
14 retakes the stand at 12:35 p.m.)

15 * * * * *

16 MS. GUICE SMITH:

17 Q. Ms. Bridenstine, Ms. Minella testified about
18 comparisons of William Poole's prints from the crime scene.

19 Can you tell the commissioners why commission
20 staff sought to have Mr. Poole's prints compared again?

21 A. Yes. Mr. Poole's photograph was part of group of
22 11 photos that were shown to Jackie Kelly, Elvin Turner,
23 Barbara Lee, Carolyn Wilson, and Vivian Best sometime around
24 October 30, 1979.

25 No one was able to pick out any photo out as a

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1 definite suspect, but all of the women except for Jackie
2 Kelly said Mr. Poole looked the most like the suspect. They
3 indicated that they would need to see a more recent picture
4 of Mr. Poole in order to eliminate him.

5 Mr. Poole denied any involvement in this crime and
6 was later brought in for a show-up identification procedure
7 through a two-way mirror on or around October 31, 1979.

8 Jackie Kelly, Barbara Lee, and Viola Underdue
9 separately viewed Mr. Poole. They were also out of the
10 hearing of each other. The only women who had also seen his
11 photo from the previous identification procedure were Jackie
12 Kelly and Barbara Lee.

13 All three women indicated that his facial features
14 resembled the suspect but that he was not large enough
15 through the body and that he was several inches too short.

16 **MS. GUICE SMITH:** Commissioners, if you will
17 refer to handout 10 in your hearing handout notebooks, this
18 is the criminal record of William Poole.

19 If you'll take just a moment to review it.

20 Q. How old was Mr. Poole in 1979?

21 A. He would have been either 33 or 35 years old. The
22 Commission has seen him associated with two different
23 birthdates.

24 Q. And how tall is Mr. Poole?

25 A. According to information from the Raleigh Police

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1 Department file, he was listed as 5'7".

2 Q. Despite that height discrepancy, why did
3 commission staff follow up on Mr. Poole as a potential
4 alternate suspect?

5 A. He was charged with trespass and indecent exposure
6 for opening the shower curtain on a female student who was
7 taking a shower in the bathroom of her dorm at NC State
8 University, and he was masturbating in front of her.

9 After this woman screamed four or five times and
10 yelled repeatedly at the suspect to, quote, "Get out of
11 here," he continued to stand there and not move. He was
12 described as finally turning and casually walking out of the
13 dorm. Police apprehended Mr. Poole in the area following a
14 foot chase after he was pointed out by others in the dorm as
15 the man they saw in the hallway leave the dorm following the
16 victim's screams.

17 He was later identified by the victim and other
18 witnesses as the man they saw in the dorm. Mr. Poole denied
19 any involvement in this case.

20 This case resulted in a disorderly conduct
21 disposition. Raleigh Police Department reports show
22 commitments to Dorothea Dix Hospital. He also had other
23 trespass allegations involving women's dorm bathrooms. And
24 there was some indication of a prior rape allegation,
25 although Mr. Poole's criminal record doesn't reflect this.

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1 JUDGE WAGONER: What year was this again --
2 the trespass at NC State?

3 THE WITNESS: This was in 1979. I believe it
4 was in April of 1979.

5 JUDGE WAGONER: But he was not convicted?

6 THE WITNESS: He -- disorderly conduct.

7 JUDGE WAGONER: Okay.

8 Q. Did commission staff determine if Mr. Poole had
9 ever been a patient at Dorothea Dix?

10 A. Dorothea Dix records do not exist from that time
11 period, but we know that they do keep dates of service
12 records for patients who were there.

13 Following a subpoena requesting records using both
14 of his birthdates, we learned that they do not have any
15 records of him being a patient there.

16 However, when staff commission -- commission staff
17 interviewed Mr. Poole, he recalled being a patient at
18 Dorothea Dix.

19 Q. And why, again, were we looking into whether he
20 was a patient Dorothea Dix?

21 A. The source for the police in this case had said
22 that someone was speaking about murdering black women,
23 specifically saying Saint Augustine's, that originated at
24 Dorothea Dix in February of 1983.

25 Q. When did the commission staff interview Mr. Poole?

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1 A. We interviewed him in person on October 12, 2018.

2 Q. And was that interview recorded and transcribed?

3 A. It was.

4 Q. Was Mr. Poole asked if he had ever gone to Saint
5 Augustine's campus?

6 A. Yes. He said no initially but then said he
7 sometimes helped with the yardwork there. He said that he
8 did not work for the college but would sometimes help by
9 working with a man he knew there. He said he never went
10 into the buildings there. He said he did this work before
11 he met his girlfriend who he was dating at the time of this
12 case.

13 Q. Did the height description given in the RPD file
14 appear to be correct when you interviewed him?

15 A. It did. He stood up next to Ms. Tanner, who is
16 5'4", and he appeared to be a few inches taller than she is.

17 Q. Was Mr. Poole asked by commission staff if he
18 committed this crime?

19 A. He was. He denied any involvement and said that
20 the police got him mixed up and sent him home.

21 MS. GUICE SMITH: Commissioners, do you have
22 any questions for Ms. Bridenstine about either the latent
23 lifts or about Mr. Poole?

24 (No verbal response.)

25 MS. GUICE SMITH: At this time, I think it

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1 would be an appropriate time for our lunch break.

2 JUDGE WAGONER: What time is your next
3 witness coming in?

4 MS. GUICE SMITH: Our next witness is
5 Ms. Bridenstine. So we are good.

6 (Discussion off the record.)

7 MS. GUICE SMITH: 1:15?

8 JUDGE WAGONER: 1:15. That okay with y'all?
9 Thank you.

10 (Recess, 12:42 to 1:20 p.m.)

11 (Admonition by Judge Wagoner to audience about no
12 recordings, video or otherwise.)

13 MS. GUICE SMITH: Commission staff would
14 recall Julie Bridenstine.

15 JUDGE WAGONER: You are still under oath.

16 BY MS. GUICE SMITH: (1:20 p.m.)

17 Q. Ms. Bridenstine, I'm going to turn your attention
18 now to James Leach.

19 Who is James Leach?

20 A. As Ms. Minella just testified, James Leach's print
21 was matched to a print collected from the bathroom stall
22 door where the victim was attacked on September 28, 1979.

23 Q. How old was James Leach at the time of the crime?

24 A. He was 28 years old.

25 MS. GUICE SMITH: Commissioners, if you will

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1 refer to handout 11 in your hearing handout notebooks, this
2 is the record for James Edward Leach.

3 If you'll take some time to review it.

4 Q. Did commission staff interview Mr. Leach?

5 A. No. Commission staff confirmed that Mr. Leach
6 died on October 11, 2008.

7 Q. Did commission staff seek to obtain other
8 information about Mr. Leach?

9 A. Yes. Commission staff sought records related to
10 Mr. Leach's arrests and convictions, mental health records,
11 DPS records, marriage and death records, and photographs of
12 Mr. Leach.

13 The files commission staff received included those
14 from the Wake County Sheriff's Office, Raleigh Police
15 Department, CCBI, the Wake County District Attorney's
16 Office, and the Wake County Clerk's Office as they related
17 to charges and convictions for Mr. Leach.

18 Q. Did commission staff interview anyone in an effort
19 to learn more about Mr. Leach?

20 A. Yes. We interviewed Mr. Leach's friend, Ralph
21 Chambers. We also interviewed several of his romantic
22 partners including Janice Bass, Judy Bolton, Barbara Owens,
23 and Cynthia Leach. We attempted to interview two other
24 romantic partners of James Leach -- Deborah Ruffin and
25 Beverly Quiller -- and determined that they were deceased.

*Tori Pittman, AOC-Approved per diem Reporter
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1 James Leach had 12 siblings, four of which were
2 full siblings, five were half siblings, and he had three
3 stepsiblings. We determined that four of his siblings were
4 deceased. We interviewed five siblings, including two full
5 siblings and three half siblings. We did not interview his
6 two living stepsiblings as we learned that Mr. Leach did not
7 grow up with them.

8 Finally, we made reasonable efforts but were
9 unable to interview one of Mr. Leach's half siblings, George
10 Leach.

11 Q. And what were the names of the siblings that the
12 commission did interview?

13 A. Doris Leach Jackson, a full sibling; John Leach, a
14 full sibling; Lisa Leach, a half sibling; Karen Leach, a
15 half sibling; Calvin Leach, a half sibling.

16 Q. And were all these interviews recorded and
17 transcribed?

18 A. They were.

19 Q. What did Commission staff hope to learn from
20 Mr. Leach's criminal history, the files, and these
21 interviews?

22 A. We hoped to learn more about Mr. Leach's criminal
23 history and his habits as well as his whereabouts in the
24 years preceding the crime and around the time of the crime.

25 We were looking for a physical description of

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1 Mr. Leach from the time of the crime as well as photographs
2 of Mr. Leach from around the time of the crime. We were
3 also looking for information related to Mr. Leach's friends,
4 associates, and family members who may have been able to
5 provide additional information about Mr. Leach.

6 We were also looking for legitimate reasons that
7 Mr. Leach's print would have been on the bathroom stall door
8 in Latham Hall.

9 MS. GUICE SMITH: Commissioners, if you will
10 refer to handout 12 in your hearing handout notebooks, this
11 is a detailed chart containing information about Mr. Leach's
12 arrests, incarcerations, and whereabouts from 1967 until his
13 death in 2008.

14 Unlike with the chart that we provided for
15 Mr. Blackmon in your brief where a physical description was
16 given, we have provided -- I'm sorry -- like with the chart
17 we provided for Mr. Blackmon where a physical description
18 was given, we have provided that information in the chart as
19 well so that you can see that physical description.

20 This chart is rather lengthy -- it's 17
21 pages -- so take as much time as you need to review that.

22 Q. Ms. Bridenstine, before we get into what you did
23 to determine whether Mr. Leach had a legitimate reason for
24 being in the bathroom, what other information did you find
25 out about Mr. Leach as relates to the crime?

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1 A. We found out some additional information regarding
2 individuals' memories related to Mr. Leach's physical
3 appearance in 1979, his propensity for violence, whether he
4 carried a knife, whether he wore a dashiki.

5 **MS. GUICE SMITH:** Commissioners, due to the
6 varying degree of responses that we received from the
7 various individuals, we have summarized this information in
8 a chart -- again, this will be 13 in your hearing handout
9 notebook.

10 If you will take a few minutes to review
11 that.

12 Q. Ms. Bridenstine, did commission staff also seek
13 files related to Mr. Leach's mental health?

14 A. Yes. We sought records from Dorothea Dix Hospital
15 to determine whether Mr. Leach was ever a patient there.

16 Q. Why did you want to know whether Mr. Leach was a
17 patient at Dorothea Dix?

18 A. Law enforcement in this case had received a tip
19 from a confidential source who indicated that there was a
20 black male patient at Dorothea Dix who was talking about
21 murdering black women, including one who was at Saint
22 Augustine's.

23 We were trying to determine whether Mr. Leach was
24 a patient during that time frame, and that was --

25 Q. And when --

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1 A. That was in February of 1983.

2 Q. And what did you learn about that?

3 A. Dorothea Dix no longer exists, but Central
4 Regional Hospital maintains records from Dorothea Dix.
5 According to the director of medical records, Crystal Wood,
6 all the Dorothea Dix records prior to 2001 have been
7 destroyed. But the information as to whether someone was a
8 patient is still available with a subpoena.

9 After that conversation, we sent her a subpoena to
10 Central Regional Hospital for records of James Edward
11 Leach's hospitalizations, if any, at Dorothea Dix. The
12 response was that not record of treatment could be found for
13 James Leach at Dorothea Dix, Central Regional Hospital, or
14 John Umstead Hospital.

15 Q. What did commission staff do to determine whether
16 there was a legitimate reason for Mr. Leach to be in the
17 bathroom at Latham Hall?

18 A. We asked Mr. Leach's family and romantic partners
19 whether they knew Mr. Leach to visit Saint Augustine's
20 around the time of the crime. Of those we interviewed, none
21 of James Leach's family or romantic partners provided any
22 information that James Leach had any reason to be at Saint
23 Augustine's college with the exception of his brother, John
24 Leach, who indicated he did not know if James Leach went
25 over to Saint Augustine's but stated if he did, it would

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1 have been to buy drugs from a specific two-story men's dorm.
2 John Leach further stated that James Leach was using drugs
3 in 1979.

4 Ralph Chambers also did not place James Leach at
5 Saint Augustine's until informed that Mr. Leach's
6 fingerprint was found on the stall door.

7 **MS. GUICE SMITH:** Commissioners, if you will
8 refer to handout 14 in your hearing handout notebooks, this
9 is a portion of the deposition of Ralph Chambers in which he
10 discusses why Mr. Leach's print might be in the bathroom at
11 Latham Hall.

12 **MR. BOSWELL:** Can you tell us who Ralph
13 Chambers is?

14 **THE WITNESS:** Ralph Chambers was Mr. Leach's
15 close childhood friend. They remained friends all their
16 lives.

17 **MR. BOSWELL:** Okay.

18 **MS. GUICE SMITH:** Commissioners, if you refer
19 to handout 15 in your hearing handout notebooks, this is the
20 criminal record of Ralph Chambers.

21 Q. What did commission staff find out about James
22 Leach's work history and whether he had done any work at
23 Saint Augustine's?

24 A. Commission staff interviewed Saint Augustine
25 administrators and HR personnel, an employee who was

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1 employed at the time of the crime, and requested employment
2 records from Saint Augustine's.

3 Commission staff confirmed that Saint Augustine's
4 employed maintenance workers, plumbers, painters,
5 landscapers, janitors, and other similar personnel through
6 their physical plant on campus at the time of the crime and
7 prior to that as opposed to contracting out for those
8 services.

9 Through the interviews, commission staff
10 determined that Saint Augustine's had no record of James
11 Leach working for Saint Augustine's College. Though they
12 had employment records from the time period in question,
13 they were unable to locate any records for James Leach.

14 Commission staff confirmed through an interview
15 with Ed Stallings, who works at Saint Augustine's now and
16 did back at the time of this case, that he was not aware of
17 the college contracting out for painting, maintenance work,
18 landscaping, or anything like that.

19 **MS. GUICE SMITH:** Commissioners, if you will
20 refer to handouts 16 and 17 in your hearing handout
21 notebooks, these are affidavits from the current director of
22 human resources at Saint Augustine's and the vice president
23 of administration at Saint Augustine's.

24 If you will take just a moment to review
25 those.

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1 Q. Can you tell the commissioners a little bit more
2 about who Ed Stallings is?

3 A. Mr. Stallings is currently employed by Saint
4 Augustine's College and has been since 1976. He started as
5 a yard maintenance employee, and after 20 years in that
6 position, moved to a general maintenance position with the
7 physical plant at Saint Augustine's.

8 Q. Did Mr. Stallings provide any further information
9 about James Leach's possible employment at Saint
10 Augustine's?

11 A. Yes. He did not recognize the names James Leach
12 as an employee at the college. He also did not recognize a
13 photograph of Mr. Leach. The photograph shown was taken in
14 1993 and was in black and white.

15 Q. What did you find out about major contracting work
16 at Saint Augustine's?

17 A. The physical plant at Saint Augustine's would not
18 manage major projects such as construction of a new building
19 or roofing. Administrative staff and Mr. Stallings both
20 indicated that these would have been contracted out.

21 Q. Did you find anything -- find out anything related
22 to the construction of Latham Hall?

23 A. We learned through research at Saint Augustine's
24 that Latham Hall was built in 1971. This research also
25 included a list of 10 buildings that were renovated on

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1 campus during President Prezell Robinson's tenure.

2 Mr. Robinson was named acting president in
3 June 1966 and became president in early 1967. He remained
4 president for 28 years. This list indicated the 10
5 buildings listed were renovated between 1975 and 1990. The
6 list of buildings renovated at Saint Augustine's do not
7 include Latham Hall.

8 Q. Did you have an opportunity to visit Latham Hall?

9 A. Yes. And after visiting Latham Hall, there --
10 indicates that there might have been cosmetic changes, and
11 there have been, to the interior of the building. No one
12 that we spoke to at Saint Augustine's was able to date those
13 changes for us.

14 Q. What did you determine with respect to Mr. Leach's
15 work history?

16 A. Several individuals interviewed by the Commission
17 stated that, in 1979, Mr. Leach was a painter with Ralph
18 Chambers, who owned his own painting business.

19 Janice Bass, a former girlfriend of Mr. Leach,
20 confirmed that Mr. Leach worked as a painter with Ralph
21 Chambers. She also stated that he did construction and
22 maintenance work. When asked what she meant by that, she
23 stated that she meant he did work at people's houses.

24 Cynthia Leach, a former spouse of Mr. Leach,
25 stated that she thought Mr. Leach may have done roofing work

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1 for Baker's Roofing Company, but could not provide any
2 additional information or dates.

3 We spoke to the vice president of human resources
4 at Baker Roofing, who stated that they had no record of
5 James Leach ever working there.

6 Though Ralph Chambers could not provide exact
7 dates, he indicated that between the late 1970s and the
8 early 1980s, Mr. Leach painted with him both with his
9 business and another company. He further confirmed that he
10 and Mr. Leach never painted at Saint Augustine's together.
11 Mr. Chambers stated that Mr. Leach did some roofing work for
12 two to three years. He stated that Mr. Leach did roofing
13 work for JD Roofers. A review of the Secretary of State's
14 website does not show a JD Roofers registered as an entity
15 with the Secretary of State until 1985.

16 Q. And did you speak with someone at JD Roofers?

17 A. Yes. Commission staff spoke with JD Roofers --
18 Roofing. This business was owned and operated by James
19 Dunn, who is now deceased. We spoke to his wife, who was
20 secretary of the company. She stated that the company was
21 started in 1981 or 1982, and that prior to that her husband
22 was employed by other roofing companies and could not have
23 hired anyone.

24 She knew who James Leach was because she went to
25 school with James' brother Robert. She checked employment

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1 records for the company and found no record of Mr. Leach,
2 but she only found records dating back to 1986. She stated
3 that it was possible that either James or Robert Leach
4 worked for the company but it could not have been before the
5 company was founded in 1981 or 1982. She was unsure if they
6 ever did any projects at Saint Augustine's but again stated
7 that it could not have been prior to 1981.

8 Q. Did commission staff contact the employment
9 security office for the North Carolina Department of
10 Commerce?

11 A. We did. We contacted them to request any
12 work-related records that they might have for Mr. Leach and
13 learned that they did not have any records going back to
14 1979. They had some wage information dating back as early
15 as 1994. Other information is only retained there for five
16 years.

17 Q. Do we have any information from the Social
18 Security Administration as to Mr. Leach's whereabouts in
19 1979?

20 A. No. We learned that the Social Security
21 Administration would not have any detailed records that
22 would show months worked or location. Additionally, because
23 Mr. Leach is deceased, we would have needed to seek a
24 federal court order for those records.

25 Q. Did commission staff do anything to determine if

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1 Mr. Leach could have participated in the construction of
2 Latham Hall in 1971?

3 A. As outlined in handout 11, it appeared that
4 Mr. Leach was incarcerated in 1971 during the construction
5 of Latham Hall.

6 When we got DPS records for Mr. Leach, we learned
7 that their retention policy lasted on average about
8 10 years. Mr. Leach was last at DPS in 1988. So the
9 records that we got from them were fairly limited. We
10 received some records from their combined records department
11 that show the dates that they have for him as being admitted
12 to a prison, paroled, or parole revoked and coming back --
13 and that's on the handout that you have that you've seen.

14 We reached out to DPS recently to make sure that
15 they didn't have any other records available that could
16 provide more information about whether or not Mr. Leach was
17 in custody on those days, actually in a facility on those
18 days, and they informed us that, after checking with
19 combined records and the parole commission, that they did
20 not have any more records than they had shown us. And
21 that's all that they could say, was that their records show
22 the dates that he was admitted, released, parole was
23 revoked, or readmitted.

24 MS. GUICE SMITH: Commissioners, if you will
25 turn to pages 3 through 6 of handout 12, which you have

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1 already reviewed, that outlines Mr. Leach's -- those pages
2 outline Mr. Leach's whereabouts from 1970 until 1980, which
3 covers the period of time from right before Latham Hall was
4 constructed until right after the crime.

5 (1:51 p.m.)

6 MR. BOSWELL: Remind me the date of the crime
7 again.

8 THE WITNESS: September 28, 1979.

9 MR. BOSWELL: Can I ask a question?

10 MS. GUICE SMITH: Yes.

11 MR. BOSWELL: Based on what you said, this is
12 just the dates when there is a record of him going in,
13 coming out, or something happening?

14 THE WITNESS: That's correct.

15 MR. BOSWELL: But we know in December of '78
16 he got married in Darlington, South Carolina; so he must've
17 been out then.

18 THE WITNESS: That's -- yes. We obtained a
19 statement of marriage from South Carolina that shows that
20 that is the date that he married Cynthia Pierce Leach.

21 MR. BOSWELL: And then there is no record of
22 him being incarcerated or anything else until '81.

23 So based on this, is it safe to assume that
24 he was not in any facility between '78 and '81?

25 THE WITNESS: Not in any -- I will have to

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1 double-check, but my recollection is not in any DPS
2 facility. I can look that up.

3 MR. BOSWELL: It is page 6 of 17 on this
4 chart.

5 THE WITNESS: That's correct. We don't have
6 any record of him being incarcerated anywhere else.

7 MR. BARROW: Would your investigation, pick
8 up, say, an arrest in Durham?

9 THE WITNESS: We attempted to get everything
10 that we could. We sought records from DCIN, we asked all
11 the agencies that I discussed before -- Raleigh Police
12 Department, CCBI, Wake County Sheriff's Office -- to provide
13 all of the records that they had for us, and we did see
14 several arrest dates.

15 Based on the information that we have, we
16 have provided everything that we had that shows his arrest
17 dates.

18 MR. BARROW: So you think you would've picked
19 up any arrests in Wake County?

20 THE WITNESS: In Wake County, yes, much more
21 likely.

22 MR. BARROW: Okay.

23 JUDGE WAGONER: But not necessarily in
24 Halifax County?

25 THE WITNESS: Well, the DCIN does a state

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1 search.

2 JUDGE WAGONER: Combined records reliable
3 back then?

4 THE WITNESS: I can't answer that.

5 JUDGE WAGONER: All right.

6 SHERIFF FRYE: The other thing is, you don't
7 know about the jails.

8 JUDGE WAGONER: That's what I was talking
9 about, in jails -- the local jails.

10 THE WITNESS: We did searches under CJLeads,
11 Cypress, and DCIN, and all of those records did not show
12 anything during that time frame that Mr. Boswell mentioned
13 for anything that we checked the North Carolina.

14 (1:54 p.m.)

15 Q. Ms. Bridenstine, it was pointed out that Mr. Leach
16 was married in Darlington, South Carolina, in December of
17 1978.

18 Did you obtain information about how long he
19 remained in Darlington and where he went after that?

20 A. We interviewed his ex-wife, Cynthia Leach, and she
21 told us that Mr. Leach was only there for a few days after
22 they got married. She remained there with her family in
23 South Carolina and Mr. Leach came back to Raleigh.

24 She also did not know Mr. Leach to live outside
25 the Raleigh area.

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1 Q. Besides Mr. Leach's employment --

2 (1:55 p.m.)

3 JUDGE WAGONER: Did you have a question?

4 MR. BARROW: Yes.

5 Do you have any evidence about how long
6 before the marriage he was there?

7 THE WITNESS: Yes. I will have to
8 double-check. My recollection is they were there for a
9 couple of weeks in Darlington.

10 MR. BARROW: Only a couple of weeks?

11 THE WITNESS: Yes. Yes. It was a short time
12 period.

13 MR. BARROW: Okay. And do you have evidence
14 of where he was during that time period from the time the
15 sentence expired until the date he got married?

16 THE WITNESS: Of the people that we
17 interviewed, people said that he lived in Raleigh in that
18 area and gave me different addresses downtown where they
19 thought he was staying, but nobody was able to verify
20 exactly where he was living in that time period other than
21 to say that it was Raleigh.

22 MR. BARROW: So that marriage in Darlington
23 was a fairly constricted period --

24 THE WITNESS: Yes.

25 MR. BARROW: -- based on what you were able

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1 to tell?

2 THE WITNESS: Yes. Based on what his ex-wife
3 told us.

4 JUDGE WAGONER: I have just a question. If I
5 am reading this chart correctly, it appears to me he was
6 released on May 20 of 1978 when his sentence expired.

7 MR. BARROW: Right.

8 JUDGE WAGONER: And then he didn't do
9 anything else, supposedly, until he married Cynthia Pierce
10 on December 15. So it was May to December.

11 MR. BARROW: Six months or so. Yeah.

12 JUDGE WAGONER: More than a few weeks.

13 MR. BARROW: Yes. But I was looking for
14 location.

15 THE WITNESS: He was in South Carolina,
16 according to Ms. Leach, for a few weeks before they got
17 married and a couple days afterwards.

18 JUDGE WAGONER: Okay.

19 THE WITNESS: But other than that, we don't
20 know exactly where he was.

21 JUDGE WAGONER: Okay.

22 (1:57 p.m.)

23 Q. Ms. Bridenstine, I'm going to hand you page 10 of
24 the interview with Ms. Leach. If you'll just take a look at
25 that and see if that refreshes your recollection as to how

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1 long he and Cynthia Leach were in South Carolina prior to
2 the wedding.

3 A. She said it was less than a month that they were
4 in South Carolina. She also said that they -- prior to
5 that, that they lived in Raleigh.

6 Q. Besides Mr. Leach's employment, did commission
7 staff look into any other avenues as to why Mr. Leach's
8 fingerprint might be found in the bathroom stall in Latham
9 Hall?

10 A. Yes. We sought student records for Saint
11 Augustine's College and confirmed that Mr. Leach was never
12 enrolled as a student there.

13 Q. And did you do anything else?

14 A. We also spoke with a female student from every
15 room on the sixth floor of Latham Hall. We showed these
16 women a photo of Mr. Leach and asked if they recognized the
17 photo for any reason or recognized his name.

18 With the exception of Jackie Kelly and Barbara
19 Lee, none of the women we interviewed recognized his photo
20 or his name.

21 Jackie Lee [sic], upon reviewing the photo, said
22 he looked like the man that she saw walking casually down
23 the hall.

24 In her first interview with commission staff,
25 Barbara Lee said Leach's picture looked familiar but did not

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1 know why. In her second interview with commission staff,
2 Barbara Lee said he did not look familiar.

3 **MS. GUICE SMITH:** Commissioners, there's
4 going to be more testimony about Jackie Kelly later in the
5 hearing. She will also be here to testify so we will get
6 into that a little bit more later.

7 (1:59 p.m.)

8 **MR. BOSWELL:** Can I ask? What was the date
9 of the picture -- the picture you showed, when was that
10 picture taken?

11 **THE WITNESS:** 1993.

12 **MR. BOSWELL:** '93?

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

14 **MS. GUICE SMITH:** Are there other questions
15 for Ms. Bridenstine about James Leach?

16 (No verbal response.)

17 **MS. GUICE SMITH:** Commissioners, we have
18 those --

19 **MR. EDWARDS:** Ms. Smith, can I go back and
20 ask a couple of questions about Mr. Leach?

21 **MS. GUICE SMITH:** Yes. Absolutely.

22 **MR. EDWARDS:** The question was posed to you
23 if you could determine any reason why James Leach would have
24 been on the sixth floor of Latham Hall, and you indicated
25 that you checked the student records.

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1 The initial investigation that was done by
2 the investigators, isn't it true that one of their theories
3 was that some of the girls up there may have been turning
4 some tricks or prostituting for men in the Raleigh area?

5 **THE WITNESS:** That's correct. That was a
6 police theory at the time.

7 **MR. EDWARDS:** And that -- that, I guess,
8 allegation would have been that they would bring them up
9 into the dorm rooms and turn the tricks, so to speak; is
10 that right?

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

12 **MR. EDWARDS:** That's my question.

13 **MR. GRACE:** Was there anything to
14 substantiate that other than a police theory?

15 **THE WITNESS:** No. No one had personal
16 knowledge of that.

17 **MS. NEWTON:** I don't think I read that anyone
18 actually said that they thought the college students were
19 actually bringing people up into the dorm. I thought -- I
20 didn't read that fact -- that further fact.

21 **THE WITNESS:** There were questions involved
22 about whether the women on the sixth floor were involved in
23 prostitution.

24 **MS. NEWTON:** But not that they were bringing
25 them up into the -- in other words, the prostitution, where

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1 it was engaged in if it, in fact, occurred. I didn't see
2 anywhere where someone was suspicious that girls were
3 bringing men into the dorm.

4 **THE WITNESS:** There was interviews where
5 police had a theory that perhaps someone had come up to the
6 sixth floor and had been promised something and then some of
7 the women had basically taken the man's money and he got
8 upset and stayed there after he didn't get ...

9 **MS. NEWTON:** That was a taxi driver making
10 that statement. And he didn't -- I believe is what I
11 remember. And he didn't -- I don't recall in that statement
12 he made any statement about coming up. He was complaining
13 about getting money and they didn't want to do anything, but
14 not that he went up into the -- I'm -- he didn't -- but the
15 point was bringing someone up might explain the
16 fingerprints, and I don't believe what I read of the taxi
17 driver made any mention of going up into the dorm room.

18 **THE WITNESS:** The taxi driver made that
19 statement in 1979. When police were reinterviewing
20 witnesses, including some of the women on Latham Hall on the
21 sixth floor in 1982, there were questions and discussions
22 about whether or not prostitution was occurring on the sixth
23 floor.

24 **MS. NEWTON:** So the taxi driver did tell law
25 enforcement some of these reports that he was up in the

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1 dorm?

2 THE WITNESS: He did not. He did not. In
3 1979, he made a comment about --

4 MS. NEWTON: Gave them the money, they
5 wouldn't do anything.

6 THE WITNESS: Right.

7 MS. NEWTON: But not that he went up.

8 THE WITNESS: Correct. But later in the
9 investigation, in 1982, there were interviews that were
10 recorded where there are discussions about whether or not
11 the girls were prostitutes, whether or not prostitution was
12 going on on the sixth floor.

13 MS. NEWTON: Was that law enforcement asking
14 the question or someone making that statement that that was
15 going on?

16 THE WITNESS: It's difficult to determine
17 where that originated from. It's present in the interviews.
18 I can't answer where it came from.

19 MS. NEWTON: Okay. Thank you.

20 JUDGE WAGONER: Sheriff Frye?

21 SHERIFF FRYE: In your investigation
22 especially regarding Latham Hall, were there any security
23 measures to keep anybody from going in and out of Latham
24 Hall at any time?

25 THE WITNESS: What we have learned is that

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1 the front door was locked, and it was locked after a certain
2 time at night where people -- the girls would have to use
3 their own key to open the front door. And then they had
4 stairways that went down the sides, one on the east and one
5 on the west. And those were really fire exits. You
6 couldn't get in, but you could get out. Those remained
7 locked at all times.

8 There was a security force that was present
9 on Saint Augustine's that my understanding is part of their
10 job was to go around and patrol and make sure that the dorms
11 were secure.

12 **MS. GUICE SMITH:** Commissioners, we are going
13 to talk at length about the women of Latham Hall and some of
14 these questions that you have. I promise.

15 **SHERIFF FRYE:** "The women of Latham Hall."

16 (2:05 p.m.)

17 Q. Ms. Bridenstine, I believe you testified earlier
18 that you had an opportunity to visit Saint Augustine's
19 College; is that correct?

20 A. That's correct.

21 **MS. GUICE SMITH:** Commissioners, if you will
22 refer to handout 18 in your hearing handout notebooks, this
23 is the map of Saint Augustine's College. If you will take
24 some time to review it. I am also placing it on the screen.

25 The copy in handout 17 also includes a more

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1 clear legend for you that you may wish to refer to since the
2 one on the map is actually difficult to read.

3 Q. Ms. Bridenstine, will you walk the commissioners
4 through the various relevant locations on this map.

5 A. Sure. The building that is marked number 8, that
6 is Latham Hall. This is north over here, south, the top of
7 the screen is west, and the bottom is east.

8 The front of the building was south-facing so the
9 front entrance is here.

10 Number 7 is the dorm called Cheshire Hall.
11 Number 9 is Baker Hall. These were both women's dorms.

12 This street running along this way is North State
13 Street. This is Oakwood Avenue. That skinny one at the top
14 is Tarboro. And then this is Hill Street running along
15 here.

16 On the date of the crime, what was described is
17 that when the suspect came out the front, he came out the
18 south entrance, which was the front entrance, he turned
19 left, he ran up the east side of the building, went around,
20 and people lost sight of him in the west. The dashiki --
21 there were woods up in here, and the dashiki was found about
22 100 yards due west of the northwest corner of Cheshire Hall,
23 which is right here; so kind of in between Cheshire Hall and
24 that street right there.

25 MS. GUICE SMITH: Commissioners, do you have

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1 questions for Ms. Bridenstine as it relates to the map?

2 (No verbal response.)

3 Q. Ms. Bridenstine, have you had an opportunity to
4 visit the sixth floor of Latham Hall?

5 A. I have.

6 MS. GUICE SMITH: Commissioners, if you will
7 refer to Handout 19 in your hearing handout notebooks, this
8 is a diagram of the sixth floor of Latham Hall.

9 (2:08 p.m.)

10 MR. BOSWELL: Before you go to that, may I?

11 So the woods are between buildings 7, 8, and
12 the road that is North State Street? Is that where the
13 woods are?

14 THE WITNESS: There are parking lots that are
15 a little bit to the west, I believe, of both of those
16 buildings. But there is -- there were woods there. Now
17 there is another building right next to Cheshire Hall, but
18 at the time, it was wooded.

19 MR. BOSWELL: Okay. But it's on the lower
20 side of North State Street, the woods?

21 THE WITNESS: Yes.

22 MR. BOSWELL: Underneath North State Street
23 on that map?

24 THE WITNESS: Yes. The woods are to the west
25 of the buildings, and this is actually -- the top is west.

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1 **MR. BOSWELL:** Okay. Thank you.

2 **JUDGE WAGONER:** Where -- Oakwood Cemetery is
3 five, six, seven blocks away maybe? It's not on there, I
4 know that.

5 **THE WITNESS:** Right. I would have to -- I'm
6 going to have to double-check on that. I know it's close to
7 the university, but I don't know its exact location.

8 **JUDGE WAGONER:** Okay.

9 **MS. GUICE SMITH:** As I said, handout 19 is
10 the diagram of the sixth floor Latham Hall. I'm also
11 placing that on the screen.

12 (2:09 p.m.)

13 **Q.** Ms. Bridenstine, can you please walk the
14 commissioners through the diagram of the sixth floor of
15 Latham Hall and some of the markings that Commission staff
16 has added to the diagram.

17 **A.** Yes. The rooms go around the outside --

18 **MR. BOSWELL:** Do you guys have a pointer?

19 **MS. GUICE SMITH:** It won't work on the
20 screen.

21 **MR. BOSWELL:** Have you got a long stick?

22 **Q.** Can you describe for them the red markings?

23 **A.** Yes. We have put in everyone's name and where
24 they lived. There were 36 women who lived in Latham Hall in
25 September 1976 [sic]. A red checkmark means that we have

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1 interviewed that woman. The little blue asterisk means that
2 that woman is deceased.

3 Q. And the ones for which there is no marking, the
4 Commission wasn't able to locate or interview?

5 A. That's correct.

6 MR. BOSWELL: Keep going. I didn't want to
7 distract. I just -- earlier, you were having a hard time
8 pointing.

9 THE WITNESS: I'm a little on the short side.

10 MR. BOSWELL: That's just tall.

11 A. So we have added the directions. So this is the
12 south side. It's the front of the building. This right
13 here, these are the east stairs. These are the fire stairs
14 I was talking about that go out down to -- and exit out the
15 ground.

16 This right here on the other side are the west
17 stairs. There's a little lounge area here. The elevator is
18 right here. This shows that there were some phones here.

19 The bathroom is right here, and there are four
20 doors that enter the bathroom. This bottom part -- these
21 are the showers and a bathtub. The little squares -- the
22 four squares on the west and east side, those are sinks.
23 There were five stalls in the bathroom.

24 The victim lived in room 608, right here.

25 On the morning that she was attacked, she left her

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1 room, went into the bathroom. Within a minute, her
2 roommate, Elvin Turner, heard her scream. She came outside
3 to see what was going on and she saw the victim covered in
4 blood, telling her that she had been stabbed.

5 Other witnesses saw that the suspect came out the
6 opposite door, the door at the top there, walked this way
7 down the hall past the stairs here, continued walking.

8 This is Jackie Kelly and Barbara Lee's room. They
9 opened their door and saw the suspect. The suspect
10 continued this way, came down here, went down the stairs,
11 exited onto the first floor, went into the lobby.

12 On the first floor, if you are also using this is
13 the south-facing direction, there was a game area here with
14 tables. Police later found the knife in this area of the
15 first floor.

16 Q. Can you tell the commissioners which stall the
17 victim was attacked in?

18 A. She was attacked in the stall closest to her room
19 which has a darker circle on it.

20 Q. Can you show the commissioners where the elevator
21 is?

22 A. The elevator is directly across from the stairs on
23 the east side. It is right here.

24 (2:12 p.m.)

25 MR. BARROW: So I was going to jump way ahead

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1 on you -- and perhaps you're going to cover this.

2 There was some identification of a stall by
3 Mr. Blackmon when he visited, but it was not well described
4 which stall he identified.

5 Is there anywhere we can go to determine
6 which stall Blackmon identified?

7 **THE WITNESS:** I'm not sure the page of the
8 brief, but if you go to the narrative report that covers
9 that visit from October 26, 1983 -- we are going to cover it
10 later, but based on the descriptions, he stopped in front of
11 this stall, the one where she was attacked.

12 **MS. GUICE SMITH:** And the one she was
13 attacked in is where you have the black mark in?

14 **THE WITNESS:** It is dark or black. It's in
15 kind of an oval.

16 **JUDGE WAGONER:** You have a pointer there now.

17 **THE WITNESS:** This is the bathroom stall
18 right here.

19 **JUDGE WAGONER:** Thank you.

20 **SHERIFF FRYE:** So the stairs -- and I may
21 have misunderstood a second ago.

22 The stairs that are on the east and west
23 side -- they are fire exits basically?

24 **THE WITNESS:** Basically.

25 **SHERIFF FRYE:** They go to the outside of the

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1 building or do they go down to the front?

2 THE WITNESS: You can go onto the first floor
3 from them, the lobby area, or you can go outside.

4 SHERIFF FRYE: Either one?

5 THE WITNESS: Uh-huh.

6 I think you might have to walk a bit further
7 down to get to the outside on at least one of them. But
8 yes, you get back into the first floor from the stairs or
9 you can go outside.

10 SHERIFF FRYE: Okay.

11 MS. GUICE SMITH: Sheriff Frye, to your
12 question about the stalls, I refer you to page 404 in your
13 brief. That is the start of visit to Latham Hall by the
14 officers and Blackmon.

15 And on page 405 of the brief is where he
16 specifically -- that Detective Holder specifically talks
17 about what Blackmon did in the bathroom area.

18 MR. BARROW: I would have to go back and look
19 at it but I didn't remember it being specific enough for me
20 to tell whether it was the stall where the event occurred or
21 not.

22 MS. GUICE SMITH: I can have Ms. Bridenstine
23 just read this for the record.

24 MR. BARROW: Well, we can read it. You don't
25 have to go back through it. But I just was -- had a

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1 question about whether it was more conclusory or whether
2 there was some independent identification of the stall.

3 **MS. GUICE SMITH:** I don't know that we could
4 draw that conclusion outside of just reading for you what it
5 says.

6 **MR. BARROW:** Right.

7 **MS. GUICE SMITH:** And I'm happy to do that
8 for the record.

9 **MR. BARROW:** No, no. We've got the record
10 here.

11 **MS. GUICE SMITH:** Okay. Yes. Pages 404 to
12 405 of the brief would give you the information that you
13 seek, but I don't know that we can make any further
14 conclusory statement about that.

15 Are there other questions for Ms. Bridenstine
16 about this diagram of the sixth floor before we move on?

17 We can always pull this back up at any time
18 if you-all have questions later. And, of course, you'll
19 have an opportunity tomorrow to see the sixth hall and walk
20 through it -- sixth floor of Latham Hall.

21 **MS. THOMPSON:** I know it's in the brief, I
22 just can't remember, which -- besides Jackie Kelly and
23 Barbara Lee, are there any other of the young women who say
24 they saw the --

25 **THE WITNESS:** Yes.

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1 **MR. BOSWELL:** I just want to highlight their
2 names so I can see where they were.

3 **THE WITNESS:** Yes.

4 Elvin Turner, when she was -- she was her
5 roommate. She said she looked down the hallway and saw the
6 suspect.

7 Jackie Kelly and Barbara Lee both said that
8 they saw the suspect walk past them. I believe they said
9 that he cut through the lounge area here.

10 Annette Goldring caught a glimpse of him as
11 he walked by her door.

12 And Mary Pledger -- she described something
13 like an outline of a man. That was the description she
14 gave.

15 Carolyn Wilson said that after this happened,
16 she opened her window or she looked outside and saw someone
17 running away from the dorm.

18 (2:17 p.m.)

19 Q. Did she give a direction?

20 A. I believe she said she saw him running towards the
21 west.

22 Vivian Best saw someone out her window about
23 7:00 a.m. walk out from the wood by Cheshire dorm.

24 The crime happened right around 6:15. One of the
25 women reported that said she looked at her alarm clock when

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1 she heard the screams and it said 6:11 a.m.

2 MS. GUICE SMITH: Any other questions about
3 the diagram?

4 (No verbal response.)

5 Q. Ms. Bridenstine, I want to turn your attention now
6 to the women who lived on the sixth floor of Latham Hall at
7 the time of this crime.

8 How many women were living on the sixth floor at
9 that time?

10 A. 36.

11 Q. How many bathrooms were on the sixth floor of
12 Latham Hall at that time?

13 A. There's one common bathroom with five bathroom
14 stalls, one bathtub, and three showers.

15 Q. And did you have an opportunity to interview any
16 of the women from the sixth floor of Latham Hall?

17 A. Yes. Commission staff interviewed at least one
18 female student from every room on the sixth floor of Latham
19 Hall. These interviews took place between November 2013 and
20 October 2018. We actually did an interview recently at the
21 end of October.

22 The other women were either deceased, unable to
23 locate, or did not respond to our request for interviews.

24 Additionally, we interviewed one woman who lived
25 on the fourth floor of Latham Hall, as she was believed to

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1 have seen the suspect while she waited at the bus stop on
2 Oakwood Avenue, and a second woman who lived in Cheshire
3 Hall who saw the suspect running towards the woods.

4 Q. And were the interviews recorded and transcribed?

5 A. Most of the interviews with the women were
6 recorded and transcribed with the exception of two that were
7 not recorded because one was a phone call taken while
8 commission staff was in the field and didn't have access to
9 a recorder and the other because of recorder malfunctions.

10 Q. Why did commission staff want to interview the
11 women who lived on the sixth floor of Latham Hall at the
12 time of the crime?

13 A. We were making efforts to determine the things
14 that were going on during the time period immediately prior
15 to, during, and after the crime.

16 We were also trying to ascertain whether any of
17 the women had seen James Blackmon or James Leach at their
18 dorm at any point or whether they recognized their names.

19 We also were generally seeking information as to
20 what the general practices were regarding men in the
21 bathroom.

22 Since Mr. Leach's print was in the bathroom, we
23 wanted to explore other reasons for why it might have been
24 there.

25 Q. Let's start with James Leach.

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1 Did commission staff ask the women on the floor if
2 they recognized the name James Leach?

3 A. We did.

4 Q. What did they say?

5 A. All but one stated that they did not recognize the
6 name of James Leach. One stated that the name sounded like
7 a classmate's name, not someone from off-campus.

8 Q. And you testified earlier that the commission
9 confirmed that James Leach was never a student at Saint
10 Augustine's; is that correct?

11 A. That's correct. Saint Augustine's has no record
12 of James Leach being a student there.

13 Q. Did commission staff ask the women from the sixth
14 floor if they recognized the photo of James Leach for any
15 reason?

16 A. Yes. They were shown a black-and-white photo --
17 booking photo of Mr. Leach from an arrest on August 21,
18 1993.

19 Q. Did the commission staff make attempts to locate a
20 photo from closer in time to the crime?

21 A. We did. We sought booking photos from his earlier
22 arrests and could not locate any. We asked DPS for photos
23 and they did not have any. We also asked family members for
24 photos from that time period and none had any. Finally, we
25 searched school yearbooks for a photo of Mr. Leach and could

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1 not find one.

2 **MS. GUICE SMITH:** Commissioners, if you will
3 refer to handout 20 in your hearing handout notebooks, this
4 is the black-and-white booking photo of James Leach that was
5 shown to the women from Latham Hall. And I'm also placing a
6 copy of that on the screen.

7 **JUDGE WAGONER:** This, again, was taken in
8 1993?

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

10 Q. Ms. Bridenstine, what was the purpose of showing
11 the women the photo of James Leach?

12 A. To determine if any of the women recognized him
13 for any reason. For example, was he someone's boyfriend?
14 Was he someone who was in there at Latham Hall for painting
15 or maintenance work?

16 Q. What did the women say when shown this photo?

17 A. With the exception of Jackie Kelly and Barbara
18 Lee, none of the women recognized the photo of Mr. Leach.

19 As I testified earlier, Jackie Kelly, upon
20 reviewing the photo, said that he looked like the man that
21 she saw walking casually down the hall.

22 In her first interview with commission staff,
23 Barbara Lee said Leach's picture looked familiar but did not
24 know why. In her second interview with commission staff,
25 Barbara Lee said he did not look familiar.

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1 **MS. GUICE SMITH:** Commissioners, again,
2 Jackie Kelly will be here in the morning to testify. You're
3 going to be provided transcripts of her interviews with
4 commission staff and other communications that commission
5 staff had with Ms. Kelly so that you're able to assess that
6 statement as it relates to that photo.

7 Q. Let's move on to questions that you asked the
8 women about men being in Latham Hall.

9 That was an all-girls dorm at the time of the
10 crime; is that correct?

11 A. That's correct.

12 Q. Did you ask all of the women you interviewed
13 generally whether they had seen men on the sixth floor?

14 A. Yes.

15 Q. And what did they say?

16 A. The majority of them indicated that they had not
17 seen men on the sixth floor of Latham Hall. One indicated
18 that although it was not uncommon for there to be men up
19 there -- excuse me -- that it was not common for men to be
20 up there, but there may have been men on the weekends.

21 Two stated that the men helped the women move into
22 the dorm. Another stated that the only men she saw on the
23 hall were maintenance men. One stated that the school year
24 prior to the crime, there were parties with men on the sixth
25 floor but that there had not been any during this particular

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1 school year and that she hadn't seen any men on the sixth
2 floor that semester.

3 And finally, one woman who lived on the fourth
4 floor indicated that men would be invited into the dorm by
5 their girlfriends and would sneak in.

6 Q. Did commission staff ask the women if they ever
7 saw men in their mid-to-late-20s on the sixth floor?

8 A. We did.

9 Q. Why did you ask the question?

10 A. Mr. Blackmon was 26 at the time of the crime and
11 Mr. Leach was 28 at the time of the crime. Additionally,
12 one of the eyewitnesses indicated that the suspect was in
13 his mid-20s and some indicated that he looked older than
14 college age.

15 Q. What did the women say about men in their
16 mid-to-late-20s?

17 A. The majority of them indicated that they had not
18 seen men of that age on the sixth floor. Several indicated
19 that they maybe had seen men of that age in the lobby of the
20 dorm, but not on the sixth floor. No one reported seeing
21 anyone of that age on the sixth floor.

22 One woman commented that there weren't a lot of
23 guys from the city coming to hang out at Latham Hall.

24 Some of the women were also asked whether they
25 knew anyone from the floor to date someone of that age, and

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1 all indicated that no one was dating men of that age.

2 Q. Did the commission staff also ask the women about
3 men that may have been doing maintenance or painting on the
4 floor?

5 A. We did.

6 Q. And what did they say?

7 A. Several did not recall men doing any kind of
8 maintenance or painting. Of those that did recall this type
9 of work conducted by men, one said that the men would work
10 on clogged drains and one indicated that they would work on
11 the payphone. Another stated that the maintenance work was
12 done while they were on breaks. One stated that maintenance
13 work was done occasionally at the building but that this was
14 always announced via the PA system that a man was on the
15 hall.

16 Although not asked specifically, two recalled that
17 the cleaning crew was made of women, and one of them stated
18 that the bathroom was always spotless.

19 Q. Did commission staff ask the women whether they
20 knew men to use the bathroom on the sixth floor of Latham
21 Hall?

22 A. We did.

23 Q. What did they say?

24 A. Most indicated that men did not use the restroom
25 on the sixth floor. One stated that she imagined they did

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1 and another stated that she heard a man peeing one time but
2 did not know when that was.

3 Q. Did commission staff ask the women whether anyone
4 had problems with men?

5 A. We did.

6 Q. What did they say?

7 A. None of them reported any of the women on the
8 sixth floor having any problems with men.

9 Q. Was there any indication at the time of the
10 initial investigation that the women knew or recognized the
11 perpetrator?

12 A. Yes. A handwritten case report from the initial
13 investigation dated 9/28/1979 indicates that Barbara Lee
14 stated, quote, "that she did not know the subject's name but
15 she has seen him around before, and many of the other girls
16 of the hall recognize the suspect but did not know the
17 name."

18 A typed report dated 10/2/1979 related to an
19 interview of Ms. Lee does not include this information. An
20 8/6/1982 report of another interview with Ms. Lee also does
21 not include this information.

22 Q. Did you uncover any information in your
23 investigation and review of the law enforcement files that
24 confirms that any of the women including Ms. Lee knew or
25 recognized the perpetrator?

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1 A. No. None of the other women who saw the
2 perpetrator indicated that they recognized him.
3 Furthermore, when interviewed by the Commission on March 26,
4 2018, Ms. Lee stated that she did not remember saying this
5 and that it did not sound accurate. She further said that
6 she wouldn't have said that and that she did not recognize
7 the man.

8 Q. Did commission staff ask the women whether there
9 was anything going on in the dorm the morning or night
10 before -- the morning of or the night before the crime?

11 A. We did.

12 Q. And what did they say?

13 A. Aside from one woman reporting that she heard her
14 door rattling the morning before the crime, no one else
15 reported anything unusual. Specifically, none of the women
16 reported any parties that were occurring on the sixth floor
17 of the Latham Hall during that time period.

18 Q. During the initial investigation, Detectives
19 Holder and Munday asked a lot of the women about
20 prostitution and drugs on the sixth floor of Latham Hall.

21 What is your understanding of that?

22 A. It appeared that their theory of the crime was
23 that the attack could've been related to prostitution or
24 drugs.

25 Q. Is there anything additional in the brief that

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1 related to that?

2 A. On page 73 of your brief, there was a minor note
3 in this case file regarding Blackmon and any involvement in
4 the Alston and Bridges homicides. Alston and Bridges were
5 the gruesome murders of two women who were suspected to be
6 prostitutes in Raleigh.

7 Q. Did the Commission investigation reveal any
8 additional information as to prostitution or drugs as a
9 theory of this crime?

10 A. Yes. In a recent interview with commission staff,
11 Detective Holder stated that prostitution and drugs were
12 happening at college campuses everywhere so that would have
13 just been something he would have asked about.

14 We also reviewed the files for Alston and Bridges,
15 and Mr. Blackmon's name was never mentioned in those cases.
16 The cases were deemed exceptionally cleared by RPD and no
17 arrests were ever made.

18 When asked by commission staff, both Detectives
19 Munday and Holder confirmed that Mr. Blackmon was never
20 seriously considered a suspect in those cases.

21 Q. Did the commission staff ask the women whether
22 they knew about any prostitution going on on the sixth
23 floor?

24 A. We did.

25 Q. And what did they say?

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1 A. None indicated that they knew about any
2 prostitution going on on the sixth floor. Although one
3 reported that she had heard a rumor about one of the girls
4 having boys and a reputation, none of the women reported any
5 personal knowledge of prostitution on the sixth floor.

6 Further, none knew why the police thought that
7 there was prostitution happening on the sixth floor.

8 Q. Did the commission staff ask women about drug use
9 on the sixth floor?

10 A. We did.

11 Q. And what did they say?

12 A. Most indicated that they did not know anything
13 about drug use on the sixth floor. Two women reported that
14 there may have been some use of marijuana but did not report
15 a widespread usage. The women largely did not know why the
16 police thought that there was drug use happening on the
17 sixth floor.

18 Q. Let me turn your attention now to James Blackmon,
19 the claimant in this case.

20 Did the commission staff ask the women on the
21 floor if they recognized the name James Blackmon?

22 A. We did.

23 Q. And what did they say?

24 A. All but one stated that they did not recognize the
25 name of James Blackmon. One stated that she seemed to

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1 remember a partially handicapped student at Saint
2 Augustine's named that.

3 Q. Was James Blackmon ever a student at Saint
4 Augustine's?

5 A. He was not. RPD checked to determine whether he
6 was an employee or a student of Saint Augustine's, and they
7 learned from the chief of security that he was not.

8 Q. Did commission staff ask the women on the floor if
9 they recognized the photo of James Blackmon for any reason?

10 A. Yes. Initially, the women were shown a
11 black-and-white photo of James Blackmon from 1974 at Attica
12 prison in New York.

13 MS. GUICE SMITH: Commissioners, if you will
14 refer to handout 21 in your hearing handout books, this is
15 the black-and-white photo of James Blackmon that was shown
16 to the women from Latham Hall.

17 I'm also placing a copy of that on the
18 screen.

19 JUDGE WAGONER: And the date of the photo was
20 when?

21 THE WITNESS: 1974.

22 JUDGE WAGONER: Thank you.

23 Q. What was the purpose of showing the women a photo
24 of James Blackmon?

25 A. As with James Leach, we were trying to determine

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1 if anyone recognized Mr. Blackmon for any reason. There is
2 some question as to when Mr. Blackmon arrived in Raleigh and
3 we wanted to know if any of the women could put him at Saint
4 Augustine's for any reason around the time of the crime.

5 Q. What did women say when they were shown this
6 photo?

7 A. All stated that they did not recognize the man in
8 the photo.

9 Q. Were the women on the floor shown any other photos
10 of James Blackmon?

11 A. Yes. The Commission located a color photo from a
12 North Carolina Division of Prisons identification card for
13 Mr. Blackmon that was issued on December 30, 1980.

14 We removed the identification portion of the card
15 and showed the women the color photograph from the
16 identification card and asked them if they recognized this
17 photo for any reason.

18 Q. And was this done sometime after the original
19 black-and-white photo was shown to the women?

20 A. That's correct.

21 **MS. GUICE SMITH:** Commissioners, if you will
22 refer to handout 22 in your hearing handout notebooks, this
23 is the color photo of Mr. Blackmon from December 30, 1980,
24 that was shown to the women. I've also placed a copy on the
25 screen.

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1 **MR. BOSWELL:** When were these pictures shown
2 to the women?

3 **THE WITNESS:** When we interviewed them.

4 **MR. BOSWELL:** Sometime between '13 and '18?

5 **THE WITNESS:** There were two women who were
6 interviewed in 2014 and the rest were interviewed in 2017 to
7 2018.

8 **MR. BOSWELL:** Okay.

9 Q. What did the women say when they were shown this
10 photo?

11 A. All but three of the women stated that they did
12 not recognize the man in the photo.

13 Rosemary Green stated that the photo looked like
14 someone she recalled seeing on campus near the
15 union/cafeteria area.

16 Barbara Lee stated that the man in the photo
17 seemed familiar but that she could not say why.

18 Jackie Kelly stated that the man looked familiar
19 and kind of fits the features of the person that she saw but
20 stated that this man looked different from the suspect.

21 **MS. GUICE SMITH:** Commissioners, as noted on
22 pages 182 to 183 of your brief, Jackie Kelly was the only
23 woman from the sixth floor who was shown a photograph of
24 James Blackmon at the time of the initial investigation.

25 Q. Ms. Bridenstine, can you remind the commissioners

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1 who Jackie Kelly is?

2 A. Jackie Kelly lived on the sixth floor of Latham
3 Hall at the time of the crime. Her roommate was Barbara
4 Lee.

5 On the night -- on the morning of the crime, she
6 saw the suspect after he attacked the victim. She went
7 downstairs after him and tried to get help. By the time she
8 got downstairs, she did not see the perpetrator. She
9 reported the crime to the dorm matron on the first floor.

10 MS. GUICE SMITH: Commissioners, commission
11 staff could not locate any criminal record for Jackie Kelly.

12 Q. Did Ms. Kelly provide a description of the
13 perpetrator to law enforcement?

14 A. She did. She stated that the man came out of the
15 furthest bathroom door from her, walked directly toward her
16 and passed within a few feet of her. She stated he turned
17 left and walked on down toward the elevator, turned left at
18 the elevator, and walked out of her sight.

19 She described the man as about 6 feet tall,
20 wearing a maroon-colored dashiki with a gold design on it.
21 She stated he had on dark-colored trousers and sneakers.
22 She described him as having a medium-to-short Afro and a
23 fairly clean face. She did not notice any facial hair and
24 stated if there was facial -- if there was a beard or a
25 mustache, it was very light.

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1 **MS. GUICE SMITH:** Commissioners, Jackie
2 Kelly's initial statement to law enforcement including her
3 description of the perpetrator is on pages 23 to 24 of your
4 brief.

5 Q. Did Jackie Kelly have other interactions with law
6 enforcement?

7 A. She did. In addition to her initial statement,
8 Jackie Kelly viewed multiple photographs and photographic
9 lineups as well as some in-person show-ups between the date
10 of the crime and April of 1981.

11 **MS. GUICE SMITH:** Commissioners, if you will
12 refer to handout 23 in your hearing handout notebooks, this
13 is a chart of Ms. Kelly's interactions with law enforcement.

14 Although this information was provided
15 through your brief, we summarized it in this chart for you,
16 if you want to take a minute to look at that.

17 Q. Ms. Bridenstine, was Jackie Kelly also later
18 interviewed by law enforcement?

19 A. She was interviewed by law enforcement on
20 September 26, 1983, at Fort Benning, Georgia, where she was
21 stationed. This included a psychological voice stress
22 analysis test. Hypnosis was discussed during that interview
23 but there was no indication that Ms. Kelly was hypnotized.

24 Q. During the September 26, 1983, interview, was
25 Jackie Kelly shown photographs?

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1 A. Yes. She was shown a photo lineup that contained
2 a photo of James Blackmon. According to the report of this
3 interview, when she initially started looking at the photos,
4 she immediately pulled Mr. Blackmon's photo and laid it to
5 the side. After going through all the remaining photos
6 several times, she pulled out another picture of Barry
7 Chavez.

8 She stated that these two looked like they could
9 possibly be the suspect. With respect to Mr. Blackmon, she
10 stated that his appearance looked good but that it appeared
11 heavier in the picture than what she remembered the suspect
12 being.

13 Q. Was Ms. Kelly then given the psychological voice
14 stress analysis?

15 A. She was.

16 Q. During that, was Ms. Kelly asked whether she
17 positively recognized the suspect in the photographs that
18 were shown to her that morning?

19 A. She was.

20 Q. And what was the response?

21 A. She responded no.

22 Q. What does the report indicate the results were of
23 that psychological voice stress analysis?

24 A. The report states, quote, "It is the opinion of
25 this investigator, based on the lack of reactions to any of

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1 the relevant questions in phase I or phase II of the
2 examination, First Lieutenant Jacqueline Kelly believed the
3 answers she gave this investigator to be truthful."

4 **MS. GUICE SMITH:** Commissioners, the
5 transcript of this interview with information about that
6 photo lineup and the voice stress analysis can be found on
7 pages 184 to 215 of your brief.

8 (2:39 p.m.)

9 **MR. GRACE:** I have a question.

10 **MS. GUICE SMITH:** Yes.

11 **MR. GRACE:** Is there any indication why she
12 was given the voice stress analysis?

13 **THE WITNESS:** No.

14 **MR. GRACE:** Any indication that she was
15 willfully giving falsified information to the police?

16 **THE WITNESS:** No, not -- there's nothing that
17 indicated that in the RPD file.

18 Q. Ms. Bridenstine, is there any indication in the
19 RPD file that other women that were being interviewed were
20 also being given the voice stress analysis?

21 A. Yes. Sarah Collins and Alfreda Hussey were also
22 given voice stress analysis.

23 **MR. GRACE:** Same question. Any indication
24 any of those women were willfully lying?

25 **THE WITNESS:** No.

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1 **MR. GRACE:** Thank you.

2 Q. Was Jackie Kelly interviewed by commission staff?

3 A. Yes. She was interviewed over the phone on
4 December 17, 2014; a second time over the phone on May 24,
5 2018; and a third time over the phone on October 13, 2018.

6 Q. And is there a reason why these interviews were
7 done over the phone?

8 A. Ms. Kelly lives in Florida.

9 Q. Were the interviews recorded and transcribed?

10 A. Yes, they were.

11 Q. Was Jackie Kelly shown the black-and-white photos
12 of Mr. Leach and Mr. Blackmon?

13 A. Yes. On December 17, 2014, commission staff
14 e-mailed copies of the photos to Ms. Kelly along with some
15 follow-up questions for her.

16 The Commission sent a follow-up e-mail January 5,
17 2015. After no response was received, commission staff sent
18 a letter to Ms. Kelly on January 9, 2015, with copies of the
19 black-and-white photos and the same follow-up questions.

20 Commission staff received a letter from Ms. Kelly
21 dated February 17, 2015, in which Ms. Kelly provided
22 responses related to the photos and follow-up questions that
23 the Commission had asked.

24 Q. Has Jackie Kelly been shown the color photo of
25 Mr. Blackmon?

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1 A. Yes. On May 15, 2018, after locating a color
2 photo of Mr. Blackmon, commission staff mailed a letter to
3 Jackie Kelly with the photograph. We subsequently
4 interviewed her about this photograph on May 24, 2018.

5 **MS. GUICE SMITH:** Commissioners, handout 24
6 in your hearing handout notebooks is going to be a 15-page
7 transcript of the Commission's interview of Jackie Kelly on
8 December 17, 2014.

9 Handout 25 is an e-mail with photographs that
10 commission staff sent to Jackie Kelly on December 7, 2014,
11 along with a follow-up e-mail the commission staff sent on
12 January 5, 2015.

13 Handout 26 is the letter dated January 9,
14 2015, and black-and-white photos that the Commission sent to
15 Ms. Kelly.

16 Handout 27 is the letter dated February 17th,
17 2015, from Ms. Kelly to the Commission.

18 And 28 is the letter dated May 15, 2018, and
19 color photo that was sent to Ms. Kelly.

20 Handout 29 is an eight-page transcript from
21 the Commission's interview of Jackie Kelly on May 24, 2018.

22 Handout 30 is the 31-page transcript from the
23 Commission's interview of Jackie Kelly on October 13, 2018.

24 At this time, Judge Wagoner, I would request
25 we take a recess or be at ease so that commissioners can go

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1 to the bathroom and then have an opportunity to review these
2 materials. I think it will take a little time since it's so
3 much information.

4 So that will be handouts 24 through
5 handout 30. It's about 50 to 60 pages of information.

6 Can we be at ease?

7 **JUDGE WAGONER:** Sure.

8 (At ease, 2:43 to 3:15 p.m.)

9 **MS. GUICE SMITH:** Commissioners, a couple of
10 housekeeping matters as we come back.

11 There was testimony earlier about Mr. Leach's
12 movement records from DPS. I have those, if you-all want
13 that. Does anyone want them? If so, we will pass them out
14 as a handout.

15 (No verbal response.)

16 **JUDGE WAGONER:** Who asked the question?

17 **MS. GUICE SMITH:** They were several questions
18 just about the movement records of where he was. And this
19 is what DPS was able to provide us. It's only 17 pages.
20 They don't have anything other than this.

21 **JUDGE WAGONER:** Is it any different than what
22 we have already? Is there anything different in there?

23 **MS. GUICE SMITH:** It is just the DPS record
24 for -- that shows his entrances, releases --

25 **JUDGE WAGONER:** I'll take one.

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1 **MR. GRACE:** Was he being moved around on the
2 day in question?

3 **MS. TANNER:** It's external --

4 **MS. GUICE SMITH:** I'm going to let Ms. Tanner
5 answer that question.

6 **MR. GRACE:** Please.

7 **MS. TANNER:** These later -- these earlier
8 records appear to be external movement records. They do not
9 appear to have internal movement like between the prisons;
10 so they would only show, like, he came into a facility and
11 that he was paroled or released as Ms. Bridenstine
12 testified.

13 We just don't have those internal movement
14 records until later.

15 **MR. GRACE:** Do we need the internal records?
16 I mean, we need to know when he was out.

17 **MS. TANNER:** Right. The chart reflects
18 what's here but in case anyone wanted to see what the actual
19 DPS record had on it as opposed to just having the chart, we
20 have those pulled.

21 **JUDGE WAGONER:** And one of our records did
22 say he finished his sentence. I mean that was --

23 **MR. BARROW:** Is there any more reentry
24 between May of '78 and the date of the crime?

25 **JUDGE WAGONER:** No. That's when he got

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1 married, I think.

2 MR. BARROW: No, May is when he finished his
3 sentence.

4 JUDGE WAGONER: He got married in December?

5 SHERIFF FRYE: Yeah.

6 JUDGE WAGONER: I don't think there was.

7 MS. TANNER: No.

8 MR. BARROW: No reentry records?

9 MS. TANNER: No.

10 SHERIFF FRYE: Okay.

11 JUDGE WAGONER: He was out.

12 MR. BARROW: He was out or somewhere we can't
13 find him.

14 JUDGE WAGONER: Okay.

15 MR. BOSWELL: We have no record of these and
16 don't know where he was.

17 MS. GUICE SMITH: We have no record he was in
18 DPS custody at that time.

19 So we're good on these?

20 The second housekeeping matter, someone has
21 asked about Carolyn Wilson -- what she saw the suspect do.
22 This was on page 24 of your brief.

23 She told law enforcement that she saw the man
24 going toward the parking lot on the west side of the
25 building. That is consistent with what Ms. Bridenstine

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1 testified to but I just wanted to clarify that is in your
2 brief.

3 JUDGE WAGONER: Okay.

4 (3:18 p.m.)

5 Q. All right. Ms. Bridenstine, I want to turn your
6 attention to what Ms. Kelly says about an in-person lineup.
7 She discusses this on page 6, lines 2 through 15 of handout
8 22; in paragraphs 3 through 4 of handout 25; and on page 10,
9 line 23 through page 21, line 12 of handout 28.

10 What is your understanding from Jackie Kelly about
11 the lineup that she saw?

12 A. Based on the information provided by Jackie Kelly,
13 it appears that she believes that this lineup occurred in
14 Raleigh and that when she came up for the lineup, she was
15 stationed at Fort Benning in Georgia.

16 She also stated that she believed that this lineup
17 was her last contact in the case until she was contacted by
18 the Commission in 2014 and that she was told by police after
19 the lineup that the man had confessed.

20 Q. When did commission staff first learn that
21 Ms. Kelly remembered a lineup where she was told that a man
22 in it had confessed to the crime?

23 A. Ms. Kelly mentioned the lineup when she was first
24 interviewed by commission staff. She said during her
25 interview with commission staff on December 17, 2014, that

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1 she went for a lineup and she was told that the guy they had
2 said -- the guy they had said that he did it.

3 She said that that person did not look anything
4 like the guy she had described. She said that this lineup
5 was the only one she could remember at that point.

6 Additionally, Ms. Kelly indicated in her
7 February 17, 2015, letter to the Commission that when she
8 was in the military, she received a phone call asking her to
9 participate in a lineup in North Carolina. Her letter
10 states, quote, "I cannot recall exactly when I was told by
11 the police that their suspect had confessed. My logic tells
12 me that after the lineup when I told the police the man I
13 saw was not in the lineup, this is when I was told that
14 their suspect had confessed. I recall telling the police
15 that their suspect could tell them anything. He could be
16 mentally incompetent or maybe he just wanted to be
17 arrested."

18 She also stated that the lineup consisted of five
19 men that she looked at through a glass window.

20 Q. What does Ms. Kelly say in her October 13, 2018,
21 interview with the Commission?

22 A. She stated that she did not remember doing any
23 lineups when she was in college and that she graduated in
24 June of 1981. She said that she remembered doing two
25 lineups. The first she remembered vaguely. For the second

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1 lineup, she remembered that she told the police that the guy
2 they had said he had done it and that it was done when she
3 was in the military.

4 She recalled that the lineup occurred when
5 she was stationed at Fort Benning, Georgia, in the Army.

6 Q. And when was Ms. Kelly stationed at Fort Benning,
7 Georgia?

8 A. The RPD file indicates that she was stationed at
9 Fort Benning, Georgia, beginning in January of 1982.

10 Ms. Kelly confirmed during her interview that this
11 information was correct.

12 Q. Other than Ms. Kelly's interview at Fort Benning,
13 Georgia, on September 26, 1983, during which she was shown
14 photos that included Mr. Blackmon's photo, when is the last
15 time that the RPD file indicates it had any contact with
16 Ms. Kelly?

17 A. She went to a physical lineup with Elvin Turner on
18 April 24, 1981. That was during her final semester as a
19 student at Saint Augustine's.

20 Q. And was James Blackmon in that lineup?

21 A. On April 24, 1981? No.

22 Q. What else did she remember about the second lineup
23 that happened when she was in the military?

24 A. She remembered that someone offered to fly her up
25 for the lineup and that she was surprised that she'd been

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1 contacted after all of those years after the incident. She
2 said that it might've occurred in the fall.

3 Q. Did you ask her if she recalled her interview in
4 person with Raleigh detectives at Fort Benning, Georgia, on
5 September 26, 1983?

6 A. I did.

7 Q. And what did she say?

8 A. She said that she thought she remembered it and
9 that she thought the military police wanted to see her. She
10 said that she did not understand why the military police
11 would want to see her and that maybe when she went to see
12 the military police, the Raleigh police were there.

13 Q. Did you ask her when this interview at Fort
14 Benning, Georgia, happened in relation to the lineup that
15 she remembered traveling to Raleigh for?

16 A. Yes. She said that she believed this lineup
17 happened after the interview at Fort Benning, Georgia,
18 because the lineup in Raleigh was the last thing that she
19 remembered happening in this case before the Commission
20 contacted her.

21 Q. When did Mr. Blackmon begin talking with law
22 enforcement?

23 A. Mr. Blackmon began talking to detectives on
24 October 25, 1983. His visit to Saint Augustine's with the
25 detectives was on October 26, 1983.

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1 Q. What does Mr. Blackmon say about his involvement
2 in an in-person lineup?

3 A. Mr. Blackmon reports being in at least one
4 in-person lineup regarding this case which he stated was at
5 Central Prison. He says that there were five or six people
6 in the lineup. He said it occurred after he met Detectives
7 Munday and Holder and that both of them were present for the
8 lineup. He further recalled that there was a woman there to
9 identify him and that detectives told him that she picked
10 him out.

11 In addition, although Mr. Blackmon does not put a
12 time frame on this, he distinctly recalls Detectives Munday
13 and Holder taking him for a cut and a shave to, quote, "try
14 to get -- make me seem to be the person they said I was, and
15 I was not."

16 Q. Is there any record of an in-person lineup that
17 included Mr. Blackmon in the RPD file that was provided to
18 the Commission?

19 A. No.

20 Q. Has commission staff located any additional
21 information as to whether an in-person lineup with
22 Mr. Blackmon occurred?

23 A. Yes. A portion of Mr. Blackmon's Dorothea Dix
24 records are contained in the RPD file. Included in those
25 records is a nursing progress note dated October 31, 1983,

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1 at 2:45 p.m.

2 The note states, quote, "Patient has been
3 cooperative and friendly. Ate well at lunch. Was taken to
4 the Raleigh police station for questioning by two officers
5 at 1:17 p.m. Patient remained off the unit at this time."

6 Another nursing progress note by Dr. Rowles dated
7 November 4, 1983, at 5:00 p.m. states, quote, "On
8 October 31, he left with police for a lineup but was
9 returned to hospital."

10 There is another nursing progress note dated
11 November 5, 1983, at 10:15 a.m. which states in part, quote,
12 "On October 31, '83, he left the hospital with two
13 detectives for questioning and to be in a lineup.
14 Mr. Blackmon seemed very glad to see the detectives and
15 related that he had been spending time with them and they
16 were his friends. Later this week, he asked me to call the
17 detective and gave me their card to find out if he were
18 going to visit him that day. He related, 'I have business
19 but it's private. I can't talk about it.'"

20 Q. Is there any interaction in the RPD file
21 documented between Mr. Blackmon and RPD on October 31, 1983?

22 A. No. There is nothing in the file regarding
23 anything happening on this date.

24 Q. Is there any other mention in the files that you
25 have reviewed in this case that mention anything happening

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1 on October 31, 1983?

2 A. Yes. In the defense appellate brief filed by
3 Thomas Manning, it states, quote, "On October 31st, 1983,
4 two Raleigh police detectives, presumably Officers Holder
5 and Munday, picked Mr. Blackmon up for a police lineup.
6 Either Detectives Holder and Munday or the assistant
7 prosecutor asked Mr. Blackmon to get a haircut and shave
8 prior to the lineup, and Mr. Blackmon complied. On that
9 same day, Mr. Blackmon was suffering from extrapyramidal
10 side effects of the Haldol that he was taking pursuant to
11 his doctor's orders."

12 Two other sections of the brief make the same
13 assertion. These portions of the brief do not cite any
14 transcript from the motion to suppress but they cite three
15 documents in the Dorothea Dix records that mention a lineup.
16 Those Dorothea Dix documents are not in the RPD file, but
17 two of the three cited materials were attached to the briefs
18 filed in this case. They include an assessment of
19 Mr. Blackmon dated 9/24/1984 and the initial psychiatric
20 assessment and discharge summary by Dr. Rowles dated
21 11/17/1983.

22 The State's brief does not list October 31, 1983,
23 as one of the dates that RPD had contact with Mr. Blackmon.
24 It does not mention any lineups in connection with
25 Mr. Blackmon.

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1 Q. You testified that Mr. Blackmon recalled that
2 Detective Munday and Detective Holder took him to get a cut
3 and a shave.

4 Is there any further information from the
5 Commission's investigation to support Mr. Blackmon's
6 recollection that he was given a cut and shave?

7 A. Yes. There is a Polaroid photo in the RPD file
8 that was taped to a Redweld labeled Book 12 which contains
9 the transcribed statements of Mr. Blackmon and his
10 interaction with RPD from October 25, 1983, through
11 December 7, 1983.

12 The back side of the Polaroid includes a date of
13 10/28/83, which corresponds with the date that Mr. Blackmon
14 was interviewed at RPD.

15 A nursing assessment dated October 2, 1983, notes
16 that Mr. Blackmon has a beard. Additionally, in a nursing
17 progress note from October 5, 1983, it is noted that a
18 female patient braided Mr. Blackmon's hair. That same
19 nursing progress note from 10:15 a.m. on November 5, 1983,
20 that was discussed previously says, quote, "He keeps himself
21 well groomed and had a shave and cut since last admission
22 and says, 'This is the new James Blackmon.'"

23 In an initial psychiatric assessment and discharge
24 summary by Dr. Rowles dated 11/17/1983, it states, quote,
25 "Since 10/21/1983, the patient has cut his hair and shaved

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1 his beard."

2 It also states, quote, "On 10/31/83, the patient
3 was allowed to leave with the two detectives from the
4 Raleigh Police Department to participate in a lineup. He
5 was not identified on that occasion and was returned to the
6 hospital."

7 In an admission for evaluation dated 10/28/1983 at
8 3:00 p.m. by Dr. Rowles it states in part, quote, "Since
9 last week, patient has cut his hair and shaved his beard."

10 It also stated that he has lots of bad thoughts
11 about hurting himself and other people.

12 Blackmon was interviewed in an assessment on
13 9/24/1984 and says in that that Detectives Munday and Holder
14 told him to get a haircut and shave, took his photo, and
15 showed his pictures.

16 **MS. GUICE SMITH:** Commissioners, handout 31
17 in your hearing handout notebooks is a scanned copy of the
18 front and back of this photo that was taped to Redweld in
19 the RPD files, two separate pages as handouts.

20 (3:30 p.m.)

21 **MR. GRACE:** Is now a good time for a
22 question?

23 **MS. GUICE SMITH:** Absolutely.

24 **MR. GRACE:** Several times you have mentioned
25 that Ms. Kelly indicated that the police told her that their

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1 suspect had confessed.

2 Is there any indication that the police ever
3 told her who "their suspect" was?

4 **THE WITNESS:** No.

5 **MR. GRACE:** Do we have Tommy Manning's
6 affidavit to his motion to suppress?

7 **THE WITNESS:** We have the motion that he
8 filed and a supplement that he filed following the hearing.
9 And I believe both are in the brief.

10 **MR. GRACE:** I'll look again. I thought I had
11 seen them, but I couldn't -- I would like to have a copy of
12 it, though.

13 **MS. NEWTON:** It's right near the brief for --

14 **MS. GUICE SMITH:** The defendant's motion and
15 supplement begin on page 502 of the brief, Mr. Grace.

16 **JUDGE WAGONER:** The order's on 518.

17 **MR. GRACE:** Thank you.

18 **MS. NEWTON:** Can I ask a question?

19 **JUDGE WAGONER:** Sure.

20 **MS. NEWTON:** I notice in one of her letters,
21 when someone was asking Jackie Kelly about moving off
22 campus, and it appears in this hearing to have been the
23 suggestion that the girls who left or moved out of the dorm
24 did it because of the stabbing.

25 And she said it was because of a death

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1 threat.

2 Did anybody follow up on -- was there
3 anything about -- following the stabbing, she said she
4 didn't feel safe because there was a death threat.

5 **THE WITNESS:** That Jackie Kelly didn't feel
6 safe?

7 There was some discussion in the RPD file
8 that there might have been an anonymous caller who called
9 the dorm and said something to the effect that they had
10 gotten the wrong girl and would be back. And there was some
11 discussion that might have been directed at Jackie Kelly
12 because she went on the 6:00 o'clock news on the day that
13 the crime happened and talked to news reporters about what
14 had happened.

15 We did ask Jackie Kelly about that anonymous
16 call. And if you give me a second, I can tell you basically
17 what she said about it.

18 **MS. NEWTON:** So it wasn't your impression
19 that the death threat was "Keep quiet or" -- in other words,
20 it was about something else?

21 **THE WITNESS:** Correct.

22 **MS. NEWTON:** Okay. Thank you for looking for
23 that.

24 **THE WITNESS:** She didn't remember an
25 anonymous call to the dorm.

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1 **MR. BOSWELL:** Can I ask a question following
2 up on what Mr. Grace was asking?

3 In the motion for appropriate relief or the
4 suppression motion, was there any evidence brought up about
5 the lineup and about Ms. Kelly saying that the person in the
6 lineup -- that nobody in the lineup was the perpetrator?
7 Was that brought up?

8 Is this the first time that that has come to
9 light? Or was it brought up earlier?

10 **THE WITNESS:** The photo lineups --

11 **MR. BOSWELL:** Yeah.

12 **THE WITNESS:** -- that contained
13 Mr. Blackmon's photo on 9/26 --

14 **MR. BOSWELL:** The in-person lineup.

15 **THE WITNESS:** There is nothing in the motion
16 to suppress about that. It first is mentioned in the
17 defense appellate brief.

18 **MR. BOSWELL:** Okay. So in the defense
19 appellate brief, what did Ms. Kelly say?

20 **THE WITNESS:** What was in some of the
21 Dorothea Dix records is cited. What is in the defense
22 appellate brief is an assertion that a lineup was held on
23 October 31st, 1983, with Mr. Blackmon. Nothing about Jackie
24 Kelly appears in the defense appellate brief.

25 **MR. BOSWELL:** Okay. So it's not alleged

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1 anywhere prior to this that Ms. Kelly came -- to that lineup
2 and said, "None of these people are the person I saw"? That
3 is not anywhere prior to this hearing?

4 **THE WITNESS:** That's correct. About any sort
5 of a lineup that occurred in person after the last in-person
6 lineup that she had in 1981, there is nothing except for
7 that photo lineup that they showed to her on 9/26/1983 at
8 Fort Benning, Georgia.

9 **MR. BARROW:** Do you happen to remember in the
10 appellate brief to what the reference of that October 31
11 in-person lineup referred? I mean, it would have to go back
12 to something in the record or an exhibit that was an exhibit
13 to the record on appeal.

14 **THE WITNESS:** We don't have -- it appears
15 that we have the attachment, just a partial -- parts of the
16 attachments, not what was completely attached to the briefs.
17 So we don't have all of the information that was presented
18 on appeal. There are just some pages.

19 There are some pages from the motion to
20 suppress hearing transcript, and then the rest of it is
21 primarily made of Dorothea Dix records. Some of those
22 Dorothea Dix records we had in the RPD file and then some we
23 did not see in the RPD file. The first time we saw them was
24 attached to both the State's brief and the defense brief.

25 **MR. BARROW:** But nonetheless, my point is

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1 wouldn't it have had to either be an exhibit to the record
2 on appeal or in the record on appeal? There's no other way
3 you can argue it at the appellate stage.

4 **THE WITNESS:** It's cited -- within the body
5 of the paragraph, it cites the Bates-stamped pages from
6 Dorothea Dix where the record comes from. And then I was
7 able to find two of those references as attachments, but the
8 third one I couldn't find.

9 **MS. GUICE SMITH:** Other questions at this
10 time?

11 **SHERIFF FRYE:** The records from Dorothea Dix
12 that the nurses and the doctors made where -- when they
13 referenced this lineup, did this information come from
14 Mr. Blackmon, of him telling them that they were going to a
15 lineup? Or did it come from law enforcement saying they
16 were taking him for a lineup?

17 **THE WITNESS:** I don't know the answer to
18 that.

19 **SHERIFF FRYE:** So we don't know where that
20 information came from that they referenced in their reports
21 about the lineup?

22 **THE WITNESS:** So the parts that I read to you
23 are the quotes from them; so beyond what I have read as
24 quoted, we don't have any information about --

25 **SHERIFF FRYE:** It never said the source of

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1 that information?

2 THE WITNESS: Correct.

3 SHERIFF FRYE: Okay.

4 JUDGE WAGONER: Mr. Blackmon had a mental --
5 he knew he was being put in a lineup.

6 SHERIFF FRYE: He had to tell his attorney.

7 JUDGE WAGONER: I'm just not sure ...

8 MR. GRACE: I don't know that he had an
9 attorney.

10 MS. GUICE SMITH: If you-all will save this
11 for deliberations. Let's move on to some additional
12 questions of the witness.

13 (3:38 p.m.)

14 Q. Ms. Bridenstine, were any individuals able to
15 positively confirm that this photo in handout 31 is a photo
16 of James Blackmon?

17 A. Mr. Blackmon does not positively identify it as a
18 photo of himself, but during the interview that was
19 conducted with him on September 25, 2018, he went back to
20 the photos several times throughout that interview and
21 indicated that the photo was not him but looked like him.

22 Q. And did Detectives Holder and Munday provide any
23 additional information about that Polaroid that is in
24 handout 31?

25 A. Detective Holder did not recognize the person in

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1 the photo or the handwriting on the back of the Polaroid.
2 He did say that he would take Polaroid photos of suspects at
3 the time or ask CCBI to come in and take photos.

4 In May 2018, Detective Munday was sent a
5 photograph -- the Polaroid via e-mail and responded, quote,
6 "That photograph is not a photo of James Blackmon. The
7 handwriting inscribing the date on the back of the photo is
8 not my handwriting."

9 However, in a follow-up interview on November 1,
10 2018, at Detective Munday's home, when shown the same photo,
11 he indicated that the handwriting could have been that of
12 Detective Norris Privette, another detective with the major
13 crimes unit. He identified the person in the photo as James
14 Blackmon, though he did not recall specifically taking the
15 picture.

16 Detective Munday, like Detective Holder, recalled
17 that they had access to Polaroid cameras for this purpose.
18 Detective Munday remembered that it was his practice to date
19 any photo he took of a suspect.

20 Q. Was there any further information you were able to
21 determine about the cut and the shave?

22 A. Yes. Detectives Holder and Munday were asked
23 about their practices as it related to interrogation of
24 suspects and specifically as it related to James Blackmon.

25 Detective Holder provided that he had never taken

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1 a suspect for a cut and a shave and that he would disagree
2 with Mr. Blackmon's recollection about Mr. Holder -- excuse
3 me -- Detective Holder taking Mr. Blackmon for a cut and a
4 shave.

5 When talking about his practices, Detective Munday
6 stated he did not recall taking anyone to get a cut and a
7 shave. When asked about James Blackmon specifically, he
8 recalled that as a possibility.

9 MS. GUICE SMITH: Commissioners, if you will
10 refer to handout 32 in your hearing handout notebooks, this
11 contains excerpts of the various statements Detective Munday
12 made to commission staff in his November 1, 2018, interview
13 as they related to a cut and a shave.

14 If you'll take a few minutes to review those.

15 Q. Ms. Bridenstine, were Detectives Munday or Holder
16 asked about whether a lineup occurred?

17 A. Yes. Both Detectives Munday and Holder were asked
18 in general about lineup practices, documentation practices,
19 and about any in-person lineup with Mr. Blackmon
20 specifically.

21 Detective Holder reported that most of the time he
22 did not get directly involved in lineups and that it was the
23 line officers who would conduct lineups. He also did not
24 recall any specific guidelines or written policies or
25 practices related to lineups.

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1 Detective Holder further provided that there
2 should be a report following a lineup. He did not have an
3 answer as to why there was a notation in the Dorothea Dix
4 records as to a lineup but no report of an in-person lineup
5 with Mr. Blackmon.

6 Detective Holder did not recall the specific
7 lineup with Mr. Blackmon. As to lineups at Central Prison,
8 he stated that was possible but he did not have a specific
9 recollection.

10 Q. What did Detective Munday remember as it related
11 to lineups?

12 A. Detective Munday recalled that lineups were done
13 at Central Prison. He said that it was his practice to
14 write a report about the lineup, and he could not think of a
15 time when he would not have written a report about a lineup.
16 He did not recall using other officers to perform lineups in
17 his cases.

18 When asked about an in-person lineup with
19 Mr. Blackmon in this case, Mr. Munday stated that he did not
20 remember.

21 **MS. GUICE SMITH:** Commissioners, do you have
22 any questions for Ms. Bridenstine about any of this
23 information about the women on the sixth floor, the photo
24 lineup, the cut and shave -- anything we talked about in the
25 last hour or so?

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1 (3:45 p.m.)

2 MR. EDWARDS: A couple of things regarding
3 the photographs. On the exhibit notebook handout 26, it's
4 the second photograph from Attica Correctional Facilities.

5 We know that that is James Blackmon; correct?

6 THE WITNESS: That's correct.

7 MR. EDWARDS: All right. Now, in Exhibit 28,
8 second page, the color photograph. Is that James Blackmon
9 as well?

10 THE WITNESS: That's James Blackmon.

11 MR. EDWARDS: Okay. Then the photograph that
12 was taped, it looks like, to the back of a manila folder,
13 Exhibit 31 -- do we know whether or not that is James
14 Blackmon?

15 THE WITNESS: Detective Munday has identified
16 that as James Blackmon.

17 MR. EDWARDS: Okay. And on the second page
18 of that, when you look at the back page, there is a date
19 10/28/83.

20 Do the investigative notes appear to confirm
21 that Blackmon was taken out of Dix on that date by the
22 detectives?

23 THE WITNESS: He did. He had an interview at
24 RPD on that date.

25 MR. EDWARDS: Okay. Thank you.

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1 **MR. BOSWELL:** Do we have any record that
2 James Blackmon was at Central Prison on October 31, 1983?

3 **THE WITNESS:** We do not.

4 **MR. BOSWELL:** But did I understand you to say
5 the detectives said they might have done lineups at Central
6 Prison? They would have gone to Central Prison to do
7 lineups?

8 **THE WITNESS:** That's correct. Detective
9 Holder did not remember doing lineups at Central Prison.
10 Detective Munday said that they did do lineups at Central
11 Prison.

12 **MR. BOSWELL:** So if it happened at Central
13 Prison, they would've gotten him from Dorothea Dix and taken
14 him to Central Prison.

15 **THE WITNESS:** On October 31st, 1983,
16 Mr. Blackmon was a patient at Dorothea Dix.

17 **MR. BOSWELL:** Okay. And does Ms. Kelly
18 remember going to Central Prison? Or she doesn't know where
19 she went for a lineup?

20 **THE WITNESS:** She didn't remember where in
21 Raleigh the lineup was held.

22 **MR. GRACE:** Tell me, please, the correlation
23 or the significance of the blank Polaroid with a date on it
24 of 10/28/83 that is Exhibit 31.

25 **SHERIFF FRYE:** That's the back page.

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1 **MR. GRACE:** Is that the back of it?

2 **THE WITNESS:** Yes. So we asked Raleigh
3 Police Department if they could tell us more information
4 about this photo, and somebody there untaped it and scanned
5 the back and sent it to us.

6 **MR. GRACE:** And your Officer Munday is
7 telling you that there's no doubt in his mind that that
8 is -- that picture is the same picture of a person in
9 handout 28? Blackmon?

10 **THE WITNESS:** He initially told me that it
11 was not James Blackmon but he later told commission staff
12 that it was James Blackmon.

13 **JUDGE WAGONER:** Just to be sure, the
14 individual -- following up on Mr. Edwards' question -- the
15 individual in handout 20 with the BB&T shirt on is the same
16 individual as the individual in handout 25, still with a
17 BB&T shirt on -- wait a minute, that's not 25 -- that's not
18 Mr. Blackmon -- Exhibit Number 25, the second page, that is
19 Mr. Leach; correct?

20 **THE WITNESS:** Yes.

21 **JUDGE WAGONER:** Okay. That's all I have.

22 **MS. GUICE SMITH:** Any other questions for
23 Ms. Bridenstine?

24 **MR. BOSWELL:** What is the significance of the
25 Polaroid? Is that just to show that that is when he got a

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1 haircut?

2 **THE WITNESS:** We were trying to determine if
3 that was a photo of Mr. Blackmon and if it wasn't, why it
4 was taped to the RPD file.

5 **MR. BOSWELL:** For James Blackmon?

6 **THE WITNESS:** Right. Correct.

7 **MR. BOSWELL:** Okay.

8 **MS. GUICE SMITH:** Anything else?

9 **MR. GRACE:** No, thank you.

10 (3:50 p.m.)

11 **MS. GUICE SMITH:** Commissioners, Ms. Kelly --
12 Jackie Kelly is going to be here first thing in the morning
13 to testify. We are at a place where we can kind of move on
14 to the next section; however, we do have some homework for
15 you-all.

16 We've had some requests today. I already had
17 a few things that I needed you to read tonight, but we also
18 had requests today for additional materials. So tonight's
19 reading will include handout 42 in your hearing handout
20 notebooks, which is going to be a -- the report of
21 Dr. Landis, who is an expert that will be testifying
22 tomorrow; handout 43, which is going to be the report of
23 Dr. Redlich, who will be testifying on Friday; handouts 45,
24 46, and 47 are documents that Dr. Redlich was given to
25 review that she mentions in her report that you-all haven't

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1 previously been provided that I wanted you to have for
2 context.

3 Handout 48 has been added to your notebooks
4 today. That is the first thing 48 is the transcript of the
5 interview the Commission did with Attorney Manning on
6 March 12, 2014. The second thing in there is just the audio
7 recording of the 11/1/2018 interview with Tommy Manning.
8 That one has not been transcribed yet and so you've got the
9 audio there. It is about an hour long.

10 The other thing that has been requested is
11 the interviews -- the few interviews, commission interviews
12 with Detectives Munday and Detective Holder, at least one
13 commissioner wanted those; so you will be getting those as
14 well.

15 So the estimate is just under 300 pages plus
16 an hour of audio. So we can break now and give you-all some
17 time to do that so you've got time over the evening recess
18 or I can keep going. And I will let that be up to you-all.
19 It's a bit more than I had anticipated.

20 **MR. GRACE:** May I ask a question?

21 **MS. GUICE SMITH:** Yes.

22 **MR. GRACE:** If we break now and allow us to
23 read this material through the evening, how does this affect
24 your timeline?

25 **MS. GUICE SMITH:** It doesn't. We are

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1 actually ahead of schedule by a good bit right now. So it
2 will not affect my timing. And if you decide by today that
3 you want to hear from Munday or Holder, I can also probably
4 get them in tomorrow instead of on Friday would be my goal.

5 **MR. GRACE:** I would like to break and have
6 the evening to read it if it doesn't throw us behind.

7 **MS. GUICE SMITH:** It's not going to throw us
8 off. We're ahead.

9 **JUDGE WAGONER:** After we go to our field trip
10 tomorrow, we will come back here afterwards and hear more
11 testimony or not?

12 **MS. GUICE SMITH:** That is not the plan. We
13 should break for the field trip between 3:00 and 3:30
14 tomorrow. We have about an hour or so that we're able to be
15 on Saint Augustine's campus. We will take a couple of group
16 cars.

17 If anybody lives in that area, you, of
18 course, may drive yourself; but otherwise, we will carpool
19 over and then carpool back, and then you will be free to
20 leave for the afternoon tomorrow.

21 **JUDGE WAGONER:** Okay. That okay with
22 everybody?

23 **MS. GUICE SMITH:** The other questions I have
24 for you-all, just because I need to let witnesses know, does
25 anyone want to hear from Attorney Susan Edwards?

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1 JUDGE WAGONER: The district attorney?

2 MS. GUICE SMITH: The former assistant
3 district attorney?

4 (No verbal response.)

5 MS. GUICE SMITH: No? Okay. I'm going to
6 release her from that subpoena, if that's okay.

7 JUDGE WAGONER: Okay.

8 MS. GUICE SMITH: And then does anyone want
9 to hear from James Hardy, who was the initial crime scene
10 investigator who collected the prints and took the photos at
11 the crime scene?

12 MR. BARROW: Does he have any information
13 about the location of the particular prints that we have?

14 MS. GUICE SMITH: He does not recall the
15 orientation of where the prints were other than
16 Ms. Bridenstine testified earlier that he believed that the
17 one print on card 2 was a wraparound on the door, and that's
18 why it would have said inside and outside and then only be
19 labeled outside.

20 Other than that, he doesn't have any
21 recollection of the orientation of the prints, where they
22 were on the door.

23 MS. NEWTON: Does he have any information
24 about whether or why any other prints were investigated
25 within the bathroom? There only seemed to be one location

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1 in the bathroom. Were there other prints?

2 **MS. GUICE SMITH:** Can you answer that?

3 **THE WITNESS:** Yes.

4 He said that he would have only dusted for
5 areas where he believed the perpetrator had touched. So
6 when he came onto a crime scene, based on what he was
7 looking at, what the evidence showed him, that's where he
8 would dust for prints.

9 **MS. NEWTON:** I see. Blood or that sort of
10 thing.

11 **THE WITNESS:** He didn't say that specifically
12 but he said that based on his experience, when he would come
13 in and document the crime scene, that he would dust based
14 upon where he thought the perpetrator had touched.

15 **MS. NEWTON:** Okay. Thank you.

16 **MR. EDWARDS:** What time do we start back
17 tomorrow?

18 **MS. GUICE SMITH:** We'll be starting at
19 9:00 o'clock.

20 We are about 15 minutes out from having those
21 final materials and Detective Munday and Detective Holder's
22 interview transcripts ready. They are being prepared right
23 now, printed or -- and the exhibits marked for you-all.

24 So you have a few more minutes with respect
25 to that. But otherwise -- I'm sorry. I guess I didn't

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1 follow up.

2 Did anyone actually want to hear from Hardy?

3 JUDGE WAGONER: Who?

4 MS. GUICE SMITH: James Hardy, the crime
5 scene investigator.

6 JUDGE WAGONER: No.

7 MS. GUICE SMITH: May I release him from his
8 subpoena?

9 JUDGE WAGONER: (Moves head up and down.)

10 MS. GUICE SMITH: Are you able to tell me at
11 this point yet, or do you want to wait overnight, whether
12 you want to hear from Detectives Holder or Detectives
13 Munday?

14 And it's okay if you want to wait until the
15 morning.

16 SHERIFF FRYE: I think I can't make that
17 decision until I read the transcript.

18 MS. GUICE SMITH: Okay.

19 MR. BOSWELL: Where are they located?

20 MS. GUICE SMITH: Raleigh.

21 JUDGE WAGONER: They are both retired; right?

22 MS. GUICE SMITH: Yes.

23 MR. BOSWELL: If we tell you first thing in
24 the morning, would that give us enough time?

25 MS. GUICE SMITH: We'll communicate with them

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1 tonight and see if they will be available at all tomorrow.
2 I know they are available on Friday, but because we're a
3 little ahead in time, I would like to try to get them in
4 here tomorrow if they're available.

5 But yes, if you tell us first thing in the
6 morning, we'll be able to make it happen either tomorrow or
7 Friday.

8 MR. EDWARDS: So the zip drive that you gave
9 us today -- that is Tommy Manning's audio?

10 MS. GUICE SMITH: Yes, from November 1st of
11 this year. You have the transcript of his first interview
12 with the Commission in 2014.

13 JUDGE WAGONER: When we leave, whatever we
14 don't take home --

15 MS. GUICE SMITH: You may leave your stuff.
16 The room will be locked. And as to whether you carry your
17 whole notebook -- your handout notebook or just pull out
18 those Exhibits 42 through 49, that is up to you. Just
19 please bring back whatever you take with you.

20 And as I said, if you will just give us about
21 five to ten more minutes, we'll have the rest of those
22 transcripts ready for you. But I believe the consensus is
23 that you-all would like to go a little early and get a head
24 start on some of that.

25 JUDGE WAGONER: Okay.

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1 **MR. EDWARDS:** So you've got Jackie Kelly
2 coming in tomorrow?

3 **MS. GUICE SMITH:** Yes.

4 **MR. EDWARDS:** And who else? Can we ask that?

5 **MS. GUICE SMITH:** Yes. So tomorrow for sure
6 Jackie Kelly will be testifying. Ms. Bridenstine will be
7 testifying about the Commission's investigation as it
8 relates to James Blackmon. And we anticipate that we will
9 call Dr. Landis tomorrow. And then depending on if we're
10 able to get Mr. Holder or Mr. Munday, if you-all want to
11 hear from them, they would possibly be tomorrow as well.

12 And then around 3:00 or 3:30, we will break
13 to go through the university. And then after that, we'll be
14 done for the day.

15 The trajectory for Friday will be Dr. Redlich
16 and Mr. Blackmon himself, as well as if we had to do
17 Detectives Holder or Munday on Friday, that's where they
18 would fall as well.

19 **SHERIFF FRYE:** Do Munday on Friday.

20 It is my understanding, you correct me if I'm
21 wrong, the dashiki and the knife are nowhere.

22 **MS. GUICE SMITH:** We do not have the dashiki
23 and the knife. We've not been able to locate the dashiki
24 and the knife. We have not been able to locate a record of
25 destruction for the dashiki and the knife.

Housekeeping

1 SHERIFF FRYE: They're just --

2 MS. GUICE SMITH: I don't know where they
3 are.

4 SHERIFF FRYE: Right. I just wanted to make
5 sure I follow that.

6 MS. GUICE SMITH: No surprises.

7 SHERIFF FRYE: Okay.

8 MS. GUICE SMITH: Okay. If we can be at
9 ease, we'll get those transcripts out in the next few
10 minutes.

11 MR. BOSWELL: And the reading is 42 through
12 the rest?

13 MS. GUICE SMITH: It will be through the
14 rest. It will be through 49. You don't have 49 yet but 42
15 through 49.

16 MR. BOSWELL: But starting at 42? That's
17 where want to be?

18 MS. GUICE SMITH: Yes. And if I failed to
19 tell you, 47 is the statement from the district attorney's
20 office, that is in there as well for tonight.

21 MS. NEWTON: It's already there.

22 MS. GUICE SMITH: It is.

23 MS. NEWTON: The one paragraph?

24 MS. GUICE SMITH: Yes.

25 MS. NEWTON: Sorry. I thought it was going

Housekeeping

1 to be another one.

2 JUDGE WAGONER: We will recess for the
3 evening.

4
5 (Overnight recess, 4:36 p.m.)

6 (Volume 2 begins on page 192.)
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1 NORTH CAROLINA GENERAL COURT OF JUSTICE

2 SUPERIOR COURT DIVISION

3
4 State of North Carolina,

5 WAKE COUNTY

6 v

83 CRS 84695

7 James Blackmon,

8 Defendant.

9
10 *****

11 TRANSCRIPT, Volume 2 of 3

12 NOVEMBER 14, 2018, through NOVEMBER 16, 2018

13 *****

14 Special Session

15 Before

16 The North Carolina Innocence Inquiry Commission

17
18 COMMISSION HEARING

19
20
21
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4 Nigle B. Barrow, Jr., Discretionary Member

5 John Boswell, Discretionary Member

6 Camilla Cover, Public Member

7 Seth Edwards, Prosecuting Attorney

8 Kevin Frye, Sheriff, Avery County

9 Michael A. Grace, Defense Attorney

10 Jennifer Thompson, Victim Advocate

11
12 Deborrah L. Newton, Alternate, Non-deliberating13
14 COMMISSION STAFF:

15 Lindsey Guice Smith, Executive Director

16 Beth Tanner, Associate Director

17 Julie Bridenstine, Staff Attorney

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Edward Landis, Ph.D. 293

James Holder, RPD (retired) 344

Julie Bridenstine, Recalled 390

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Jackie Kelly - by Ms. Guice Smith

1 Thursday, November 15, 2018 (9:11 a.m.)

2 JUDGE WAGONER: All right. Are you ready for
3 your next witness?

4 MS. GUICE SMITH: We are.

5 JUDGE WAGONER: Okay.

6 MS. GUICE SMITH: The Commission calls Jackie
7 Kelly.

8 * * * * *

9 Thereupon, JACKIE KELLY, a witness having been called by the
10 Commission, was examined and testified on DIRECT EXAMINATION
11 as follows:

12 MS. GUICE SMITH: (9:13 a.m.)

13 Q. Good morning, Ms. Kelly.

14 A. Good morning.

15 Q. My name is Lindsey Guice Smith. I'm the Executive
16 Director of the North Carolina Innocence Inquiry Commission.
17 I'm going to have some questions for you this morning and
18 then the commissioners seated around the table may also have
19 some questions for you.

20 Okay?

21 A. (Moves head up and down.)

22 Q. If you don't remember, simply tell us you don't
23 remember. If you don't know, you can tell us you don't
24 know. And just answer anything that we ask to the best of
25 your ability.

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Jackie Kelly - by Ms. Guice Smith

1 Can you tell the commissioners what you recall
2 about the morning that Helena Payton was attacked in 1979?

3 A. I was awoken by a scream. And my response to the
4 screaming was, "These girls needs to learn some respect.
5 I'm trying to sleep."

6 And so before I could react again, the screaming
7 started again. So I had no other choice but to jump out of
8 my bed and see why I was hearing screaming. So -- and I had
9 a roommate. She came to the door, and we were standing in
10 the doorway of the dorm room, and we seen somebody walking
11 down the hall -- a guy walking down the hall. And because
12 she only had her undies on, no pants, she ran away from the
13 door. And I just stood up there looking at the guy and
14 saying to myself -- you know, he was trying to get away
15 because of the screaming so he wouldn't get caught being in
16 the dorm because we didn't suppose to have guys in the dorm.

17 And he was tall and slender. He came straight at
18 me, but he didn't have no emotion for me that I was standing
19 there, looking at him. He just walked right by me.

20 And the screaming started again. And by then, a
21 lot of other girls had came out of their room to see why it
22 was screaming. And so we realized the screaming was coming
23 out of the bathroom.

24 And so when we went into the bathroom, it was a
25 girl laying in -- on the floor and she was bleeding. And we

Jackie Kelly - by Ms. Guice Smith

1 realized we needed to get help for her. And so because
2 we -- at that given time, we didn't have cells or I don't
3 think we had phones on the floor, we had to go to the first
4 floor to the dorm matrons to let her know that somebody had
5 a problem on the sixth floor.

6 And so I decided -- me and one or two other girls
7 decided to go downstairs to let the dorm matrons know of the
8 issue, and so we got in the elevator. And when I realized
9 that maybe we need something to protect ourself, I decided
10 to get off the elevator, and I knocked on one of the girls
11 on probably the next floor, the fifth floor, to ask them for
12 some stilettos. I was going to beat him half to death with
13 some stilettos. In the time I got the stilettos and went
14 back to the elevator, the elevator had left.

15 And so I'm like, only choice -- only way to get
16 downstairs was take the staircase. So I prayed, "God, help
17 me," and I went down the stairways. And by the time I got
18 down to the stairways -- to the first floor, I started
19 yelling to the dorm matrons that, you know, we had an issue.

20 And she wanted -- I guess she did what she had to
21 do reference to calling 911. But she told me to go outside
22 to get the security guard. And we had a security booth like
23 was the entry towards the campus, and so when I went to the
24 security booth to get the security guard, nobody was in the
25 security booth. So I started yelling, "Security, security."

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Jackie Kelly - by Ms. Guice Smith

1 By that time, the ambulance and the police started
2 coming on the campus.

3 Q. Okay. When you say that you saw the man walking
4 down the hall, how long did you get a look at him?

5 A. He was probably from the burgundy wall to me right
6 now.

7 Q. And he walked toward you?

8 A. Yes. Straight towards me.

9 Q. And how close did he come to you?

10 A. He had to pass me.

11 Q. So right in front of your door?

12 A. Yes. And like I say, he didn't have no emotion.

13 Q. You said he was tall and slender.

14 A. And dark-skinned.

15 Q. Dark-skinned.

16 Any other features that you recognized about --

17 A. He had a dashiki on. And I thought he was kind of
18 handsome. You know, to the point where he wasn't
19 nondistracting reference to, you know, something that
20 would -- something would cause me to say that, "Oh, he's
21 ugly" or, you know, and this and that. I thought he was,
22 like, a handsome guy, but, you know, he was -- my assumption
23 was he was visiting somebody else.

24 Q. Was it common for men to visit women on the sixth
25 floor?

Jackie Kelly - by Ms. Guice Smith

1 A. I don't know.

2 Q. Did you recognize him as someone you had seen
3 before?

4 A. Not really, no.

5 Q. When you said he was walking toward you, can you
6 describe how he was walking?

7 A. He was walking like he was trying to get out of
8 the building.

9 Q. Was he moving fast or slow or normal pace?

10 A. Normal pace.

11 Q. I'm going to turn your attention to an interview
12 that you had with law enforcement when you were stationed at
13 Fort Benning, Georgia, on September 26, 1983.

14 Do you remember that interview?

15 A. Not to the point where whatever you tell me in
16 this interview that I said that I can remember, yeah, I
17 probably said it because you got me on recording. But other
18 than that, that's it.

19 Q. Do you remember it happening?

20 A. Yes.

21 Q. Do you recall during that interview law
22 enforcement giving you, like, a voice stress analysis?

23 A. I don't know. They might've had. I'm not sure.

24 Q. Do you remember being shown any photographs during
25 the interview?

Jackie Kelly - by Ms. Guice Smith

1 A. I remember seeing photographs but I don't know if
2 it was that particular interview.

3 Q. Okay. When I say "photographs," were those
4 photographs of individuals?

5 A. It was a book.

6 Q. A book of photographs?

7 A. Yeah.

8 Q. What kind of photographs?

9 A. Of guys that, you know, you had to choose out to
10 see if it looks familiar. But that could have been earlier.
11 I'm not sure.

12 Q. Okay. Do you remember who was conducting that
13 interview?

14 A. No.

15 Q. When you were interviewed by commission staff in
16 the past, you indicated to them that you remembered coming
17 to Raleigh and viewing an in-person lineup.

18 Do you remember anything about that?

19 A. I remember coming to Raleigh when I was in the
20 military. I remember the MPs saying that they wanted to see
21 me, and I thought it was related to my current position in
22 the military. I had no idea it was related to Raleigh. So
23 I was, like, very nervous to know why the MP wanted to talk
24 to me.

25 And when I got there, it was about Raleigh. And

Jackie Kelly - by Ms. Guice Smith

1 somebody had mentioned, like, putting me under hypnosis so I
2 can, kind of, verify the face a little bit better. And I
3 was saying, "I'm not the type of person that could relax
4 that much for you to put me under hypnosis. You already got
5 me nervous by calling me here. So to be relaxed enough to
6 go under hypnosis? No." So I guess after that, I came to
7 Raleigh.

8 Q. So you remember coming to Raleigh?

9 A. Yeah.

10 Q. What do you remember about that time that you came
11 up to Raleigh?

12 A. I remember that we did something and he was
13 telling me that there was a guy that had confessed to the
14 killing or the incident. And so I was saying that what the
15 person -- I don't know if I seen the guy or seen pictures of
16 a guy that they said that had confessed to the incident, and
17 I said, "This does not look like the guy that I described."

18 And I said also -- I said something to myself, I
19 don't know if I said it loud or in my mind, that if
20 someone -- like, over the years, I have learned that some
21 people will go to jail just because they got a room and
22 board, a hot meal and something over their head, and they
23 don't have to be out on the streets. I said, "If he's
24 crazy, he'll say he's done it, but this does not look like
25 the person I told you or described."

Jackie Kelly - by Ms. Guice Smith

1 And that's -- and I left.

2 Q. Do you remember when that visit was?

3 A. No.

4 Q. Do you remember? Was that at a time when you were
5 stationed at Fort Benning, Georgia?

6 A. Yes.

7 Q. And do you know how long you were stationed at
8 Fort Benning, Georgia?

9 A. I was stationed at Fort Benning, Georgia, for
10 three years.

11 Q. Do you know when that started?

12 A. What started?

13 Q. Your station.

14 A. I came from college into -- I had to do my
15 training in Fort Lee, Virginia. And after I think it was
16 six months in Fort Lee, Virginia, I was assigned to Fort
17 Benning, Georgia.

18 Q. Okay. And you remember this trip when you came up
19 to Raleigh being after that interview you did with law
20 enforcement in Fort Benning?

21 A. Yes, I think so.

22 Q. Do you remember where the lineup was held?

23 A. No.

24 Q. Do you remember who else was present?

25 A. No.

Jackie Kelly - by the Commissioners

1 Q. Did you pick anyone out of the lineup?

2 A. No.

3 Q. Did you have any other contact with law
4 enforcement after the time you came up to Raleigh?

5 A. Not that I'm aware of.

6 MS. GUICE SMITH: Commissioners, what
7 questions do you-all have for Ms. Kelly?

8 (9:25 a.m.)

9 MR. GRACE: I have some.

10 MS. GUICE SMITH: Okay.

11 MR. GRACE: Good morning.

12 THE WITNESS: Good morning.

13 MR. GRACE: Are you still active duty or on
14 reserve?

15 THE WITNESS: No. I got out in '84.

16 MR. GRACE: Thank you for your service.
17 Appreciate it.

18 THE WITNESS: No problem. I didn't do
19 anything.

20 MR. GRACE: Well, you served.

21 Tell me when you started at Saint Aug.

22 THE WITNESS: I started -- I graduated from
23 high school in 1977. And I did a summer at the University
24 of Chapel Hill with the Upward Bound program. And by the
25 fall, I was -- decided to go to Saint Aug's.

Jackie Kelly - by the Commissioners

1 **MR. GRACE:** And you finished in four years?

2 **THE WITNESS:** Yes.

3 **MR. GRACE:** So that would graduate you in
4 '81?

5 **THE WITNESS:** Yes. And that's when I went
6 into the military.

7 **MR. GRACE:** I think I know, but for some
8 members of the panel that may not know, I want to talk about
9 the culture of HBCUs and the women's dorm.
10 What was a dorm matron?

11 **THE WITNESS:** A dorm matrons was someone who
12 monitored the activities in the dorm reference to if you
13 have a problem, reference to, like, if the sink is stopped
14 up, you've got to tell somebody. If you need to get into
15 the building, I guess they will let you in the building. If
16 you had an argument with one of the girls, they supposed to
17 be able to help you resolve the incident.

18 **MR. GRACE:** And the dorm matrons at night
19 stayed in the dorms, wouldn't they, all night long?

20 **THE WITNESS:** Yes, they did.

21 **MR. GRACE:** What was the first thing a man
22 had to do the enter into that dorm?

23 **THE WITNESS:** I'm not sure, but I'm assuming
24 he had to go through the front door.

25 **MR. GRACE:** Could he get in without the dorm

Jackie Kelly - by the Commissioners

1 matron seeing him?

2 THE WITNESS: I think so.

3 MR. GRACE: You think somebody could have
4 snuck someone in?

5 THE WITNESS: Yes.

6 MR. GRACE: Did men have to announce
7 themselves?

8 THE WITNESS: No.

9 MR. GRACE: "Man on the hall" sound familiar
10 to you?

11 THE WITNESS: Yes.

12 MR. GRACE: So when you entered the women's
13 dorm, you had to -- somebody had to announce "Man on the
14 hall"?

15 THE WITNESS: I am assuming, yeah, because,
16 you know, I'm like -- only thing I remember about the dorm
17 itself, it was my place to sleep. You know, I probably -- I
18 worked. I studied. I partied. You know, when I needed to
19 go to sleep, that's where I went to go to sleep. But to
20 linger around the dorm all day long -- I didn't do that.

21 MR. GRACE: Men were not allowed, if I'm not
22 mistaken, in the dorm at all times of day, were they?

23 THE WITNESS: That's why -- yes. That's why,
24 when I seen the guy, I didn't think it was my business to
25 know why he was there because, you know, we wasn't allowed

Jackie Kelly - by the Commissioners

1 to have guys.

2 MR. GRACE: Getting caught with a guy in your
3 room was an expellable offense, wasn't it?

4 THE WITNESS: Yes, it was. Yes. If -- yes.
5 But people broke the rules all the time.

6 MR. GRACE: Sure.

7 THE WITNESS: And it was not only that rule
8 that was being broken, it was probably a lot of other rules
9 being broken. This is college.

10 MR. GRACE: You had to be very careful,
11 didn't you?

12 THE WITNESS: Well, you had to -- to me, I
13 mind my business, you know. So if I mind my business, I
14 didn't have to get wrapped up in a lot of issues that was
15 going on on the campus.

16 MR. GRACE: And if I remember correctly, I'm
17 a little older -- if there was a drug of choice back then,
18 mostly people smoked a little marijuana.

19 THE WITNESS: Exactly.

20 MR. GRACE: Nobody was using cocaine at the
21 HBCUs in '77, '78 much, were they?

22 THE WITNESS: I don't know, but I know I had
23 got wrapped up into an incident where I went to a party and
24 somebody drugged me at a party. And, you know, I started
25 tripping. I could have been acid -- I think acid was

Jackie Kelly - by the Commissioners

1 popular during that time.

2 MR. GRACE: Right.

3 THE WITNESS: It could have been acid.

4 And he must've doped my drink. And he took
5 me to his house, and when I realized I was being -- had been
6 doped, I got very upset. I got so upset that he just left
7 me alone and he went to bed. And he left me sitting there.
8 And I said, "Soon as it gets light, I'm leaving." And so
9 when I -- when it got light, I just got up and I just left.
10 I had no idea where I was, and I caught the first city bus
11 to try to get back to the dorm. And that's the worst
12 incident I had in college.

13 MR. GRACE: So drugs were not a common,
14 everyday experience at HBCUs.

15 THE WITNESS: That's why I said that was the
16 worst incident I had in the four years. And that was an
17 older guy that was not part of the school -- was not in
18 school.

19 MR. GRACE: Now, you indicated to us when you
20 first saw this man on the hall, your first impression, he
21 was tall?

22 THE WITNESS: Yes.

23 MR. GRACE: How tall are you?

24 THE WITNESS: I am 5'7".

25 MR. GRACE: So you're taller than average.

Jackie Kelly - by the Commissioners

1 THE WITNESS: Yes.

2 MR. GRACE: So for you, a tall person would
3 be someone that -- well, without letting me put words in
4 your mouth, would that be someone 6'1", 6'2 --"

5 THE WITNESS: Yes.

6 MR. GRACE: -- or better?

7 THE WITNESS: Yes.

8 MR. GRACE: I consider myself average. Would
9 you consider this person slimmer or more full-bodied than I?

10 THE WITNESS: It was slimmer.

11 MR. GRACE: How was his hair? Do you
12 remember any impressions about his hair?

13 THE WITNESS: He could've had a Afro.

14 MR. GRACE: Afros were popular then.

15 THE WITNESS: Right.

16 MR. GRACE: That was the style.

17 THE WITNESS: Right.

18 MR. GRACE: If he had the big 'fros we used
19 to wear, would that have stuck out in your mind?

20 THE WITNESS: Only thing that stuck out in my
21 mind was the dashiki.

22 MR. GRACE: Okay. Which was another popular
23 garb for young African-American men and women back then?

24 THE WITNESS: Yes.

25 MR. GRACE: Do you remember anything else --

Jackie Kelly - by the Commissioners

1 when you say he was dark-complected, that's another cultural
2 reference.

3 Would you consider me dark-complected?

4 **THE WITNESS:** No.

5 **MR. GRACE:** I'm brown-skinned?

6 **THE WITNESS:** Yes.

7 **MR. GRACE:** You're brown-skinned?

8 **THE WITNESS:** Yes. Light brown.

9 **MR. GRACE:** Light brown.

10 So someone that you would consider
11 dark-complected would be real dark?

12 **THE WITNESS:** Well, there's still several
13 layers of "real dark" before you get to "real dark."

14 **MR. GRACE:** I understand.

15 But your impression was dark-complected?

16 **THE WITNESS:** Yes. Darker than me and you.

17 **MR. GRACE:** Okay. Those are the things that
18 stick out and stick with you, are they not?

19 **THE WITNESS:** Yes. Over the years, yes.

20 **MR. GRACE:** Do you remember anything else
21 about his features -- whether his nose was the typical
22 Negroid featured, broad nose?

23 **THE WITNESS:** Like I said, he was -- he was
24 to the point where I thought he was somewhat attractive
25 reference to not being totally unattractive but not being

Jackie Kelly - by the Commissioners

1 totally overattractive.

2 MR. GRACE: Wasn't unpleasant to look at?

3 THE WITNESS: Right.

4 MR. GRACE: Okay. There had been some
5 mention in some of these reports about girls being involved
6 in a prostitution ring.

7 Would that have gotten by the matron, men in
8 and out of the dorm at night, being serviced by some women?

9 THE WITNESS: I think it would have gotten by
10 the matrons.

11 MR. GRACE: You think so?

12 THE WITNESS: Yes. I think it would have got
13 by. Because she had a room on the first floor in the back,
14 and if you're in your room and the door is closed, you don't
15 know what's coming through.

16 MR. GRACE: Well, do you know anything
17 personally about anything like that?

18 THE WITNESS: I think they had mentioned it
19 to me throughout the years, that this is -- was going on.
20 Again, I mind my business. I had one girlfriend in
21 college -- and that was me.

22 MR. GRACE: Never saw any evidence of it
23 yourself?

24 THE WITNESS: No. But anything could have
25 been happening. But it wasn't like I was in the mix of

Jackie Kelly - by the Commissioners

1 anything that was happening. I went to school for a reason.
2 I went to school for an education.

3 MR. GRACE: Okay. Thank you. Thank you for
4 being here.

5 THE WITNESS: Uh-huh.

6 MR. BOSWELL: Hi. I am John Boswell. Can I
7 ask a couple of questions?

8 Do you ever remember that the fire doors were
9 propped open so that people could come in and out of the
10 hall from the outside?

11 THE WITNESS: No. I don't remember that, but
12 that sounds like a possibility.

13 MR. BOSWELL: But that wasn't -- do you know
14 whether that -- it was that way all the time, or just you
15 don't know one way or the other?

16 THE WITNESS: I don't know one way or the
17 other.

18 MR. BOSWELL: In all the years since this has
19 happened, has anybody ever shown you a picture of someone
20 and you said, "Yes, that's the guy"?

21 THE WITNESS: No.

22 MR. BOSWELL: Thank you.

23 MR. GRACE: I have one follow-up.

24 In your answer to the questions from staff,
25 you indicated that at some point the detective showed you a

Jackie Kelly - by the Commissioners

1 picture and said, "This is the guy we got a confession
2 from," and you told them that was not the guy; is that
3 correct?

4 THE WITNESS: Right.

5 MR. GRACE: Thank you.

6 MS. NEWTON: Thank you for being here. I am
7 Deb Newton. I'm a criminal defense attorney, and I'd like
8 to ask you some questions as well.

9 Did you know Helena Payton?

10 THE WITNESS: Not really.

11 MS. NEWTON: Okay. You didn't know -- did
12 you ever have any interactions with her with regard to, you
13 know, talking about boyfriends or who she was seeing or
14 anything like that?

15 THE WITNESS: (Moves head side to side.)

16 MS. NEWTON: You just really didn't know her
17 at all?

18 THE WITNESS: (Moves head side to side.)

19 MS. NEWTON: Where was her room in relation
20 to yours?

21 THE WITNESS: I think she was on my floor
22 along with other girls that was on my floor. If you asked
23 me who was on my floor other than my roommate, I have no
24 idea.

25 MS. NEWTON: You don't recall ever having any

Jackie Kelly - by the Commissioners

1 conversations with her or --

2 **THE WITNESS:** I knew -- I think I knew
3 reference to her habit. Her habit was that she hung with a
4 group of girls that would go eat breakfast, and the
5 breakfast was -- you had to -- it was in the cafeteria; so
6 you had to leave your building to go to the cafeteria. And
7 I didn't eat breakfast, but she was, like, one of the
8 regulars that would get up with a group of girls and go eat
9 breakfast.

10 **MS. NEWTON:** That same group of girls, would
11 they stay up late and party or --

12 **THE WITNESS:** I don't know.

13 **MS. NEWTON:** You don't remember?

14 **THE WITNESS:** I don't -- I don't think she
15 was that kind of person, but I didn't know her that well to
16 classify her as a party animal or a churchgoing person. I
17 did not know it.

18 **MS. NEWTON:** Okay. All right.
19 This business about a prostitution ring --

20 **THE WITNESS:** Right.

21 **MS. NEWTON:** -- you heard that from law
22 enforcement asking questions, not from anybody --

23 **THE WITNESS:** Right.

24 **MS. NEWTON:** -- any personal knowledge or any
25 rumor going on. That all came out of law enforcement

Jackie Kelly - by the Commissioners

1 questioning?

2 THE WITNESS: Right.

3 MS. NEWTON: And just to be clear, did you --
4 how long were you in that dorm on the sixth floor?

5 THE WITNESS: One year.

6 MS. NEWTON: One year?

7 THE WITNESS: One year. And -- no, I left.
8 After the incident, I moved off campus.

9 MS. NEWTON: Why did you move off campus?

10 THE WITNESS: I was not -- I didn't feel safe
11 anymore.

12 MS. NEWTON: Because?

13 THE WITNESS: Because of the incident.

14 MS. NEWTON: Okay. There was some suggestion
15 that it was because of an anonymous phone call threatening
16 people.

17 Did you --

18 THE WITNESS: I think that might be true too.
19 But to me, it's like if it was -- if I received a phone call
20 saying that, you know, this and that, it was not enough to
21 say that it was the only thing that -- the reason why I
22 wanted to leave.

23 MS. NEWTON: Did you receive an anonymous
24 phone call?

25 THE WITNESS: I think so. If I'm not

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1 mistaken, I think I did. But ...

2 MS. NEWTON: Can you remember that call, what
3 they said?

4 THE WITNESS: No. But it was enough to make
5 me -- I think when I told my boyfriend, he the one who
6 recommended that I leave the campus.

7 MS. NEWTON: Well, can you try to remember
8 about what the caller said to you?

9 THE WITNESS: I wouldn't know because,
10 remember, we didn't have cell phones back then.

11 MS. NEWTON: So how did you get a phone call?

12 THE WITNESS: That's what I'm saying. I feel
13 like it -- somebody might have told me.

14 MS. NEWTON: Do you think that was a
15 suggestion also?

16 THE WITNESS: Yes.

17 MS. NEWTON: So you don't think you got a
18 phone call?

19 Because I remember -- I graduated high school
20 in '79, and so I was in college about the time you were --
21 down in Wilmington. And no cell phones, no e-mail.

22 THE WITNESS: Right. Exactly. So
23 somebody -- yeah. Somebody could have, like, told me this.
24 And, like I said, it wasn't -- if I moved off campus, that
25 was not the only reason why I moved. If it was -- if I

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1 didn't feel secure any longer, they wasn't -- they didn't
2 know who did it, and the fact that my boyfriend recommended
3 that I should get off campus.

4 **MS. NEWTON:** You don't recall anybody
5 directly threatening you on some phone call or anything
6 about --

7 **THE WITNESS:** It could have -- you know, the
8 dorm phone could have rang and it could have been a threat
9 through the dorm phone, you know.

10 **MS. NEWTON:** Again, do you recall it or do
11 you --

12 **THE WITNESS:** I don't recall it but I think
13 it's possible.

14 **MS. NEWTON:** Okay. Now, there was some
15 suggestion that we got from one of the witnesses, that guard
16 who was downstairs that morning, that he had seen the
17 individual that you saw walk past you on campus before.

18 **THE WITNESS:** Okay.

19 **MS. NEWTON:** When you saw that guy, before
20 you knew about what was going on, do you recall if you said
21 "Hey, I've seen that guy before"?

22 **THE WITNESS:** Well, I don't know because -- I
23 don't know. I don't know. I don't know. Because when
24 you're in an environment such as a campus, people walk by
25 you. And if you're in the city of Raleigh -- because like I

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1 said, I was a waitress -- I worked as a waitress in the city
2 of Raleigh so I came in contact with strangers also.

3 But per se, I don't know. I could only tell
4 you I don't know.

5 MS. NEWTON: But you never said to yourself
6 or to anyone else, "I think I saw the guy before"?

7 Do you recall that?

8 THE WITNESS: Only recently. I recently said
9 that to myself.

10 MS. NEWTON: You recently did?

11 THE WITNESS: Yes.

12 MS. NEWTON: Okay. What made you say that to
13 yourself?

14 THE WITNESS: When I was at home and one of
15 my sister's friends, we met, and we were sitting up there
16 talking, and I was just listening to him talk, and he said
17 he knew me. And I was, like, telling him, "I don't know
18 you. I know of your last name" and all like that.

19 And then later on I told my sister, I said,
20 "You know, he is -- he put me in the frame of mind of that
21 guy that I seen on the campus." His body structure, his
22 complexion, his mild manner put me to remember -- to say
23 that, if it was 30 years older --

24 MS. NEWTON: -- that would be the guy?

25 THE WITNESS: Yeah. That -- that kind of

Jackie Kelly - by the Commissioners

1 guy.

2 **MS. NEWTON:** And Saint Aug's was, to be
3 clear, co-ed at the time?

4 **THE WITNESS:** Yes.

5 **MS. NEWTON:** Okay.

6 **THE WITNESS:** Co-ed reference to the school?

7 **MS. NEWTON:** The school.

8 **THE WITNESS:** Yes.

9 **MS. NEWTON:** Not the dorm but the school.

10 **THE WITNESS:** Right.

11 **MS. NEWTON:** So there were men on campus
12 going to school?

13 **THE WITNESS:** Yes.

14 **MS. NEWTON:** Okay. And just briefly back to
15 that whole prostitution thing -- and, you know, my apologies
16 for any suggestions --

17 **THE WITNESS:** That's all right. It is what
18 is.

19 **MS. NEWTON:** Yeah. But you, to be clear,
20 hadn't heard anything about any girls making money, having
21 sex, bringing men up there before this investigation?

22 **THE WITNESS:** It wouldn't surprise me if it
23 was going on.

24 **MS. NEWTON:** My question was had you heard --

25 **THE WITNESS:** -- had you heard this?

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1 **MS. NEWTON:** Had you heard it or seen it?

2 **THE WITNESS:** No. No.

3 **MS. NEWTON:** Okay.

4 **THE WITNESS:** But once they started talking
5 about it, I realized that, yes, this could have been a
6 possibility.

7 **MS. NEWTON:** But you don't know --

8 **THE WITNESS:** Right.

9 **MS. NEWTON:** -- of your own --

10 **THE WITNESS:** Right.

11 **MS. NEWTON:** And never suspected it before?

12 **THE WITNESS:** Right. Exactly.

13 **MS. NEWTON:** Thank you.

14 **MR. EDWARDS:** Good morning. Thank you for
15 your time and how many times you've been questioned here.
16 My name is Seth Edwards. I have a few questions about the
17 lineup.

18 There is a type of a lineup where you're
19 shown photographs and then there is what we call a
20 live-person lineup like you see on TV where you look through
21 a two-way glass or one-way glass, I guess.

22 Do you recall at any time conducting or being
23 part of what I would call a live, in-person lineup where you
24 looked and saw, say, six individuals standing in front of
25 you?

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1 THE WITNESS: Yes. I think I was.

2 MR. EDWARDS: Okay. I think you were asked
3 the question about do you recall where that was and you said
4 you didn't think you could recall exactly where that took
5 place.

6 THE WITNESS: Other than Raleigh.

7 MR. EDWARDS: Okay. Do you recall how many
8 individuals were standing in front of you?

9 THE WITNESS: It might have been, like, six,
10 if I can recall the incident.

11 MR. EDWARDS: Do you recall who also was with
12 you, you know, standing with you as you were viewing these
13 approximately six people?

14 THE WITNESS: Probably detectives or a guy.

15 MR. EDWARDS: And was this also during your
16 time that you were stationed at Fort Benning?

17 THE WITNESS: Yes.

18 MR. EDWARDS: And do you recall if, during
19 this live, in-person lineup, whether you identified any one
20 person as being the person that walked by you that night or
21 that morning in 1979?

22 THE WITNESS: No.

23 MR. EDWARDS: So you did not?

24 THE WITNESS: (Moves head side to side.)

25 MR. EDWARDS: Okay. You said earlier -- you

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1 testified earlier about the detectives making the comment
2 that one of the suspects had confessed.

3 THE WITNESS: Yes.

4 MR. EDWARDS: And your comment back was,
5 "Well, that's not the person I saw."

6 THE WITNESS: Right.

7 MR. EDWARDS: Was that during this live,
8 in-person lineup?

9 THE WITNESS: The last one I did.

10 MR. EDWARDS: Okay. As to the photographic
11 lineup, I think you testified being shown maybe some books
12 or some still shots of people; is that right?

13 THE WITNESS: Yeah.

14 MR. EDWARDS: And do you recall if that was
15 before the live, in-person or after the live, in-person?

16 THE WITNESS: Before.

17 MR. EDWARDS: Okay. So the photographs or
18 the books of photographs were first?

19 THE WITNESS: Yes.

20 MR. EDWARDS: All right. And do you recall
21 that also being here in Raleigh?

22 THE WITNESS: Yes.

23 MR. EDWARDS: Do you recall being shown some
24 photographs by one of the detectives and pulling one or two
25 of the photographs aside and making some comments about one

Jackie Kelly - by the Commissioners

1 or two other photographs, about whether they were similar or
2 maybe not similar to the person you saw?

3 THE WITNESS: No.

4 MR. EDWARDS: Okay. Let me read you
5 something, Ms. Kelly, and just tell me if this sounds
6 familiar. If you think this is accurate -- maybe this is
7 not accurate.

8 I believe this would have been in September
9 of 1983.

10 You are still in Fort Benning at that time;
11 is that right?

12 THE WITNESS: Yes, sir.

13 MR. EDWARDS: "A photo lineup was shown to
14 Lieutenant Jackie Kelly which contained a photo of James
15 Andrew Blackmon. When Lieutenant Kelly initially started
16 looking at the group of photos, the third picture she looked
17 at was one of Blackmon. She immediately pulled Blackmon's
18 photo and laid it to the side. She went through all the
19 remaining pictures and repeated the process again. After
20 going through the photos of several times, she pulled out
21 more picture of Barry Chavis. She stated 'These two look
22 like they could possibly be the subject -- suspect.' She
23 then stated the reason she picked Chavis' picture was
24 because he appeared to be thin and slender like the suspect
25 looked at the time of the incident. She stated Blackmon's

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1 appearance looked good but he appeared heavier in that
2 picture than what she remembered the suspect being.

3 "She was then shown three other photo lineups
4 that contained pictures of James Wallace Jackson, Sam Lee,
5 and Leroy McNeil. She was not able to identify any of the
6 persons in these lineups."

7 So you did not pick out any of the -- you did
8 not look and say, "Oh, that's definitely him."

9 THE WITNESS: Right.

10 MR. EDWARDS: Okay. So does that sound
11 consistent with your memory or not?

12 THE WITNESS: I can't remember.

13 MR. EDWARDS: Okay. But you certainly -- it
14 would be your testimony today that you never positively
15 identified any one man, whether photograph or in the live,
16 in-person, "Yes, that's him."

17 THE WITNESS: I agree.

18 MR. EDWARDS: Okay. Now, when the Detective
19 made the comment to you -- and, again, I'm paraphrasing --
20 "We have -- one of the suspects, we've got a confession from
21 him." You said, "That's not the guy."

22 THE WITNESS: Right.

23 MR. EDWARDS: Was that before or after you
24 were shown the in-person lineup?

25 THE WITNESS: I think it was after because I

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1 think I was getting ready to head out the door.

2 MR. EDWARDS: Okay. Thank you. Those are my
3 questions.

4 MR. BOSWELL: Could I have a follow-up
5 question to that?

6 What did the detectives say to you when you
7 said, "That's not the guy?" Do you remember?

8 THE WITNESS: "Well, he confessed."

9 And that's when I made a comment, like, "If
10 he's crazy, yeah, he can say anything. If he's homeless and
11 need a place to live, yeah, I'd confess too."

12 MR. BOSWELL: Sorry. I cut somebody off.

13 JUDGE WAGONER: Yes, sir.

14 SHERIFF FRYE: That's okay.

15 Like Ms. Newton, I was in college about the
16 same time. I started in '81.

17 THE WITNESS: Okay.

18 MR. GRACE: Was that 1881?

19 Sorry, Sheriff. You go ahead.

20 SHERIFF FRYE: One of the first things -- I
21 went to a small college in Western North Carolina. One of
22 the first things we did was figure out a way that we could
23 sneak into the building because we might bring some alcohol
24 or -- and we didn't want the hall monitors to catch us
25 bringing alcohol into the building.

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1 You said that you went to several parties.

2 At least one of them, you had a real bad experience.

3 **THE WITNESS:** Yes.

4 **SHERIFF FRYE:** I think that's what all young
5 college people do.

6 Did you have a way that you could sneak into
7 Latham Hall?

8 **THE WITNESS:** No. I think we went through
9 the front door. We sneaked whatever we needed in the front
10 door, at least I did.

11 **SHERIFF FRYE:** Okay. You didn't -- my
12 daughter right now, I went to visit her the other night.
13 She is here at UNC -- and they jam up the door jamb so that
14 the door doesn't close all the way --

15 **THE WITNESS:** Right.

16 **SHERIFF FRYE:** -- on the outside stairwells
17 because their building is kind of like that.

18 **THE WITNESS:** Right.

19 **SHERIFF FRYE:** Did you ever see that occur?

20 **THE WITNESS:** I -- the dorm was -- do you
21 know how the dorm was designed? It was like a box.

22 **SHERIFF FRYE:** Yeah, we see --

23 **THE WITNESS:** It's like a box. So whatever
24 is on the right -- whatever you were on, you can't see
25 what's going on the other side.

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1 **SHERIFF FRYE:** Right.

2 **THE WITNESS:** So if I walk in the dorm and
3 catch the elevator going upstairs to my floor, that was my
4 focus.

5 And another thing about my college days, I
6 was so poor I couldn't afford to buy anything outside or
7 whatever I wanted. So, you know, I just -- I didn't have
8 that mode of trying to buy liquor or alcohol to sneak it
9 because I couldn't afford to do that.

10 **SHERIFF FRYE:** Okay.

11 **THE WITNESS:** Like I said, I was more focused
12 on my education. And, like, if they had a basketball game,
13 that's probably the most time you would probably come in
14 contact with a party, after the game.

15 **SHERIFF FRYE:** Right.

16 **THE WITNESS:** And then I didn't go too far
17 because I didn't have transportation.

18 **SHERIFF FRYE:** Okay. Was the front door open
19 all the time or did you have to use a key?

20 **THE WITNESS:** I can't remember. But I know
21 that's the main entry, was the front door, for me.

22 **SHERIFF FRYE:** Okay. But you don't remember
23 whether everybody had to have a key to get in?

24 **THE WITNESS:** No, I can't remember that per
25 se. Because, like, she was asking me how many years did I

Jackie Kelly - by the Commissioners

1 stay in the dorm. It was -- the dorms was based on your
2 classification. So freshmen stayed in one dorm.

3 SHERIFF FRYE: Right.

4 THE WITNESS: Sophomores and stuff stayed in
5 another dorm. And seniors stayed in another dorm. And I
6 couldn't wait to become a senior to stay in that dorm.

7 SHERIFF FRYE: Gotcha.

8 THE WITNESS: So other than that, you know, I
9 wasn't familiar with that dorm because it was based on your
10 classification where you live.

11 But once I had the opportunity to live there,
12 I was willing to -- and glad that I got the sixth floor.
13 But other than that, I didn't visit the dorm regular. You
14 know how some people would visit other people in other
15 locations? Me, if I was classified as a freshman, we stayed
16 in the freshman dorm. We didn't visit the seniors. But as
17 I got more up in classification, I realized that that would
18 be my next move, would be that dorm.

19 SHERIFF FRYE: Okay. That's all I have. And
20 I just want to thank you very much for your service also.

21 THE WITNESS: Thank you.

22 JUDGE WAGONER: I've got just a few
23 questions, ma'am.

24 I believe you said you heard the screams and
25 you thought it was people cutting up.

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1 THE WITNESS: Yes.

2 JUDGE WAGONER: And you heard another set of
3 screams.

4 THE WITNESS: Yes.

5 JUDGE WAGONER: And that's when you got out
6 of bed --

7 THE WITNESS: Yes.

8 JUDGE WAGONER: -- and opened the door. And
9 that's when you saw a man walking down the hall.

10 THE WITNESS: Yes.

11 JUDGE WAGONER: And at that point in time,
12 were you afraid? Or did you just think he was somebody who
13 was just -- maybe he'd been up there and was leaving.

14 THE WITNESS: Somebody that was up there,
15 just leaving.

16 JUDGE WAGONER: Okay. Did you see any blood
17 or anything on him at all?

18 THE WITNESS: His dashiki was kind of like a
19 design; so no, I didn't see the blood.

20 JUDGE WAGONER: And did you see him holding a
21 knife or any other type of weapon?

22 THE WITNESS: No, I did not see him with a
23 knife. But they told me that they did find the knife on the
24 first floor in the rec room but it had many grooves in it
25 that they couldn't pick up a fingerprint.

Jackie Kelly - by the Commissioners

1 JUDGE WAGONER: Okay.

2 THE WITNESS: And they also told me they
3 found his dashiki in the back of the building.

4 JUDGE WAGONER: In the back of the building?

5 THE WITNESS: Yes.

6 JUDGE WAGONER: Okay. Did he acknowledge you
7 in any way? Did y'all look eye to eye?

8 THE WITNESS: Like I said, he was like -- I
9 was looking at him, but he was not like -- you know, it was
10 like -- if somebody see you and they think you're
11 attractive, they will stop and give you eye contact. But he
12 didn't do all that. He just kept on walking right by me,
13 like he had a purpose for why he was leaving the dorm.

14 JUDGE WAGONER: Okay. But he wasn't running?

15 THE WITNESS: No, he was not running.

16 JUDGE WAGONER: Was he strolling? Is that
17 how you would say it, strolling?

18 THE WITNESS: Right by me.

19 JUDGE WAGONER: Okay. Did he appear anxious?

20 THE WITNESS: No.

21 JUDGE WAGONER: Did he look calm?

22 THE WITNESS: Ma'am?

23 JUDGE WAGONER: Did he look calm?

24 THE WITNESS: Yes. Yes. And I think when he
25 was walking by me, she started screaming again. So that

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1 means my attention was off of him and more towards where the
2 scream was coming from.

3 JUDGE WAGONER: Is that when you sort of got
4 frightened, after you heard the third set of screams?

5 THE WITNESS: I never got frightened. I
6 got -- I only got -- I got scared to say that if he was in
7 the dorm -- when I realized that she was stabbed and
8 realized that I could not take the elevator downstairs and I
9 didn't know what was in the stairway, that's when I prayed
10 to say that hopefully no harm would come to me.

11 JUDGE WAGONER: So that's when you became
12 concerned?

13 THE WITNESS: Yes.

14 JUDGE WAGONER: Okay.

15 THE WITNESS: Yes.

16 JUDGE WAGONER: All right. I'm switching
17 gears a little bit.

18 After you had your lineup with the live men
19 in Raleigh, did you ever have any more contact with law
20 enforcement involving this case?

21 THE WITNESS: (Moves head side to side.)

22 JUDGE WAGONER: Did the district attorney
23 prosecuting the case ever contact you?

24 THE WITNESS: (Moves head side to side.)

25 JUDGE WAGONER: No?

Jackie Kelly - by the Commissioners

1 So after that lineup when you said to them,
2 "This isn't the guy I saw," it was quiet? Nothing else ever
3 again?

4 **THE WITNESS:** Right.

5 **JUDGE WAGONER:** Okay. That's all the
6 questions I have.

7 Yes, ma'am.

8 **MS. THOMPSON:** Good morning. I'm Jennifer
9 Thompson.

10 **THE WITNESS:** Good morning.

11 **MS. THOMPSON:** I just have a couple of
12 questions.

13 The morning that you woke up around 6:15 when
14 you heard the scream, between the time that you kind of
15 opened your eyes and got to the door and opened the door and
16 see him coming towards you, would you guesstimate, like, was
17 it 10 seconds or 15 seconds or 30 seconds between the bed
18 and opening the door?

19 **THE WITNESS:** Yeah, 15 seconds or a minute
20 because I had laid back down. I was in my bed when I heard
21 the first scream, and I sleep on my stomach. And so when I
22 lift up and said this to my roommate about these girls need
23 to learn some respect around here, I just laid back down
24 because like -- I feel like I didn't have no control of what
25 went on in the building. That's why I said they would need

Jackie Kelly - by the Commissioners

1 to learn some respect to other people, take other people in
2 consideration.

3 MS. THOMPSON: So a few -- 15 seconds, maybe,
4 between the first scream --

5 THE WITNESS: A minute, yeah, 15 minutes
6 [sic] to a minute at the most, because like I say, I put my
7 head back down, and then the next thing I know, it's a
8 scream again.

9 MS. THOMPSON: And were the lights on in the
10 hallway during the night?

11 THE WITNESS: Yes.

12 MS. THOMPSON: So they were always on during
13 the night?

14 THE WITNESS: Yes.

15 MS. THOMPSON: Okay. And between the wall
16 and walking to you, which would be where you would get a
17 front visual of the person coming to you --

18 THE WITNESS: Yes.

19 MS. THOMPSON: -- 20 seconds of walking
20 towards you?

21 THE WITNESS: Right.

22 MS. THOMPSON: Something like that.

23 THE WITNESS: (Moves head up and down.)

24 MS. THOMPSON: Okay. So it's not a really
25 great deal of time that you're looking at the person

Jackie Kelly - by the Commissioners

1 considering that you just woke up. So like maybe 45 seconds
2 to a minute you would have a visual.

3 **THE WITNESS:** Well, like I said, when he was
4 walking towards me, before he could get past me, she started
5 screaming again. So my attention went away from him to
6 where the screaming was coming from.

7 **MS. THOMPSON:** Right.

8 **THE WITNESS:** Because like I said, I didn't
9 realize that he could have took the stairway or the
10 elevator. I didn't know because next thing I know, that was
11 on that side of the room, or the hall, of the floor, and she
12 was -- we went this way to see where the screaming was
13 happening.

14 **MS. THOMPSON:** Right.

15 **THE WITNESS:** And I think you can get to the
16 bathroom on any side of the hallway.

17 **MS. THOMPSON:** Okay. Were you asked to help
18 the police do a composite sketch?

19 **THE WITNESS:** I might have but I can't
20 recall.

21 **MS. THOMPSON:** Okay. And when you think
22 about going to the police department and looking at
23 photographs in a book -- and I know this is just a
24 guesstimate, but would you say you probably looked at 50
25 photographs or a hundred photographs or --

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1 THE WITNESS: Hundreds.

2 MS. THOMPSON: Hundreds?

3 THE WITNESS: (Moves head up and down.)

4 MS. THOMPSON: Okay. That's a lot of
5 photographs.

6 THE WITNESS: I know.

7 MS. THOMPSON: Yeah. Okay.

8 And there's -- I believe I'm correct. There
9 was a couple of the young women who said that when they
10 would come into the dorm at night, they had to unlock it.
11 And then when they would close the door, they had lock it
12 again. And sometimes they would leave it unlocked, either
13 accidentally or whatever.

14 THE WITNESS: That sounds realistic.

15 MS. THOMPSON: So if the door was unlocked
16 and somebody didn't lock it the night before the assault,
17 almost anybody could get in there.

18 THE WITNESS: That's true. And if somebody
19 wanted somebody up there, naturally, they're going to leave
20 it unlocked.

21 MS. THOMPSON: Right. And did the young men
22 ever bring young women up to the boys' dorms?

23 THE WITNESS: I don't know. I don't know.
24 My boyfriend lived off-campus; so, you know, I don't know.

25 MS. THOMPSON: I mean, I was in college too,

Jackie Kelly - by the Commissioners

1 at the same time as you.

2 THE WITNESS: Yeah, I know. But ...

3 MS. THOMPSON: It was not hard to sneak
4 people into the room.

5 THE WITNESS: I know. I know. But like I
6 said, my boyfriend lived off campus when I got one; so his
7 thing was -- he wasn't on campus.

8 MS. THOMPSON: It's been almost 40 years
9 since the assault.

10 THE WITNESS: Yeah, I know. It's been --
11 that's why, hopefully, whether or not the problem is
12 resolved, I'm like -- I can't tell you no more than I'm
13 telling you now. And it's like -- after a while, it's like,
14 what more can I do reference to my testimony? It's so many
15 years that's passing by.

16 MS. THOMPSON: Right. Do you -- like, if I
17 showed you photographs of women that were on the hall with
18 you during that year, would you --

19 THE WITNESS: It would be just like him.

20 MS. THOMPSON: Yeah.

21 THE WITNESS: I don't even -- my roommate,
22 because of the time that has passed by, unless you tell me
23 her name, I wouldn't know what she looked like.

24 MS. THOMPSON: Thank you.

25 THE WITNESS: Thank you.

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1 **JUDGE WAGONER:** I have two questions, ma'am.

2 You heard the first scream and then you heard
3 the second scream and you opened the door.

4 Do you know of your own knowledge whether
5 that was the victim screaming the second time or was it
6 somebody who walked in the bathroom and saw her?

7 **THE WITNESS:** I think it was the victim, but
8 I'm not sure. I'm not sure because, like I said, the time
9 the second scream happened, it was a lot of people that was
10 coming out of their rooms. So they kind of -- probably
11 started wondering about the first scream, what was the
12 screaming about. But the second scream, it was a lot of
13 people had came out of their room by then because by the
14 time I got to the bathroom, it was people already there.

15 **JUDGE WAGONER:** Okay. Did you ever see her
16 after she was attacked?

17 **THE WITNESS:** Yeah. I seen her laying on the
18 floor. And I think I recommended or even put pressure to
19 stop the bleeding.

20 **JUDGE WAGONER:** And another -- there was
21 somewhere in these books some reference to two students --
22 two female students who were from South Carolina that
23 left -- they were on your floor -- that left and never came
24 back --

25 **THE WITNESS:** True.

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1 JUDGE WAGONER: -- after this incident.

2 Now -- and there was also some talk that
3 maybe they knew more than they were saying about this.

4 THE WITNESS: There was talk.

5 JUDGE WAGONER: What kind of talk was there?

6 THE WITNESS: The same that you just said.

7 JUDGE WAGONER: Okay.

8 THE WITNESS: The same what you just said.
9 But it was also talk that their parents was pulling them
10 out.

11 But yes, I recall some students leaving and
12 not coming back also.

13 JUDGE WAGONER: Do you know if these South
14 Carolina girls had any boyfriends or anything?

15 THE WITNESS: Most likely. Everybody had a
16 friend in college.

17 JUDGE WAGONER: But you never saw anybody up
18 there with them?

19 THE WITNESS: But I didn't know them. I
20 didn't know them.

21 JUDGE WAGONER: Gotcha.

22 THE WITNESS: I didn't even know the girl
23 that got stabbed. I didn't know them. I had my roommate
24 and I had a girlfriend, and that's it.

25 JUDGE WAGONER: Okay. Thank you.

Jackie Kelly - by the Commissioners

1 **MS. NEWTON:** Just one brief follow-up. May I
2 please show her this?

3 **JUDGE WAGONER:** Uh-huh.

4 **MS. NEWTON:** Ms. Kelly, granted it's been a
5 long time, I'm just going to show you three pictures.

6 Does that look like him?

7 **THE WITNESS:** Yes.

8 **JUDGE WAGONER:** For the record, could you
9 state what that's a picture of?

10 **MS. NEWTON:** Handout 20.

11 Does that look like him?

12 **THE WITNESS:** No.

13 **MS. NEWTON:** Handout 21.

14 **THE WITNESS:** Wait a minute. Put it back
15 down.

16 **MS. NEWTON:** Do you want to see the first one
17 again?

18 **THE WITNESS:** No. I'm talking about this
19 is -- this is like -- I'm not sure on this one.

20 **MS. NEWTON:** Handout 22. How about that one?

21 **THE WITNESS:** He didn't have all that hair, I
22 don't think. Other than that ...

23 **MS. NEWTON:** Thank you.

24 **JUDGE WAGONER:** When you say "all that hair,"
25 do you mean Afro? Beard? Or what?

Jackie Kelly - by the Commissioners

1 **THE WITNESS:** The beard. Well, he could have
2 had hair, a beard. He could have had. That's probably why
3 I probably can't distinguish what his face looked like.

4 **JUDGE WAGONER:** Okay.

5 **THE WITNESS:** So, you know, if he had a beard
6 covering up his face, I wouldn't know what his face looked
7 like. But I -- the only thing I can say about the
8 individual is I remember his body structure. So when you
9 show me the second picture, I cannot give you a feel of his
10 body structure --

11 **MS. NEWTON:** That one?

12 **THE WITNESS:** -- reference to what his height
13 was.

14 **MS. NEWTON:** Because of the suit?

15 **THE WITNESS:** Yes.

16 **MS. NEWTON:** Okay.

17 **MS. GUICE SMITH:** What handout was that?

18 **MS. NEWTON:** That's handout 21.

19 Now I am going to give you handout 20 again.

20 **THE WITNESS:** He looks familiar, but he could
21 look familiar for other reasons also.

22 **MS. NEWTON:** Okay. That was handout 20.

23 Thank you.

24 **JUDGE WAGONER:** Do you have anything in
25 follow-up? Yes, ma'am.

Jackie Kelly - by the Commissioners

1 (10:04 a.m.)

2 Q. Ms. Kelly, I want you to think back to the doors
3 in the dorm.

4 A. Okay.

5 Q. Because I understand that there's a front door and
6 two fire escape doors.

7 Is that your recollection?

8 A. I don't know.

9 Q. Do you remember fire escape doors from the
10 stairwells?

11 A. I think every building have to have a fire escape.

12 Q. So do you recall if those doors were alarmed?

13 A. I don't know. No.

14 JUDGE WAGONER: Okay. Any other questions
15 from the commissioners?

16 THE WITNESS: Excuse me. Can I ask a
17 question?

18 JUDGE WAGONER: Yes. I'm not sure I can
19 answer, but maybe somebody can.

20 THE WITNESS: That's true.

21 JUDGE WAGONER: Yes.

22 THE WITNESS: I'm just curious why is the
23 dorm -- the fire doors important to identifying the guy?

24 JUDGE WAGONER: Say again now? Why is the
25 what?

Jackie Kelly - by the Commissioners

1 **THE WITNESS:** Why is the door -- whether or
2 not we could go in and leave the door open a crack to my
3 appearance here to identify who did it? Why -- what is the
4 connection between those two things, me identifying who did
5 it and whether or not the dorm could be accessed in other
6 ways other than the front door?

7 **MR. BOSWELL:** That's a good question.

8 **JUDGE WAGONER:** Yeah, I think it's a good
9 question too.

10 My guess -- and it's just a guess, somewhere
11 in all of this, I believe someone mentioned that that would
12 be a way people get in and out without going by the house
13 matron's room, that that might've how he got in, that might
14 be how he got out.

15 **THE WITNESS:** Yeah, I agree. But why is it
16 so important with me trying to identify who was the guy that
17 did it?

18 **JUDGE WAGONER:** That I don't know.

19 **MR. GRACE:** I don't think it is.

20 **MR. BOSWELL:** It's not.

21 **MR. GRACE:** But you have to understand, we --
22 when we look at the whole picture, we're trying to determine
23 if there was a connection between the assailant and the
24 victim.

25 **THE WITNESS:** Okay.

Jackie Kelly - by the Commissioners

1 **MR. GRACE:** Whether he could have been
2 allowed in, whether there was some prior connection. So
3 we're looking at all angles.

4 **THE WITNESS:** Okay.

5 **MR. GRACE:** But you're right, it is not --
6 there is not a connection.

7 **THE WITNESS:** Okay. But is the -- the reason
8 you explained is logical reference to why it's important to
9 mention it.

10 **MR. BOSWELL:** You're the only person that
11 we're going to talk to that lived in that dorm; so a lot of
12 the questions we're asking really don't have anything to do
13 with your identification. It has to do with other factors
14 around the case.

15 **THE WITNESS:** So what about my roommate? Was
16 she ever interviewed?

17 **JUDGE WAGONER:** Was she interviewed? Her
18 roommate?

19 **MS. GUICE SMITH:** I'm sorry?

20 **JUDGE WAGONER:** Was her roommate ever
21 interviewed? I'm thinking she was. What was her name?

22 **MS. GUICE SMITH:** She was.

23 **JUDGE WAGONER:** Okay. I think we have a
24 written ...

25 **THE WITNESS:** Okay.

Jackie Kelly - by the Commissioners

1 JUDGE WAGONER: Anything else?

2 MS. GUICE SMITH: I have one additional
3 follow-up.

4 JUDGE WAGONER: Yes.

5 (10:07 a.m.)

6 Q. Ms. Kelly, you testified about going to parties.

7 A. Yes.

8 Q. Were those parties in Latham Hall or were those in
9 another dorm door or off campus?

10 A. Off campus.

11 Q. Thank you.

12 (10:07 a.m.)

13 JUDGE WAGONER: And just for my -- the whole
14 area -- looking at the diagram, the bathroom is in the
15 middle.

16 THE WITNESS: Right, right.

17 JUDGE WAGONER: And how many -- it had shower
18 stalls and toilet stalls?

19 THE WITNESS: (Moves head up and down.)

20 JUDGE WAGONER: So how big -- just the
21 bathroom area -- using this room, how big was that bathroom
22 area?

23 THE WITNESS: Well, the floor was -- the
24 center of the floor was, like, smaller than this floor.

25 JUDGE WAGONER: Okay.

Jackie Kelly - by the Commissioners

1 **THE WITNESS:** And the bathroom -- the
2 bathroom probably was as big as the tables, the tables
3 around here, this area.

4 **JUDGE WAGONER:** And the rooms were all to the
5 side and the back?

6 **THE WITNESS:** Right. Exactly.

7 **JUDGE WAGONER:** There were two entrances into
8 the bathroom?

9 **THE WITNESS:** Yes.

10 **JUDGE WAGONER:** One from each side?

11 **THE WITNESS:** Yes.

12 **JUDGE WAGONER:** And your room -- if you're in
13 your room, would you walk straight down the hall to go to
14 the bathroom? Or did you have to walk down the hall and
15 then turn to the right?

16 **THE WITNESS:** I would walk down the hall and
17 turn to my right.

18 **JUDGE WAGONER:** Okay. Anything?

19 (No verbal response.)

20 **JUDGE WAGONER:** All right. Thank you so
21 much, ma'am.

22 You get to go back to -- not Fort Benning?

23 **THE WITNESS:** Fort Lauderdale, Florida.

24 **MR. GRACE:** That's a better fort.

25 **JUDGE WAGONER:** Thank you so much.

Julie Bridenstine - by Ms. Guice Smith

1 (Witness stands down, 10:09 a.m.)

2 MS. GUICE SMITH: The commission recalls
3 Staff Attorney Julie Bridenstine.

4 JUDGE WAGONER: If you don't mind, I think
5 we'll just swear you again since the night has passed.

6 * * * * *

7 Thereupon, JULIE BRIDENSTINE, a witness having been called
8 by the Commission, was examined and testified on DIRECT
9 EXAMINATION as follows:

10 MS. GUICE SMITH: Commissioners,
11 Ms. Bridenstine has almost lost her voice. So we are going
12 to do the best we can. And if she gets to a point where she
13 can't continue, then another staff member will take over and
14 finish the testimony.

15 JUDGE WAGONER: Okay.

16 (Discussion off the record.)

17 BY MS. GUICE SMITH: (10:10 a.m.)

18 Q. Ms. Bridenstine, I'm going to turn your attention
19 now to James Blackmon.

20 MS. GUICE SMITH: Commissioners, your briefs
21 included Mr. Blackmon's statements to law enforcement and
22 other information related to Mr. Blackmon's interactions
23 with law enforcement.

24 You were also previously provided, prior to
25 the hearing, handouts 33 and 34 in your hearing handout

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1 notebooks, which were the transcripts of Mr. Blackmon's May
2 14, 2014, and September 25, 2018, interviews with commission
3 staff to read prior to the hearing.

4 Mr. Blackmon will be here tomorrow to
5 testify.

6 Ms. Bridenstine is going to testify now about
7 what we've learned about Mr. Blackmon. So if you have
8 questions about his interviews, I would just ask that you
9 hold them until the end of this section, and then you can
10 ask her about our interviews that we did with him as well.

11 If you will refer to handout 35 in your
12 hearing handout notebooks, this is the criminal record for
13 James Blackmon. If you'll take a moment to review that.

14 **MR. BOSWELL:** What does "M" stand for?

15 **MS. GUICE SMITH:** Misdemeanor.

16 **MR. BOSWELL:** Thank you.

17 Q. Ms. Bridenstine, can you reorient the
18 commissioners as to how Mr. Blackmon became a suspect in
19 this case.

20 A. One or two sources from Dorothea Dix provided
21 information to a narcotics detective that ultimately led
22 police to Mr. Blackmon in February of 1983.

23 Q. Was commission staff ever able to determine the
24 identity of any of the confidential sources that were
25 outlined on pages 225 to 230 of the brief?

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1 A. No.

2 Q. Did Detectives Holder or Munday ever identify the
3 confidential sources in this case?

4 A. When commission staff interviewed Detectives
5 Munday and Holder, they indicated that they never determined
6 the identity of the sources. As it was explained to us,
7 sources were kept confidential by the officers who used
8 those sources.

9 In this case, that was a narcotics officer who is
10 now deceased so we were never able to determine the identity
11 of the sources.

12 Q. Once police identified Mr. Blackmon as a suspect,
13 besides interviewing Mr. Blackmon, what other investigative
14 avenues did they pursue?

15 A. They interviewed friends and family of
16 Mr. Blackmon and they sought Mr. Blackmon's mental health
17 records from Dorothea Dix, which they examined in
18 preparation of interviewing him.

19 They compared Mr. Blackmon's latent prints to
20 those at the crime scene.

21 As we previously discussed, Jackie Kelly was
22 interviewed and shown Mr. Blackmon's photo. Because
23 Mr. Blackmon spoke to Pauline Latta during his visit to
24 Latham Hall with Detectives Munday and Holder, they went
25 back and interviewed Ms. Latta about what Mr. Blackmon said

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1 to her during that visit. They also interviewed the SBI
2 agent who investigated the case where Mr. Blackmon was the
3 alleged victim of abuse at Dorothea Dix.

4 **MS. GUICE SMITH:** Commissioners, as we
5 previously discussed, information related to that SBI case
6 where Mr. Blackmon was an alleged victim of assault can be
7 found starting on page 237 of your brief.

8 Q. Ms. Bridenstine, did the Commission discuss with
9 Detective Holder and Detective Munday about their knowledge
10 of the assault case where Mr. Blackmon was an alleged
11 victim?

12 A. We did. Detective Holder did not recall any
13 specifics concerning that particular case nor could he
14 recall that ADA Susan Edwards was involved in either the
15 Payton homicide or in the case where Mr. Blackmon was an
16 alleged victim of assault.

17 And as to Detective Munday, when he was shown the
18 report of the interview with the SBI agent who had
19 investigated the case where Mr. Blackmon was a victim, he
20 indicated he did not recall anything about the specifics of
21 this case and stated that the report associated Detective
22 Holder with the, quote, "Investigative Division RPD career
23 criminal unit." He explained that this meant that he and
24 Detective Holder were not yet on the major crimes task force
25 but were at the DA's office in their career criminal unit.

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1 He also did not recall that ADA Susan Edwards was
2 involved in either the Payton homicide or in the case where
3 Mr. Blackmon was an alleged victim of assault at Dorothea
4 Dix.

5 Q. Did any of the investigative avenues lead to any
6 evidence outside of Mr. Blackmon's own statements that
7 connected Mr. Blackmon to the crime?

8 A. No.

9 Q. Were you able to find any indication that the
10 detectives had any further forensic analysis performed to
11 support any of Mr. Blackmon's statements related to the
12 crime?

13 A. No.

14 Q. Let me turn your attention now to what commission
15 staff did as it relates to Mr. Blackmon.

16 Did commission staff make efforts to determine
17 whether Mr. Blackmon was in North Carolina at the time of
18 the crime?

19 A. We did. The Commission also sought criminal,
20 mental health, and other records related to the potential
21 whereabouts of Mr. Blackmon. The Commission was able to
22 obtain some of these records and others no longer existed or
23 were otherwise unavailable.

24 Q. What were those efforts that were made?

25 A. We requested jail records from the Onondaga County

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1 Sheriff's Office in Syracuse, New York. We were informed
2 that his name came up and that they had records going back
3 to 1973 but that they had no records of arrest for
4 Mr. Blackmon.

5 We requested and obtained the New York Division of
6 Criminal Justice Services criminal history for Mr. Blackmon.

7 We requested records from the Broome County
8 Sheriff's correctional facility for Mr. Blackmon. The
9 Commission was initially informed that they did not have any
10 records and that their retention period was 10 years, but
11 following a Freedom of Information request, we were informed
12 that Mr. Blackmon was never incarcerated there.

13 We requested and received some records from the
14 Broome County Clerk's Office related to Mr. Blackmon. These
15 included certificates of conviction, a list of court
16 appearances, and sentencing documents for Mr. Blackmon.

17 We requested and received mental health records
18 for Mr. Blackmon from the Greater Binghamton Mental Health
19 Hospital.

20 Q. Did you learn anything from the records for
21 Mr. Blackmon from the Greater Binghamton Mental Health
22 Hospital?

23 A. We learned from those records that he lived in two
24 separate boarding houses in Binghamton that were run by two
25 different women. Both women are deceased.

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1 The commission staff attempted to locate surviving
2 family members of these two women and learned that only one
3 of the women had any surviving family members. Commission
4 staff heard from a daughter of this woman confirming that
5 patients were referred to her mother's boarding house in the
6 1970s but that the name James Blackmon did not ring a bell.

7 **MS. GUICE SMITH:** Commissioners, we have
8 obtained a microphone so if we can just be at ease for a few
9 minutes. I don't know if you want to take a quick bathroom
10 break.

11 **JUDGE WAGONER:** Okay. Take a morning break
12 now? 15 minutes. Until 10:30.

13 (Recess taken, 10:19 to 10:36 a.m.)

14 **JUDGE WAGONER:** Okay. Everybody is in place
15 and we have a microphone, which is wonderful.

16 Q. Ms. Bridenstine, what other efforts were made to
17 determine Mr. Blackmon's location at the time of the crime?

18 A. Based on criminal records, Mr. Blackmon listed the
19 YMCA in Binghamton, New York, as his address on August 24,
20 1979. Commission staff contacted the YMCA in Binghamton and
21 learned that they did not have any records going back to
22 1979.

23 Commission staff contacted various Broome County
24 government departments in order to determine if they had any
25 records for Mr. Blackmon. The Broome County Legal

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1 Department had no records for Mr. Blackmon. The Broome
2 County Public Health Department searched their records area
3 and did not find any records related to Mr. Blackmon. The
4 Broome County Department of Social Services and Parole
5 Program, a prisoner release nonprofit agency, only had
6 records going back seven years, and the Broome County Mental
7 Health Clinic only maintained discharge summaries for 25 and
8 other records for 10 years.

9 We contacted the employment security office for
10 the North Carolina Department of Commerce to request any
11 work-related records that they might have for Mr. Blackmon
12 and learned that they did not have any records going back to
13 1979. They had some wage information dating back as early
14 as 1994. Other information is only retained for five years.
15 We contacted the Social Security Administration about
16 earnings statements. We learned that earnings statements
17 would not show months of employment but would only list an
18 employer that was held during the course of a year.
19 Therefore, we did not move forward with getting those
20 records. We have no reason to believe that Mr. Blackmon was
21 employed anywhere in 1979.

22 We also contacted the Social Security
23 Administration because files review indicated he applied to
24 them for disability income and provided an application -- he
25 provided an application for release of information in order

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1 to have those records provided to the Commission. The
2 Social Security Administration provided a letter with the
3 date of his applications with the locations from where he
4 made those applications. This included that Mr. Blackmon
5 applied for disability in July 1979 from an address in
6 Binghamton, New York. The next Social Security
7 Administration application for Mr. Blackmon for disability
8 was from August 1980 with a Lumberton, North Carolina,
9 address followed by an application in September 1981 from
10 Dorothea Dix Hospital.

11 **MS. GUICE SMITH:** Commissioners, you will
12 shortly receive a handout with a chart of all of
13 Mr. Blackmon's whereabouts. These dates she's just
14 testified to will be included in that chart.

15 Q. Ms. Bridenstine, do we have any other information
16 from the Social Security Administration as to Mr. Blackmon's
17 whereabouts in 1979?

18 A. No.

19 Q. What else did the Commission do with respect to
20 James Blackmon?

21 A. We attempted to locate all of his family members,
22 friends, and romantic partners who knew him in the 1970s and
23 early 1980s in order to determine if they had any
24 information about his whereabouts on September 28th, 1979,
25 or if they had information about this crime.

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1 We also wanted to find more information about his
2 mental health and his character around the time period of
3 the crime and before the crime.

4 Q. How did the Commission determine who to interview?

5 A. We looked for names of individuals associated with
6 Mr. Blackmon in the files and records that we reviewed.
7 Commission staff also interviewed Mr. Blackmon in 2014 and
8 asked him who his relatives and friends were.

9 Q. Was the Commission unable to interview any of
10 those individuals who knew Mr. Blackmon?

11 A. Yes.

12 Q. And why was that?

13 A. Commission staff determined several associates,
14 family members, and romantic partners of Mr. Blackmon were
15 deceased. We also were unable to locate some individuals.

16 Q. And who were the individuals that you could not
17 interview because they are deceased?

18 A. Mr. Blackmon's mother, grandmother, and several
19 other family members are deceased. Mr. Blackmon's
20 girlfriend in Raleigh in the early 1980s, Eerma Williams,
21 she is deceased. Eerma Williams' sister, Yvette Peoples, is
22 also deceased. Both Eerma Williams and Yvette Peoples were
23 interviewed by RPD in 1983.

24 We attempted to locate Peggy LaBarr, who was
25 Mr. Blackmon's girlfriend in Binghamton, New York, in the

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1 mid-1970s. We determined that she is deceased.

2 Q. Is there anyone else that the Commission staff was
3 unable to interview?

4 A. Yes. The Commission staff was unable to locate
5 one of Mr. Blackmon's half-brothers in New York.

6 Commission staff was also unable to locate his
7 girlfriend from Dorothea Dix, Deborah Springer; two of his
8 girlfriends from New York; and a possible girlfriend from
9 North Carolina named Nesby O'Neal.

10 Q. Did commission staff interview anyone who knew
11 Mr. Blackmon in an effort to learn more about him?

12 A. Yes. The Commission interviewed his sister, his
13 brother, his cousin, one of his friends, and one of the
14 brothers of Mr. Blackmon's former girlfriend, Peggy LaBarr.

15 Q. What are the names of the individuals the
16 Commission was able to interview?

17 A. Linda Floyd, his sister; Fred Hooker, his brother;
18 Anthony Blackmon, his half-brother; Larry Hooker, his
19 cousin; Allen Thompson, his friend; and Harry LaBarr, the
20 brother of Peggy LaBarr.

21 Q. Were those interviews recorded and transcribed?

22 A. They were.

23 Q. Did anyone that you interviewed know where
24 Mr. Blackmon was living in September of 1979?

25 A. No. No one knew if he was in Raleigh or not.

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1 Everyone interviewed did not know exactly when Mr. Blackmon
2 came from New York to North Carolina.

3 His sister, Linda Floyd, said that she did not
4 think that Mr. Blackmon went back and forth between New York
5 and North Carolina frequently when he lived in Binghamton.

6 Larry Hooker said that he was not in Lumberton
7 because the family could not house him there and that it was
8 possible he was in Raleigh, but he had no knowledge of that.

9 Fred Hooker said that he never knew Mr. Blackmon
10 to be in Raleigh and that there were no family members who
11 lived in Raleigh at that time. He said that Mr. Blackmon
12 did not want to stay in Lumberton because it was a small
13 town.

14 Fred Hooker went on to say that he thought
15 Mr. Blackmon came down in the '80s after his cousin Jerry
16 passed away.

17 Q. Did the Commission do anything to determine when
18 Jerry Hooker passed away?

19 A. Yes. Commission staff obtained a death
20 certificate for Jerry Hooker. He passed away on July 9,
21 1978.

22 Q. Did the Commission talk to anyone else about
23 Mr. Blackmon's whereabouts in 1979?

24 A. We did. We spoke to a close childhood friend of
25 Mr. Blackmon's named Allen Thompson.

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1 Q. What did Mr. Thompson say?

2 A. He initially told us that he might have seen
3 Mr. Blackmon in the fall of 1979 in Raleigh.

4 Mr. Thompson then called the Commission a second
5 time to say that he thought Mr. Blackmon was in Raleigh in
6 1982 because Mr. Thompson's brother was a patient there at
7 Dorothea Dix as well.

8 He went on to say that he remembered Mr. Blackmon
9 coming through Lumberton in 1979 and stopping at his
10 mother's house. He said that the first time he remembered
11 seeing Mr. Blackmon in North Carolina was in 1979 and that
12 he had no knowledge of Mr. Blackmon being in Raleigh until
13 1982.

14 Q. What else did Mr. Thompson say?

15 A. He said that he had moved from New York to Raleigh
16 to attend Saint Augustine's as a student in 1979 and that he
17 believed he was a student there when the victim was killed.

18 Mr. Thompson also believed the crime happened in
19 1981 or 1982 and that he saw Mr. Blackmon once outside Saint
20 Augustine's campus in 1982.

21 Q. Did the Commission do anything to determine when
22 Mr. Thompson was a student at Saint Augustine's?

23 A. We did. We obtained his student record from Saint
24 Augustine's.

25 Q. And what did the student record show?

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1 A. His student record showed that he started there as
2 a transfer student in the spring semester of 1980.

3 Q. Did commission staff ask Mr. Blackmon about his
4 whereabouts in 1979?

5 A. We did. We were not successful in orienting
6 Mr. Blackmon to time or sequence of events. Although he
7 appears to be a good historian, based on our investigation
8 into the case, Mr. Blackmon was simply not able to sequence
9 events or put events to a specific date, time frame, or even
10 season.

11 Q. Was the Commission ultimately able to determine
12 where Mr. Blackmon was at the time of the crime?

13 A. We were not.

14 **MS. GUICE SMITH:** Commissioners, if you will
15 refer to handout 36 in your hearing handout notebooks, this
16 is a chart of Mr. Blackmon's arrests, incarcerations,
17 hospitalizations, and whereabouts.

18 A version of this chart including information
19 that was known during the initial investigation was included
20 on pages 270 to 277 of your brief. That chart has been
21 updated to include the new information that the Commission
22 learned during its investigation, and that is handout 36.
23 The new information is highlighted -- not highlighted. I'm
24 sorry -- it's in bold that's different from what you were
25 provided in the brief.

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1 MR. BOSWELL: Okay. So we're looking at --

2 MS. GUICE SMITH: -- handout 36.

3 MR. BOSWELL: -- 36? Okay.

4 MS. GUICE SMITH: If you will take some time
5 to review that.

6 JUDGE WAGONER: All right.

7 Q. Ms. Bridenstine, did commission staff learn
8 anything else about Mr. Blackmon from the people who knew
9 him?

10 A. We did. Some of his family members described him
11 as someone who got into fights and did not let people push
12 him around, but not as someone who tried to hurt anyone.

13 Harry LaBarr, the younger brother of
14 Mr. Blackmon's ex-girlfriend Peggy LaBarr, who knew
15 Mr. Blackmon from the ages of 10 to 12, described him as
16 being violent with his sister and giving her black eyes. He
17 also recalled an incident where Mr. Blackmon slapped his
18 swimming instructor at the request of his sister because the
19 swimming instructor had grabbed Harry LaBarr.

20 Q. Ms. Bridenstine, when you say he knew Mr. Blackmon
21 from the ages of 10 to 12, are you referring to Harry
22 LaBarr's age?

23 A. Harry LaBarr was 10 to 12 when his sister was
24 dating Mr. Blackmon.

25 Q. Did anyone at the Commission -- did anyone that

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1 the commission staff interviewed have any information about
2 Mr. Blackmon's mental health at the time of the crime?

3 A. Yes. A few of his relatives described him as
4 having mental issues.

5 Harry LaBarr said that Mr. Blackmon seemed smart
6 to him but said he would not have been able to recognize if
7 Mr. Blackmon was mentally ill.

8 Q. Did anyone the Commission spoke with discuss
9 whether or not Mr. Blackmon had discussed this case in
10 particular?

11 A. Yes.

12 Q. What did those individuals say?

13 A. Everyone asked said that Mr. Blackmon always
14 maintained his innocence. No one reported to the Commission
15 that Mr. Blackmon ever admitted guilt in this case.

16 Q. Did anyone the Commission interviewed regarding
17 Mr. Blackmon have a good understanding of the facts of the
18 case?

19 A. No. Everyone interviewed who discussed the facts
20 did not know the correct details, location, or time that the
21 crime occurred.

22 Q. I want to turn your attention now to records that
23 the Commission obtained from the Department of Public
24 Safety.

25 What records did the Commission obtain?

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1 A. We obtained education, parole, medical, and mental
2 health and combined records.

3 Q. Did commission staff review the records that we
4 received from DPS?

5 A. We did.

6 Q. I want to turn your attention to the official
7 crime version and crime version supplement and the parole
8 records for Mr. Blackmon.

9 Are you familiar with that document?

10 A. I am.

11 **MS. GUICE SMITH:** Commissioners, please refer
12 to handout 37 in your hearing handout notebooks. This is
13 the official crime version and crime version supplement that
14 are included in the parole records from NC DPS.

15 If you'll take a few minutes to review that.

16 Q. Ms. Bridenstine, with respect to the crime as
17 outlined by Detective Holder, where does he indicate that he
18 obtained the facts of this case from?

19 A. He states that Mr. Blackmon told him what
20 happened.

21 Q. And have you reviewed the statements made by
22 Mr. Blackmon as provided by RPD?

23 A. Yes.

24 Q. Do the facts provided by Mr. Blackmon in the RPD
25 file match the facts provided by Detective Holder in the

Julie Bridenstine - by Ms. Guice Smith

1 official crime version?

2 A. No.

3 Q. What are the differences?

4 A. The official crime version indicates that the
5 victim was attacked by Mr. Blackmon, who was standing on the
6 toilet when she entered the stall so as to hide his feet.
7 It also states that she was stabbed several times in the
8 neck.

9 Q. Did the victim in this case provide any statement
10 as to how she was attacked?

11 A. No. According to the RPD file, the only
12 information that the victim provided to the hospital was --
13 to hospital personnel was that she did not recognize the
14 suspect and had never seen him before.

15 Her mother and sister told RPD that they saw
16 scratches on the victim's lower arms at the hospital.

17 There is a newspaper article in the RPD file from
18 the October 4, 1979, edition of *The Carolinian*. This
19 article states that EMS workers reported that the victim
20 told rescue workers that, quote, "She was attacked from
21 behind as she entered the bathroom. After she screamed, she
22 told officials she was stabbed in the neck."

23 Q. Was there anything that commission staff reviewed
24 or discovered that provides any details as to how the victim
25 was attacked?

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1 A. No.

2 Q. Did the Commission's investigation reveal that
3 anyone had personal knowledge of how the victim was
4 attacked?

5 A. No. All reports are that the victim was alone
6 with her attacker in the bathroom when she was attacked.

7 Q. I am going to turn your attention now to DPS
8 records related to infractions that Mr. Blackmon has gotten
9 while in prison.

10 Has he received any infractions while he was in
11 prison?

12 A. Yes.

13 **MS. GUICE SMITH:** Commissioners, if you will
14 refer to handout 38 in your hearing handout notebooks, the
15 first three pages are printouts from the DPS records of the
16 infractions of Mr. Blackmon.

17 After that, in the same handout, is a chart
18 that commission staff has put together with Mr. Blackmon's
19 infractions as well as notes from his mental health
20 providers around the same time as those infractions.
21 Sometimes there appears to be some correlation with mental
22 health status; at other times, there does not appear to be a
23 correlation.

24 Q. Ms. Bridenstine, in reviewing all of the DPS
25 records, did commission staff find any instances of which

Julie Bridenstine - by Ms. Guice Smith

1 Mr. Blackmon admitted guilt to this crime?

2 A. No.

3 Q. Are there any instances in which he has claimed
4 innocence?

5 A. Yes. Throughout his medical and mental health
6 records, parole records, and the case management notes and
7 the combined records, Mr. Blackmon maintains his innocence.

8 Q. Ms. Bridenstine, I'd like to turn your attention
9 now to any information you learned from the detectives in
10 this case regarding their interviews with Mr. Blackmon.

11 **MS. GUICE SMITH:** Commissioners, as a
12 reminder, Mr. Blackmon's statements start on page 363 of
13 your brief.

14 Q. Did commission staff speak with Detectives Munday
15 and Holder with regard to their interviews of Mr. Blackmon?

16 A. Yes. We talked with them generally about their
17 documentation and interrogation and interview practices as
18 well as any training they received. We also talked with
19 them about their interviews with Mr. Blackmon.

20 Q. What did you learn about their documentation
21 practices?

22 A. Detective Holder indicated that, while there could
23 be some minor contacts with a suspect or a witness that
24 weren't documented, it was his practice and training to
25 document and to report any such contacts.

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1 Detective Holder also provided that they recorded
2 interviews and that those interviews were then transcribed.
3 However, when Detective Holder was pointed to a portion of
4 James Blackmon's statements that were narrative in nature as
5 opposed to a transcript, he indicated that for a suspect's
6 visit to a crime scene, he would have recorded himself
7 creating a narrative of the visit.

8 Detective Holder reported that they had mobile
9 recorders that they could use in the field. Detective
10 Holder recalls taking multiple different suspects to crime
11 scenes during his time as a detective.

12 **MS. GUICE SMITH:** Commissioners, on page 404
13 of your brief is where that narrative section begins.

14 Q. What did Mr. Munday say as it related to his
15 documentation practices?

16 A. Detective Munday similarly reported that contacts
17 with suspects or witnesses would be documented and that
18 interviews with suspects would be recorded and transcribed.

19 He did not recall taking any suspect other than
20 Mr. Blackmon to a crime scene during the course of his
21 career. He said that such a visit would have been recorded.
22 When shown the same section in the interviews where the
23 narrative was, Detective Munday said he could not figure out
24 how this would get in the middle of the transcribed
25 interviews and stated that they had, quote, "evidently not"

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1 recorded and transcribed the visit to the campus in the
2 question-and-answer format as is seen in the other
3 interviews.

4 Q. Were you ever able to determine whether any of the
5 tapes of the interviews existed in this case?

6 A. RPD explained that such recordings were kept with
7 the evidence at that time. As we earlier explained, we
8 could not locate the evidence in this case.

9 Q. And what did you learn related to the detectives'
10 training and practices about interrogations and interviews?

11 A. As to Detective Holder, he indicated receiving
12 some training as he moved to different positions at RPD. He
13 stated he received training as to interrogation and
14 investigative practices generally but he did not recall any
15 specific training related to questioning suspects with
16 mental health concerns. He also did not recall any special
17 guidelines or practices as it related to witnesses or
18 suspects who were at Dorothea Dix Hospital.

19 Detective Holder did not report any differences in
20 the way he questioned a witness or a suspect. He stated
21 that he treated everyone the same, talked to them with
22 respect, and was always nice to them.

23 Q. What did you learn from Mr. Munday about his
24 training and practices as it relates to interrogations and
25 interviews?

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1 A. Detective Munday could not recall any particular
2 schooling related to interviewing and interrogation, but he
3 did recall receiving on-the-job training. He did not report
4 any special differences in interviewing witnesses versus
5 interviewing suspects. He provided that he would try to
6 develop a rapport in order to get the person to talk.

7 Detective Munday also did not report any policies
8 or specific training as it related to patients at Dorothea
9 Dix who might be witnesses or suspects. He indicated that
10 they were treated the same as a normal witness or suspect.

11 Q. Did Detective Holder or Detective Munday recall
12 interviewing Mr. Blackmon?

13 A. Detective Holder did generally recall interviewing
14 Mr. Blackmon. He was shown portions of the Dorothea Dix
15 records where Mr. Blackmon said he was glad to see the
16 detectives and reported that the detectives were his
17 friends.

18 Detective Holder said that he would think that
19 Mr. Blackmon would consider the detectives his friends
20 because, quote, "that's the way he handled people."

21 Detective Munday recalled working with
22 Mr. Blackmon and reported that Mr. Blackmon was cooperative
23 with the detectives and that the detectives were cooperative
24 with Mr. Blackmon. Detective Munday reported being as good
25 and nice to Mr. Blackmon as they could in order to get him

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1 to talk to the detectives. When asked if he would
2 characterize his conversations with Mr. Blackmon as
3 interrogations, he said that he would characterize them as
4 interviews.

5 Q. Did Detective Holder and Detective Munday say
6 anything as it related to Mr. Blackmon's mental health?

7 A. He did.

8 MS. GUICE SMITH: Commissioners, initially,
9 we planned to provide handouts 39 and 40, excerpts of
10 Detective Munday's -- from his interviews with the
11 Commission, and Ms. Bridenstine was going to read some pages
12 from the Detective Holder's interview. However, you were
13 provided those interviews in full last night so we're not
14 going to go back over that.

15 Commissioners, before we turn our attention
16 to the experts that the Commission hired in this case, I
17 want to refer you to handout 41 in your hearing handout
18 notebooks. This is a chart that outlines records the
19 Commission has available from Dorothea Dix, including
20 admission dates and the records that the Commission has for
21 those admission dates.

22 As a reminder, commission staff does not
23 believe it has a complete record of Mr. Blackmon's Dorothea
24 Dix records, but this chart shows you what we do have and
25 were able to collect.

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1 If you'll take just a moment to review that.

2 JUDGE WAGONER: So 41 -- that was the new
3 information that we got yesterday?

4 MS. GUICE SMITH: Yes. Handout 41 you have
5 not seen or been provided.

6 (11:11 a.m.)

7 MS. NEWTON: Can I ask a question about the
8 first date?

9 MS. GUICE SMITH: Yes, ma'am.

10 MS. NEWTON: 6/23/81? Is it your
11 understanding that he was released from his Robeson County
12 judgment on that date and immediately taken and admitted to
13 Dorothea Dix?

14 THE WITNESS: That was correct. He was
15 transferred directly from Central Prison at the expiration
16 of his sentence to the involuntary commitment at Dorothea
17 Dix.

18 MS. NEWTON: Now, remind me, at that time --
19 or did y'all ask? Did DOC at that time release people from
20 their judgment to the location where they were being housed
21 to the street, or to the hospital in his case, or back to
22 their home county?

23 THE WITNESS: I don't know the answer to
24 that.

25 MS. NEWTON: Thank you.

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1 **MR. BOSWELL:** May I ask a question?

2 This first 5/19/1981 discharge summary from
3 DOC Central Hospital, does the discharge summary indicate
4 when he got there?

5 **THE WITNESS:** To the Department of
6 Corrections?

7 **MR. BOSWELL:** Yes.

8 **THE WITNESS:** His sentence -- he pleaded
9 guilty and was sentenced on December 29, 1980, in Lumberton.
10 And then, on December 30, 1980, he was transferred to serve
11 his prison sentence in Raleigh.

12 **MR. BOSWELL:** Okay.

13 (11:13 a.m.)

14 Q. Ms. Bridenstine, do any of the Dorothea Dix
15 records that Commission staff has received from any source
16 report that Mr. Blackmon said he murdered or stabbed anyone?

17 A. No.

18 Q. Did the Commission do anything else to try to
19 obtain any more information and files as it related to
20 Mr. Blackmon?

21 A. Yes. There were several references to a civil
22 lawsuit filed against Saint Augustine's by the victim's
23 family in the RPD file. So commission staff attempted to
24 find information related to this lawsuit.

25 Q. What did you do?

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1 A. We searched Wake County records and discovered
2 that two wrongful death suits had been filed. Both lawsuits
3 alleged that Saint Augustine's had provided inadequate
4 security for Latham Hall. The first was filed in 1980 and
5 was ultimately dismissed without prejudice in 1983. The
6 second lawsuit was filed in 1984. It was also ultimately
7 dismissed without prejudice in 1986. We obtained copies of
8 the documents that still remain at the Wake County Clerk's
9 office for both lawsuits.

10 Q. Did commission staff do anything else with respect
11 to the civil lawsuits?

12 A. We asked Saint Augustine's to search their records
13 for any documentations related to these lawsuits. They did
14 not find any records. We also reached out to the attorneys
15 associated with these lawsuits.

16 Q. And did commission staff speak to any of the
17 attorneys regarding the lawsuits?

18 A. We did. We determined that the attorney for the
19 plaintiffs was deceased. We spoke to Samuel Southern, who
20 represented the defendant, Saint Augustine's, at the time.
21 He no longer had any documents related to this case. He
22 recalled the case and said that it was ultimately settled
23 for \$50,000.

24 He also recalled that he had employed a security
25 expert to investigate the case who had been associated with

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1 Duke University. He said that the security expert
2 determined that the entrance to the dorm was blocked open
3 the night of the crime and that the girls in the dorm would
4 routinely leave the doors open for their boyfriends and
5 visitors.

6 Q. Did the Commission do anything else with respect
7 to that?

8 A. We located a security expert named William Booth
9 in the Raleigh-Durham area who had been providing expertise
10 since the early 1980s, and I called him to see if he could
11 identify the security expert.

12 Q. Did you speak with him?

13 A. I did.

14 Q. Was that call recorded and transcribed?

15 A. It was partially recorded and transcribed. I
16 initially took notes, but once I realized he had personal
17 knowledge of this case and remembered it, I recorded it.

18 Q. What did Mr. Booth tell you?

19 A. He said that he was a security expert who worked
20 on this case and he remembered it. He said he no longer had
21 any files related to it. He also said that he believed he
22 worked on the second lawsuit and that he did not recall
23 testifying at a deposition or a trial in this case.

24 Q. What else did he say?

25 A. He said that he remembered that girls would stuff

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1 things in the door jambs to make it so that they would
2 appear to be closed but would be unlocked. He said that
3 this was a universal problem. He said that he believed that
4 that is what happened in this case and that security Saint
5 Augustine's at the time did not shake the outside doors to
6 make sure that the locks had not been jammed.

7 Q. Did Mr. Booth tell you how he determined that this
8 was the case?

9 A. He said that he would have interviewed the police,
10 the dorm supervisors and RAs, and the security force at
11 Saint Augustine's. He said he also went to the dorm, looked
12 at the bathroom, and looked at all the doors.

13 Q. Did he tell you anything about the exterior doors
14 and his understanding of which door they believed the
15 suspect used?

16 A. He said that he did not know that anyone ever
17 really knew and that he asked how the suspect got into the
18 dorm. He was told that the suspect told the police that he
19 transported himself through the walls into the dorm.

20 Q. Did he tell you anything else about the
21 stairwells?

22 A. He said that he did not believe the stairwells on
23 the sides were alarmed and that he believed the stairwell
24 doors were the ones being stuffed with paper.

25 Q. Did Mr. Booth tell you anything else that he had

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1 learned about the case?

2 A. He said that he, quote, "didn't have a huge amount
3 of confidence that the person they were looking at as the
4 prime suspect was mentally competent."

5 Q. Did he explain why he felt that way?

6 A. He said, quote, "That was just kind of the feeling
7 I got from investigators or something. I don't know where I
8 got it from, but maybe that he had some mental issues. I
9 don't know. I mean, I really don't know. Like I said, I
10 don't know who he was."

11 Q. Did he tell you anything else he remembered
12 learning about the suspect?

13 A. He recalled being told that the police believed
14 that the man charged had lived in the woods in Oakwood
15 Cemetery next to Saint Augustine's and that the man had been
16 coming into the dorm to commit a larceny after finding a
17 door that was open.

18 **MS. GUICE SMITH:** Commissioners, we're going
19 to be turning to the experts that the Commission hired in
20 this case to evaluate Mr. Blackmon's statements to law
21 enforcement as well as his mental health diagnoses.

22 Before we do that, do you have any questions
23 for Ms. Bridenstine as it relates to the commission staff's
24 interviews with Mr. Blackmon or anything she has testified
25 about today with respect to Mr. Blackmon?

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1 (11:19 a.m.)

2 MR. EDWARDS: I do, a couple of things.

3 Regarding handout 37, which is crime version,
4 I just want to clear up that this crime version was prepared
5 by Robert Dean, who was a probation and parole officer, not
6 Detective Holder; correct?

7 THE WITNESS: That's correct.

8 MR. EDWARDS: And just as they do present
9 day, probation officers go to the DA's office, ask to review
10 the investigative file, and from their review, they would
11 prepare what's called a crime version today as a
12 recommendation, maybe, in a sex offense case.

13 Does that sound accurate?

14 THE WITNESS: I don't know how they prepare
15 the official crime version at the Department of Public
16 Safety.

17 MR. EDWARDS: Okay. That's what they do.

18 In this particular crime version, there's
19 obviously some things listed in there that are inconsistent
20 with the investigation, such as, I believe in the crime
21 version down towards the bottom on the first page, the next
22 to the last paragraph, he says that the weapon that was used
23 was Guardsman 007 folding knife with a blade over 4 inches
24 that was found in a wooded area not far from Latham Hall.

25 We know that's incorrect; right?

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1 **THE WITNESS:** That's incorrect. It was found
2 under a game table.

3 **MR. EDWARDS:** Right. And, again, I guess my
4 point is the probation and parole officer's preparing this
5 report, not Detective Holder; correct?

6 **THE WITNESS:** I don't know who prepared it
7 beyond, as you said, that the name Robert Dean is on the
8 official crime version.

9 **MR. EDWARDS:** Well, it does say it's -- the
10 memorandum is addressed to Clifton Gary, case analyst, from
11 Robert Dean, PPO, which I would submit, back then, means
12 probation and parole officer; correct?

13 **THE WITNESS:** That sounds right. Yes.

14 **MR. EDWARDS:** Now, Robert Dean also, though,
15 attributes some statements to Detective JC Holder which I
16 think we can agree are also inconsistent with the
17 investigative file --

18 **THE WITNESS:** Yes.

19 **MR. EDWARDS:** -- is that right?

20 **THE WITNESS:** Yes.

21 **MR. EDWARDS:** Okay. All right.

22 Regarding the Commission's interviews with
23 Detectives Holder and Munday, Detective Holder, I believe,
24 was asked about taking Mr. Blackmon to Latham Hall for a
25 visit; is that right?

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1 **THE WITNESS:** That's right.

2 **MR. EDWARDS:** And it appears that, while they
3 had Mr. Blackmon at Latham Hall, they were not walking
4 around with a recorder recording everything coming out of
5 his voice; correct?

6 **THE WITNESS:** That's my understanding.

7 **MR. EDWARDS:** Okay. And I think it was
8 mentioned that starting on page 404 of our brief is when the
9 "investigative portion" appears to be a narrative is listed
10 where Detective Holder is typing up a narrative of what
11 happened in Latham Hall; is that right?

12 **THE WITNESS:** That's right.

13 **MR. EDWARDS:** And when you interviewed
14 Detective Holder in the last, I guess, year or so, didn't he
15 indicate to you that once he looked at his investigative
16 report and all of the detail that's in there, that what he
17 believes he did is he was dictating what was happening as it
18 was happening?

19 **THE WITNESS:** I might need to review the
20 transcript to answer that.

21 Do you have a page number?

22 **MR. EDWARDS:** I do. What I am looking at
23 would be -- it's page 97. Let me refer you to which
24 interview this was. I believe it is page 97 of the
25 transcript of his interview, October 30, 2018.

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1 **MS. TANNER:** Do you have it, Julie?

2 **THE WITNESS:** (Moves head up and down.)

3 He indicates in the transcript that he did
4 his recordings at the crime scene.

5 **MR. EDWARDS:** Right. Well, the question from
6 Ms. Tanner on page 96, she says, quote, "In this Exhibit 9,
7 would it be a fair assessment to say that, when you were at
8 Latham Hall, you had an audio recorder and you were talking
9 into the recorder" --

10 James Holder says: "Describing."

11 Ms. Tanner says: -- "while the visit was
12 happening.

13 James Holder says: "Describing what me or
14 Munday or whoever, you know" --

15 Ms. Tanner: "Would you have -- do you recall
16 doing that specifically in this case?"

17 James Holder: " I do now because of my notes
18 are so on target as to every movement. And if you see my
19 investigative notes are more like a transcript. It's just
20 not a transcript."

21 So isn't he saying that he has this dictation
22 device, whatever it is -- cassette recorder back then -- and
23 he is describing what's happening as he's seeing it because
24 there's so much detail in his investigative narrative?

25 **THE WITNESS:** That's what he is saying in the

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1 transcript.

2 **MR. EDWARDS:** And if you back up to page 93
3 of that transcript, again, Ms. Tanner is asking him about
4 the fact that when Mr. Blackmon was taken to Latham Hall,
5 that every word of Mr. Blackmon is not being recorded.

6 And Mr. Tanner [sic] says: "It might have
7 been that Blackmon didn't want it recorded or because he was
8 leading us."

9 And a few lines down on line 18 of page 93,
10 James Holder says: "That's the only thing I could think, is
11 that notes are being made, details of what he was doing not
12 to be interfering with what he was showing us" --

13 She says: "Okay."

14 James Holder: -- "he did. So that's the
15 only thing I could think about, is that he would have said,
16 no, would have spoke to him, or it would have stopped his
17 train of thoughts or because we were following him, he was
18 showing and telling us and we were describing, you know,
19 what he was doing."

20 And that's what Mr. Holder believes was
21 happening, is that he was not taking a recorder and saying,
22 "Mr. Blackmon, what did you just say there? What did you
23 just say there?" They were just letting him show them what
24 he allegedly did.

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

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1 **MR. EDWARDS:** Okay. Those are my questions.

2 Thank you.

3 **JUDGE WAGONER:** Yes.

4 **MS. NEWTON:** Thank you. In Exhibit 9, I am
5 going to the detail for Mr. Leach.

6 **JUDGE WAGONER:** Exhibit 9, you say?

7 **MS. NEWTON:** Exhibit 9 shows the CCBI report.
8 Is it clear that there was, and not inconsistent with
9 anything subsequent, that there was one thumbprint on lift
10 card 1 that was identified to Mr. Leach; is that correct?

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

12 **MS. NEWTON:** Okay. And then he is the
13 individual at handout Number 20 in the photograph? Is that
14 him?

15 **THE WITNESS:** That is him. And we obtained a
16 photograph from CCBI.

17 Ralph Chambers and Cynthia Leach both looked
18 at that photograph and confirmed that that was James Leach.

19 **MS. NEWTON:** And that is the one that Jackie
20 Kelly identified today when we were handing her the
21 photographs?

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

23 **MS. NEWTON:** Now, my question goes to handout
24 number 11. Handout number 11 is James Leach's record of
25 convictions. Now, we know from the crime scene photo that

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1 you directed me to the end of the brief that the thumbprint
2 identified to Mr. Leach was on the bathroom stall door,
3 which, from the crime scene photograph, is the location
4 where Ms. Payton was stabbed; correct?

5 THE WITNESS: That's correct.

6 MS. NEWTON: Okay. And in handout number 11,
7 James Leach's record, my question is finally this: After
8 the killing in this case, he was charged with two
9 misdemeanor weapons-type, assaultive-type charges. One was
10 assault with a deadly weapon and one was carrying a
11 concealed weapon, and those are in -- sometime in '86 or
12 below.

13 Did the Commission find out the weapon
14 involved in those offenses that he had apparently -- was
15 found with him?

16 THE WITNESS: We did not. The records that
17 we had did not list what the weapon was.

18 MS. NEWTON: Okay. And you don't know -- it
19 would have been, I guess, a gun, but you don't --

20 THE WITNESS: We don't know.

21 MS. NEWTON: The charges just don't indicate
22 what the weapon was.

23 THE WITNESS: That's correct.

24 MS. NEWTON: Okay. Thank you.

25 MR. EDWARDS: I have a follow-up.

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1 Have you talked about your interviews with
2 Mr. Blackmon? I don't want to get out of turn. Is that
3 something you have already testified to?

4 My question is relevant to what you just
5 asked.

6 **JUDGE WAGONER:** Who asked it?

7 **MR. EDWARDS:** Ms. Kelly was shown -- I'm glad
8 you did that this morning -- shown photos, and -- of, I
9 believe, Mr. Leach and of Mr. Blackmon; correct?

10 **THE WITNESS:** That's right.

11 **MR. EDWARDS:** All right. Now, when
12 commission staff -- and I believe it was you,
13 Ms. Bridenstine -- when you spoke with Mr. Blackmon,
14 September 25 of this year, you showed him Exhibit 1, which
15 was a photo of himself with a beard, and Exhibit 2, which is
16 the Polaroid photograph, which it's my understanding was
17 him, and he didn't even recognize himself, did he?

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

19 **MR. EDWARDS:** Okay.

20 **JUDGE WAGONER:** Yes, sir.

21 **MR. BARROW:** Turning your attention back to
22 handout 36, as I read out handout 36, we can place
23 Mr. Blackmon in New York on August 25 of 1979.

24 **MR. GRACE:** What page are you on?

25 **MR. BARROW:** Page 8 of 14 at the top of the

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1 page.

2 THE WITNESS: That's correct.

3 MR. BARROW: And then we can place him there
4 again at least on November 8, 1979.

5 THE WITNESS: That's correct. We don't know
6 if he was in court on the day that the case was dismissed on
7 October 29.

8 MR. BARROW: Right.

9 Is there anything you have which places
10 Mr. Blackmon anyplace other than New York between August 25
11 and November 8 of '79?

12 THE WITNESS: We don't have information that
13 places him anywhere.

14 MR. BARROW: Okay. So this is the best
15 information we've got about where he was in 1979, in the
16 fall -- late summer and fall of that year.

17 THE WITNESS: On those dates that we've
18 listed.

19 MR. BARROW: Okay. Thank you.

20 JUDGE WAGONER: Do we have any -- and maybe
21 it's somewhere in all of these books. Do we have any
22 indication, when Mr. Blackmon supposedly came permanently to
23 North Carolina, what was his mode of transportation? Do we
24 know that?

25 THE WITNESS: He told us he came by bus.

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1 JUDGE WAGONER: Bus? Okay.

2 And did he tell you how many times he had
3 been here before?

4 THE WITNESS: He said that he only came down
5 to North Carolina one time and that he stayed.

6 JUDGE WAGONER: And that was -- which was
7 after -- it was '80 -- does that jibe? Is that consistent
8 with what -- I don't remember if it was his family or
9 friends told you that they didn't know -- you just testified
10 a minute ago that they didn't think he came here until the
11 '80s?

12 THE WITNESS: The information that we have
13 shows that he was in Lumberton after 1980. The earliest
14 record that we have for him in Lumberton or in North
15 Carolina is the application to Social Security.

16 MR. BOSWELL: What was that date?

17 THE WITNESS: August 22, 1980.

18 JUDGE WAGONER: 1980? That's when he was at
19 Dorothea Dix? He applied there?

20 THE WITNESS: No. He applied for disability,
21 and the Social Security Administration let us know that that
22 was from a Lumberton, North Carolina, address.

23 JUDGE WAGONER: Okay.

24 SHERIFF FRYE: Do we know why he came to
25 North Carolina? I mean, from New York, Florida, to North

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1 Carolina -- do you know why he was here?

2 THE WITNESS: Off the top of my head, I can't
3 answer that but I can look back through the transcript and
4 see if he provided us a reason.

5 MR. BARROW: It was -- I recall a New York --
6 an application to the Social Security Administration from
7 New York.

8 THE WITNESS: That's correct.

9 MR. BARROW: And that was the last one before
10 the one in North Carolina.

11 What was the date of that application? Or at
12 least the year?

13 THE WITNESS: 7/13/1979.

14 MR. BARROW: November 13?

15 MR. BOSWELL: July.

16 MR. BARROW: Thank you.

17 MR. BOSWELL: Do I remember correctly? He
18 had in family Lumberton?

19 THE WITNESS: His grandmother and mother
20 lived in Lumberton. On his Robeson County paperwork
21 associated with that case, his address listed was the same
22 address as his mother's.

23 MR. BOSWELL: So that may be why he came to
24 North Carolina, because his mother and grandmother lived
25 here.

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1 **THE WITNESS:** Possible.

2 **SHERIFF FRYE:** When did they come here to
3 live?

4 **THE WITNESS:** I don't know. The documents
5 that we have on his history, mostly from the mental health
6 history, say that his mother went with him and his siblings
7 and married Coleman Blackmon in Syracuse, New York, when
8 Mr. Blackmon was 12 years old.

9 They don't indicate that his grandma had left
10 Lumberton, but I don't know if she stayed in Lumberton or
11 not.

12 **MS. NEWTON:** May I follow up on that?

13 He's homeless the whole time? Mostly --
14 except when he's in Binghamton, New York, he is at the YMCA
15 the last time we see him in August of '79. The date of the
16 killing in this case was 28 September '79; correct?

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

18 **MS. NEWTON:** And then on December 26 of '79,
19 he is found at a bus station in Florida -- that's the
20 winter. So he is homeless. He leaves -- they moved to New
21 York, which upstate New York is very cold. He winds up
22 charged -- or in Florida at a bus station where he comes
23 into contact with law enforcement December 26th of '79.

24 And then the next time we see him is in
25 Lumberton the summer of 1980. Summer of 1980, he comes into

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1 contact with law enforcement in Lumberton. He goes to
2 Central Prison or DOC for that six-month stint and then his
3 release date is June 23 of '81 on that Robeson
4 County/Lumberton judgment from 12/29/80.

5 Is that it? Is that accurate? That would
6 seem to be his movements.

7 **THE WITNESS:** I don't -- we don't have any
8 information as to whether or not he was homeless during the
9 time frame that you mentioned. He lists the YMCA as the
10 last address we have in Binghamton, New York.

11 Before that, there were addresses listed that
12 appeared to be houses or apartments, and we understand that
13 he did live in an apartment in Binghamton at some point.

14 **MS. NEWTON:** When he left Binghamton, his
15 next documented appearance is at a bus station with another
16 vagrant. They were found on the bus, they're asked to move
17 on, in Jacksonville, Florida.

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

19 **MS. NEWTON:** Okay. And so it appears as
20 if -- in answer to the sheriff's question -- that the reason
21 he is in Raleigh is he is maxed out and released from his
22 judgment on June 23 of 1981, and that's the day he goes into
23 Dix.

24 In other words, wasn't he at McCain
25 Correctional during the period of time?

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1 **THE WITNESS:** I believe that's correct.

2 **MS. NEWTON:** And CP for a mental health
3 evaluation, and then they released him in June to Dix.

4 **THE WITNESS:** The first documentation we have
5 for Mr. Blackmon in Raleigh comes from his commitment to
6 Department of Corrections for the Robeson County case. He
7 was at Central Prison, I believe, during at least part of
8 that sentence and he was involuntarily committed to Dorothea
9 Dix.

10 And after that involuntary commitment --
11 involuntary commitment, when he was discharged, he went to
12 Raleigh with his girlfriend, Eerma Williams.

13 **MS. NEWTON:** Okay. There was some comment
14 that his assignment was McCain, but you -- most of us
15 understand that Central Prison is where the hospital is.

16 **THE WITNESS:** That's right.

17 **MS. NEWTON:** And that's where they circle
18 through when they have medical issues or dental or whatever
19 that is.

20 And so he was released from Central Prison,
21 which is on Western Boulevard in Raleigh, and then he, that
22 same day, was committed to Dix; correct?

23 **THE WITNESS:** He was directly sent from
24 prison to Dix.

25 **MS. NEWTON:** Right. Thank you.

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1 **MS. GUICE SMITH:** Are there other questions
2 for Ms. Bridenstine?

3 **JUDGE WAGONER:** Mr. Grace?

4 **MR. GRACE:** Thank you.

5 Are there, on the doors at the dorm, two side
6 doors that are alarmed doors?

7 **THE WITNESS:** I believe they are now.

8 **MR. GRACE:** I'm speaking of then.

9 **THE WITNESS:** Then, it -- no one is able to
10 tell us for certain. But for the people that we've talked
11 to, including the security expert, the belief is that they
12 were not alarmed.

13 **MR. GRACE:** Did he ever receive SSI benefits?

14 **THE WITNESS:** We were not able to confirm
15 that, but there are some descriptions of him receiving
16 disability when he was at the mental health hospital in
17 Binghamton, New York.

18 And he also told us in his interview that he
19 was receiving some sort of welfare at some point.

20 **MS. GUICE SMITH:** Commissioners, you asked
21 the question earlier about what Mr. Blackmon said about why
22 he moved to North Carolina, to Lumberton.

23 Handout 34 is his interview with the
24 Commission from September 25, 2018. Pages 36 to 45 are his
25 version of why he came to North Carolina if you want to take

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1 a moment to look at that.

2 JUDGE WAGONER: Page 46?

3 MS. GUICE SMITH: 36 to 45.

4 JUDGE WAGONER: Okay.

5 (11:41 a.m.)

6 Q. Ms. Bridenstine, did the Commission staff do any
7 other investigation related to Mr. Blackmon in this case?

8 A. Yes. Once the Commission determined that
9 Mr. Leach's print was in the bathroom and had made
10 significant efforts to determine whether there was a
11 legitimate purpose for his print to be there, without
12 finding any, we made the decision to hire experts that could
13 assess Mr. Blackmon's statements and mental health history
14 to see if there was an explanation for why he would have
15 made incriminating statements if he did not commit the
16 crime.

17 Based on our review of the statements themselves
18 as well as Mr. Blackmon's medical records both from the time
19 and since his incarceration, we believed that an expert that
20 analyzes mental health and his statements was necessary.

21 Q. Who the Commission reach out to for this purpose?

22 A. We researched the issue of confessions and located
23 Dr. Saul Kassin, who is a leader in the field. Upon
24 contacting Dr. Kassin, he recommended Dr. Allison Redlich at
25 George Mason University.

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1 We reached out to Dr. Redlich in late April and
2 early May, and she indicated to us that she could look at
3 this case by October 2018. We initially sent her records in
4 June and discussed her initial impressions with her on
5 October 23. Following that discussion, we sent Dr. Redlich
6 further records.

7 In addition, pursuant to that discussion, we
8 identified the need for a clinical psychologist to review
9 Mr. Blackmon's medical records and provide an opinion as to
10 a specific diagnosis.

11 Q. Did the Commission retain a clinical psychology
12 expert?

13 A. Yes, we did.

14 Q. Who is that?

15 A. Dr. Edward Landis from Durham, North Carolina.

16 Q. Did both experts prepare a report that outlines
17 their qualifications, the materials they reviewed, their
18 basis for their opinions, and their expected opinions in
19 this case?

20 A. Yes, they did.

21 **MS. GUICE SMITH:** Commissioners, these are
22 the reports that were provided to you in handouts 42 and 43
23 in your hearing handout notebook that you read during the
24 overnight recess.

25 Do you have questions for Ms. Bridenstine

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1 about the retention of the experts?

2 JUDGE WAGONER: Questions?

3 (No verbal response.)

4 MS. GUICE SMITH: At this time, we will be
5 ready to call Dr. Landis.

6 (Recess taken, 11:46 to 11:51 a.m.)

7 * * * * *

8 Thereupon, EDWARD LANDIS, PH.D., a witness having been
9 called by the Commission, was examined and testified on
10 DIRECT EXAMINATION as follows:

11 MS. GUICE SMITH: (11:51 a.m.)

12 Q. Good morning, Dr. Landis.

13 A. Good morning.

14 Q. My name is Lindsey Guice Smith. I'm the Executive
15 Director of the North Carolina Innocence Inquiry Commission.
16 I'm going to have some questions for you today, and then the
17 commissioners seated around the table are also probably
18 going to have some questions for you as well.

19 Can you state your full name.

20 A. Edward Everett Landis III.

21 Q. And can you generally outline your education for
22 the Commission.

23 A. Yes. I attended high school here in North
24 Carolina, East Mecklenburg. I attended college at Emory
25 University in Atlanta. Then I enrolled at the University of

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1 Louisville in, obviously, Louisville, Kentucky. From there,
2 I received my master's degree and my Ph.D.

3 Q. And how long have you been a licensed psychologist
4 in North Carolina?

5 A. I have been independently licensed in North
6 Carolina since 1989, and for about 18 months before that in
7 the sort of traditional supervised licensing.

8 Q. Can you outline for the Commission your employment
9 as a licensed psychologist.

10 A. I spent the great majority of my work life at the
11 Federal Correctional Complex in Butner, North Carolina. I
12 started there so long ago that it was just one institution
13 then. I actually was participating at that point in an
14 internship that was sponsored jointly by the Department of
15 Justice -- US Department of Justice and the University of
16 North Carolina School of Medicine. So I was half-time at
17 Butner and half-time at UNC Memorial in Chapel Hill.

18 After internship, I stayed there as a contractor
19 and was the research analyst for the Bureau of Prisons
20 National Sex Offender Task Force for a year. After that, I
21 signed on as what they call the psychological associate for
22 a year, then a staff psychologist, then the director of
23 clinical training, then the deputy chief psychologist, and I
24 retired from there as the chief psychologist in 2016.

25 Q. And have you provided the Commission with your

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1 current CV that outlines all of your education, experience,
2 and training?

3 A. I did.

4 Q. Does your CV provide any publications that you
5 have authored?

6 A. It does.

7 Q. Did you also provide the Commission with a report
8 in this case?

9 A. I did. It is dated November 9.

10 Q. And does your report outline your professional
11 qualifications, your prior testimony, the materials you
12 reviewed, compensation you are receiving from the
13 Commission, your areas of expertise, and your anticipated
14 opinions in this case?

15 A. It does. Although I would add that, among the
16 materials I reviewed at the time I prepared the report, I
17 had not reviewed the transcript of the commission staff with
18 Mr. Blackmon, which I understand occurred a few weeks ago.
19 So I have also reviewed that.

20 Q. Okay. Were you asked to formulate opinions in
21 this case?

22 A. Yes.

23 Q. And did you, in fact, formulate opinions in this
24 case?

25 A. Yes, ma'am.

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1 **MS. GUICE SMITH:** Your Honor, we provided
2 Dr. Landis' CV and report to you last night for your review
3 as a handout.

4 At this time, I would like to ask that
5 Dr. Landis be qualified as an expert in clinical and
6 forensic psychology.

7 **JUDGE WAGONER:** So ordered. He may testify
8 as an expert in forensic and clinical psychology.

9 Q. Okay. And do you have with you today your report
10 and the CV?

11 A. I do.

12 Q. You also have a copy of some of the materials that
13 you reviewed?

14 A. If you count electronically, I have a copy of all
15 the documents. But I did not print out the 1095 pages that
16 were in one file. I have the electronic version if it were
17 needed.

18 Q. Thank you. What were you asked to do in this
19 case?

20 A. I was asked to look at records regarding
21 Mr. Blackmon in the pendency of his prosecution through the
22 most recently available records that were provided to me and
23 focus on a number of questions or areas of interest that
24 were nominated by staff of the Commission.

25 Q. Were you asked to assess how his specific mental

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1 health diagnoses affect his perceptions of reality and his
2 ability to report information?

3 A. Yes, I was.

4 Q. Were you asked to assess how Mr. Blackmon's mental
5 health shaped his interactions with law enforcement in the
6 case?

7 A. Yes.

8 Q. Were you asked to assess how side effects of
9 medications prescribed to Mr. Blackmon may have affected his
10 interactions with law enforcement?

11 A. Yes.

12 Q. And were you asked to assess how his mental health
13 condition affects his current behavior pattern?

14 A. Yes, ma'am.

15 Q. Can you generally describe the materials you
16 reviewed in the case?

17 A. Yes. There were -- in addition to the
18 aforementioned recent transcripts, there were records that
19 were labeled Blackmon's Raleigh Police Department, Dorothea
20 Dix records -- that was about 116 pages; a file called
21 Select DPS Mental Health Records, which was nearly 1100
22 pages Bates-stamped in a confusing way, but I reviewed
23 those; SBI Dorothea Dix records; Dorothea Dix records
24 associated with the State appellate brief connected to this
25 case; court documents regarding Blackmon, that was 97 pages

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1 internally numbered; Blackmon's interviews with police,
2 which appears to be 131 pages; Blackmon Attica records,
3 which was 11 pages, and those include at least one document
4 that had been passed on from the Elmira facility;
5 Binghamton, New York, records, which was 10 pages collected
6 in 1976 through '78 -- I should say the Attica were from
7 1971 to 1974; there was a document called Rollins evaluation
8 of Blackmon; and Raleigh Police Department reports regarding
9 Blackmon's statements, and those appeared to be from persons
10 other than Mr. Blackmon.

11 Q. Okay. And have you, in fact, formulated opinions
12 in the areas that we asked you to look at?

13 A. Yes, ma'am.

14 Q. I'm just going to have to go through those
15 opinions.

16 Did you determine whether Mr. Blackmon had mental
17 illness at the time of his statements to law enforcement?

18 A. I believe that he clearly did.

19 Q. Okay. Can you talk about section V of your
20 report, letter A?

21 A. Yes, ma'am.

22 So the issue is what were Mr. Blackmon's specific
23 mental health diagnoses in the past. So I took that both
24 globally, in the sense of what were they as far back as we
25 know from those records, and also, more particularly, what

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1 observations were made of his condition around the pendency
2 of his prosecution and his eventual sentencing.

3 So I tried to organize this into four groups of
4 diagnoses. As I'm sure everyone will appreciate that, if
5 you work in a hospital or a clinic, patients come in and
6 several patients may get the same sort of overarching
7 diagnosis -- like schizophrenia or major depression. But
8 you will find that some of those patients, having the same
9 psychiatric illness, nonetheless, some of them have
10 substance abuse problems, some do not. Some are sober as
11 the day is long; some abuse drugs. They have the same
12 fundamental diagnosis, but you know that the substance abuse
13 problem is going to be a complicating factor and it's going
14 to play into the plans for how you manage this patient and
15 reintroduce them to the community and so forth.

16 Similarly, you can have several patients with the
17 same kind of top-line diagnosis, who -- some of whom are
18 pleasant, well-adjusted people who get along well with
19 others and, you know, you will hope that once their major
20 depression is treated, they will go back to functioning like
21 that. But, unfortunately, some of the other patients,
22 before they became depressed, will turn out to be folks who
23 have a lot of conflicts with others or were dramatic and
24 self-aggrandizing or had other character problems. And in
25 those cases, obviously, when you treat the major depression,

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1 you expect that patient may go back to having the same
2 personal problems, character problems that they had before.

3 And then, yet again, you can have two people with
4 the same diagnosis, one of whom is quite intelligent and
5 sophisticated and another may be fairly intellectually
6 limited, and that it may be an important factor.

7 So if you go through lots and lots of records like
8 this, you're going to find lots and lots of labels stuck on
9 the patient, and some of them will have to do with that kind
10 of top-line psychiatric illness that needs treating right
11 now and some of it will be those other things.

12 And so in the case of Mr. Blackmon, from a very
13 early point, there's records that are alluded to that are
14 not available to me -- they were talked about in the New
15 York records -- that he was pronounced "mentally defective"
16 at some point. I can't speak to what New York's definition
17 of that was, but I suspect it's going to have to do with his
18 limited intellectual abilities.

19 I'd hesitate to add at this point -- or I'd hurry
20 to add at this point that while someone is grossly
21 psychotic, their intellectual faculties are impaired. So
22 sometimes those impressions that somebody might be mildly
23 retarded, they might be kind of the borderline range of
24 intelligence -- sometimes that is confounded by the fact
25 that the patient you're looking at is quite, quite ill. And

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1 so they can't concentrate and think and reason well so they
2 do badly on testing. Sometimes, when they are better, they
3 don't look so retarded or so borderline. That can happen.

4 But at any rate, Mr. Blackmon was viewed as early
5 as 1971 as a very dull individual with below average
6 intelligence. At Attica, they formally diagnosed him with
7 mental retardation, borderline, which was a term at that
8 time. I've found at least three different instances of
9 psychological testing of his intelligence, and the results
10 ranged from a full-scale IQ of 80 using a relatively simple
11 test procedure called the Beta. It's a byproduct of the
12 military's development of screening tests which altered this
13 overall IQ score of 80 to an overall IQ score of 69 using a
14 more thoroughgoing measure called the WAIS, it's the
15 Wechsler Adult Intelligence Scale, Revised, at the time that
16 he was given. So 69 would be right on that cusp between
17 what used to be called mild mental retardation and
18 borderline intellectual functioning. Today it's sort of --
19 the political correctness thing, it's called intellectual
20 disability instead of retardation. Whatever name we give
21 people for that, it becomes -- in a decade, it's a
22 pejorative term, and we try to move on.

23 So there's plenty of evidence that Mr. Blackmon
24 may have some limited intellectual capacity just to start
25 with before he became an ill person.

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1 Then, again, it's pretty clear that Mr. Blackmon
2 has at times been diagnosed with maladaptive use of
3 substances. So just some of the ones that I saw mentioned
4 were heroin, speed, LSD, cannabis, and alcohol. There were
5 times, I think right around the time of his departure from
6 Lumberton to return back to Raleigh with the detectives, he
7 was saying that he was sick in part because he had been
8 using drugs and alcohol.

9 So that the third area of concern was these
10 maladaptive personality traits that I mentioned. And when
11 psychologists and psychiatrists talk amongst ourselves, we
12 kind of carelessly sometimes call these character disorders.

13 So Mr. Blackmon had, at different times, been
14 called a person with antisocial personality disorder or
15 borderline personality disorder. One doctor, for reasons I
16 can't fathom, thought that he had schizoid personality
17 disorder. But these, again, are descriptions -- they're not
18 descriptions of an illness that has afflicted this otherwise
19 well-functioning person; they're a description of the person
20 and their character. So those are noted -- I mentioned some
21 of those noted.

22 In Attica, in 1974, he was described as having
23 inadequate personality. At Dix, he was talked about having
24 antisocial personality and borderline features or antisocial
25 and borderline personality. And one doctor said that he had

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1 mixed personality disorder with primitive antisocial and
2 aggressive features. Neither primitive nor aggressive are
3 parts of the official diagnostic nosology. So I think the
4 doctor was just using those terms descriptively.

5 And then, finally, we come to what I have been
6 referring to as the kind of top-level diagnosis. And
7 beginning as early as the 1970s, Mr. Blackmon was regularly
8 being identified as having schizophrenia or some variation
9 of it. He was also periodically -- not in every case, but
10 often, there would be notations that he had a manic
11 symptoms, symptoms that most people associate with bipolar
12 disorder.

13 It appears that, in the most recent records, folks
14 have finally caught up to the idea that he has all along
15 manifested a thing called schizoaffective disorder, where
16 both symptoms of mania or depression, but in his case mania,
17 and the psychotic symptoms of schizophrenia, the first-rank
18 symptoms, coexist for most of the time during the illness.

19 So you end up with this clinical picture of
20 Mr. Blackmon having these spells where, much like somebody
21 who does have cyclic mania, will become quite volatile,
22 fire-breathing, uncooperative, assaultive, gets himself
23 assaulted by being so assertive and aggressive. You see
24 those episodes superimposed on this long, long, long-term
25 picture of hallucinations, delusions, problems with

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1 cognition, with keeping his thinking straight.

2 And so his treatment records, when you look at
3 them over and over and over through many, many, many
4 episodes, you find that a lot of what's being treated is the
5 manic agitation. And once the treatment team manages to
6 beat that into submission, Mr. Blackmon is a pleasant enough
7 guy and you can talk with him, as the detectives did -- you
8 chat with him over time, he will tell you all about himself.
9 Some of it's right, some of it's fictitious, but he is
10 workable. You can talk with him and chat with him.

11 So the most recent notes that I was looking at
12 described him as having schizoaffective disorder. I think
13 that is perfectly appropriate. It certainly explains the
14 kind of treatment he has gotten, why it's benefited him to
15 the extent it does and why sometimes it hasn't benefited him
16 quite so well when they take away his treatment for his
17 manic symptoms.

18 Q. Okay. Does this --

19 A. I apologize for rambling.

20 Q. Does his reported use of drugs and/or alcohol
21 affect the ability to assess his mental health and/or his
22 education level?

23 A. The use of illicit substances?

24 Q. Yes.

25 A. Well, it might in a secondary way if he were

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1 using -- well, the patients taking street drugs when they
2 are supposed to be treated for their psychiatric illness,
3 there's two or three different things that can happen. One
4 is the drugs may produce just de novo symptoms, especially
5 things like methamphetamine can produce immediate psychosis
6 in some. They may pharmacologically undermine the treatment
7 the patient is supposed to be getting, and -- you know,
8 these sorts of complications make it likely that, if you
9 don't know whether the patient is, A, medicated, and, B,
10 taking other drugs, it can confuse and confound the doctors
11 that are trying to do their evaluation.

12 Q. And did you see any of that here?

13 A. Only in the sense that there is periodic mentions
14 here and there that Mr. Blackmon is saying that he is
15 really -- he's sick and he's now realizing something is
16 really wrong for him, and then mentions that he's been
17 drinking and drugging. And it does seem to tie in to when
18 he flames out in the community and has to come back to the
19 hospital or go from the regular correctional institution
20 where he was getting on okay to having to go back to the
21 correctional mental health part of the system because he has
22 kind of blown up again.

23 Q. I want to make sure that I get this correct.

24 You said that some of these were descriptions of
25 the person, not of the diagnosis. Can you tell us what that

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1 means?

2 A. Oh, I didn't mean to say that if I said that.

3 Q. Okay.

4 A. One of the things you would notice if you went
5 through the records is that there is something that is no
6 longer used, but in most of Mr. Blackmon's records, because
7 all of the relevant times for him, the diagnostic system
8 included the notation of Axis I, which is where you would
9 put this thing that I'm calling sort of top-line psychiatric
10 illness. So schizophrenia or schizoaffective disorder or
11 occasionally they said bipolar disorder, that would be that
12 top-line, Axis I thing. It's the thing you're treating now.
13 It's the reason the person's in the hospital or coming into
14 the clinic.

15 Axis II would be where you would list some of
16 these things. So that's where you would put mental
17 retardation and character problems, on Axis II. Oftentimes,
18 the substance abuse gets -- would get coded on Axis I back
19 when that was the thing.

20 And then the Axis III would have been medical
21 problems, and Axis IV and V would have to do with the
22 highest level of functioning the person's had the last
23 year -- that's V. And IV would have been where you would
24 list, sort of, stressors and problems and impediments like
25 family problems and other sorts of things that matter in the

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1 patient's overall treatment, but they're not really, today,
2 the focus of intervention. The schizophrenia or the major
3 depression or the bipolar disorder is -- that's the thing
4 you're after.

5 Q. Turning your attention to section C of your report
6 on page 7 --

7 A. Yes, ma'am.

8 Q. -- can you provide your opinion as to how
9 Mr. Blackmon's specific mental conditions affect his
10 perceptions of reality and ability to report information?

11 A. Yes, ma'am.

12 Mr. Blackmon historically presents over many
13 years, over decades, ongoing delusions, hallucinations,
14 disorganized speech. Delusions are fixed irrational beliefs
15 that aren't amenable to change despite more than adequate
16 evidence to the contrary. Some delusions are bizarre, like
17 the delusion that you can cause earthquakes or hurricanes.
18 Right? No one else believes that's even possible. It makes
19 no sense to anyone in the culture that that can happen.

20 Some delusions are not bizarre, like the
21 delusional belief that your spouse is cheating on you. It's
22 a thing that could happen, but the family, everyone may
23 agree, other than the patient, that there is absolutely no
24 indication of that and yet the delusional person is
25 absolutely fixedly sure that that is happening.

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1 So Mr. Blackmon's delusions are a hodgepodge, as
2 this often happens -- a hodgepodge of different things. So
3 he's got an interest in Islam, you know, in his background.
4 He also seems to have some sort of Christian themes that
5 play into that. He mixes them together -- I think
6 "syncretically" is the technical term. He thinks he has
7 special power sometimes, the he's the son of both God and
8 Satan.

9 Mentions things like having been in court for some
10 much earlier proceeding, and the judge, according to him,
11 fell out of his chair because he was able to work masonry on
12 the -- he was able to do something to the judge through
13 special powers that caused him to fall out of his chair.
14 That he can see the future, talked about UFOs in there --
15 just a wide variety of very strange, clearly delusional
16 beliefs.

17 He also periodically reports hallucinations, but
18 it's interesting he doesn't like -- to the extent I can tell
19 from records, he doesn't like to talk about those. So there
20 are many mentions where he is asked, because people know to
21 ask, and he might talk a little about it but also say, "I
22 don't want to talk about that," or, "I would like not to
23 talk about that anymore." So he has expressed that
24 sometimes he gets communications or commands through the
25 television. God communicated with him through the TV.

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1 He hears voices. He has seen -- sees the devil
2 coming out from certain people which he said kind of got him
3 enraged and he wants to attack them if he sees the devil
4 coming out of them.

5 So those are typical examples of the
6 hallucinations.

7 It's important to remember about the delusions
8 that nobody goes to bed one night and wakes up the next day
9 with a crazy idea in their head and they can't get it out.
10 They have delusions because their thought process is flawed,
11 their manner of thinking is sufficiently impaired by their
12 psychiatric illness that they come to these conclusions
13 about what has happened in the past or what is going on now
14 through this erroneous thought process.

15 So it's always possible -- most people have
16 consistent themes in their delusions, but it's entirely
17 possible that those will evolve and grow and to create more
18 delusional elements as time goes on because the person
19 remains unable to think clearly.

20 Q. So would you expect that the delusions would
21 remain throughout time -- remain present throughout time?

22 A. Yeah. I mean, they may wax and wane a little on
23 their own. They certainly are expected to wax and wane with
24 treatment if the patient is lucky enough to be somebody who
25 is well responsive to the kinds of treatments that exist,

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1 which are less than ideal. But they might wax and wane
2 according to treatment compliance. That's possible.

3 But the best I can tell, he has been talking about
4 some of these same crazy ideas for, like, 30, 35, 40 years.

5 Q. So you're saying the same themes pop up over time?

6 A. Right. The same themes -- but you will get events
7 happen today and those events are understood in light of the
8 sort of central crazy theme that the person thinks around.

9 Mr. Blackmon also has pretty disorganized speech.
10 In my report, I put just one kind of extended passage as an
11 example of it, but it's obvious also in -- right up through
12 the commission staff's interviews with him, it's very
13 difficult to follow what he is trying to communicate. And,
14 you know, certainly our understanding is that the confused,
15 disorganized speech is just a manifestation of the confused,
16 disorganized thought that is generating the speech.

17 Q. If you will turn your attention to page 9 of your
18 report, section D, what is your opinion as to how
19 Mr. Blackmon's mental condition may have affected his
20 interactions with law enforcement in the case?

21 A. It appeared that Mr. Blackmon was motivated to
22 keep spending time with the detectives and talking with them
23 partly because he was still in some distress, and the police
24 treated him deferentially. They talked with him like a
25 peer, they were certainly nice to him, gave him coffee,

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1 cigarettes, drove him places a couple of times at his
2 request. So he was motivated to continue doing that.

3 It's clear from looking at the batch of documents
4 that are, I think, just transcripts of those tape-recorded
5 interviews that he told the detectives lots of information
6 that might be factually true, but he told them lots and lots
7 of information that was just flagrantly delusional, just
8 craziness.

9 When the police were questioning him, they
10 certainly asked some questions that -- I'm not a police
11 officer; I don't critique police work of anyone -- but, you
12 know, I am aware, I think, that police have some ways of
13 questioning subjects where they focus on very specific
14 factual details, "Did you do this? Did you not? Were you
15 here? Were you there?" and so forth.

16 But they also asked him lots of questions that
17 took as their premise Mr. Blackmon's delusions. So they
18 would be things like, "James, do you think it's possible
19 that a person's spirit could leave their body and go
20 somewhere and do something and leave their body behind?" To
21 which Mr. Blackmon would respond, accordingly, like, "Yes, I
22 think that's how that works."

23 Or Mr. Blackmon then might reciprocally ask, "Do
24 you think it's possible my spirit could go someplace and
25 hurt somebody?" And the answer now coming from the

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1 detective would be, "Yeah, yeah. I think that really could
2 happen."

3 So I'm at a little bit of a loss to know what you
4 would deduce from a mentally ill person telling you
5 something like -- literally, one of the statements was --
6 when asked, "Well, what has the bad James Blackmon done?"
7 the question was. Mr. Blackmon replied, "Murders,
8 hurricanes, and earthquakes."

9 So if you know for sure that he can't cause
10 hurricanes and earthquakes, murdering somebody is a
11 possibility -- people have killed one other. So murder is
12 possible. But do you deduce from that that the one item is
13 true and toss out the other two because you know they are
14 the crazy ramblings of Mr. Blackmon?

15 I notice that -- I believe I have alluded to a
16 couple times a recent interview by the committee staff with
17 Mr. Blackmon, and a lot of questions had to be repeated
18 because what he was saying was kind of confusing or
19 contradictory internally. But the questions were always in
20 the form of "Were you in Raleigh or were you in Lumberton?
21 What year was it? Who were you living with? Which
22 girlfriend are you referring to?" -- they were all factual
23 sorts of inquiry.

24 And that way of inquiring of a mentally ill
25 person, I think, is much more likely to -- it may not get

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1 you all the facts you want to know, but the facts that you
2 get might actually be facts. That would be my approach.

3 And I have been in the position as an
4 administrator where there's allegations of assault in the
5 prison hospital and we have to investigate those. And, you
6 know, when I was participating, we'd take the stance that
7 we're going to try to assist the person -- the persons that
8 we're interviewing because maybe both complaining person and
9 the person accused might both be mental health patients.
10 We're going to try to use our intact intellectual faculties
11 to keep them in the bounds of, you know, reality and get
12 actionable facts and not delusions and hallucinations and
13 other things that we can't act on them.

14 Q. And then turning your attention to section E of
15 your report on page 9, what is your opinion as to how side
16 effects of the medications prescribed to Mr. Blackmon may
17 have affected his interactions with law enforcement in the
18 case?

19 A. I think that the actual intended effect of the
20 medications is probably more salient with respect to how he
21 was doing with the inquiries than the side effects.

22 The most common side effect of antipsychotic
23 medications is sedation, and I notice he was complaining of
24 that as recently as a few weeks ago, that the medicines were
25 making him tired.

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1 He also noticed that his psychiatric medication
2 was making him hallucinate, which is exactly the exact
3 opposite of what is actually going on.

4 So the treatment with the medication was essential
5 because, without it, he likely would not have been able to
6 participate in the interviews, especially the way they
7 occurred, where he was often carrying himself -- while he
8 was on a pass or in the community, carrying himself down to
9 the police headquarters through the bus and walking and so
10 on.

11 So he was quiescent enough at that point that he
12 could be out in the public, could sit with the officers for
13 an extended certain period of time and answer their
14 questions politely. If he wasn't treated, he probably
15 wouldn't have been able to be there. He would have been on
16 one of these many spells when he was in seclusion at the
17 hospital or otherwise indisposed because he was so volatile.

18 So the direct intended effect of making him less
19 volatile and less crazy I think probably is what enabled him
20 to be interviewed. It doesn't seem to me like the typical
21 side effects of these medicines -- and I am not a physician.
22 I don't prescribe the medicine, but I've worked with dozens
23 of psychiatrists and hundreds of patients; so I know what
24 the patients complain of. If you're constipated, gaining
25 weight, if you're a male and your breasts are enlarging a

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1 little bit, if you're stiff, if you're a little sedated --
2 none of those things seem to impact much talking with the
3 police face-to-face.

4 And it didn't seem -- from the fact that he was
5 traveling around on his own, you know, to the extent you can
6 tell from the transcript, sounded like he was in good
7 spirits overall. It didn't seem like he was especially
8 burdened by, you know, unremitting side effects that -- at
9 that time particularly.

10 Obviously, he had side effects. I don't want to
11 minimize -- I just listed some of the ones that are really
12 annoying and upset patients to no end if they have those
13 side effects, but they don't seem highly pertinent to
14 dealing with the police.

15 Q. And then finally, page 10 of your report,
16 section F, what is your opinion as to how Mr. Blackmon's
17 mental health condition affects his current behavior?

18 A. Well, I found a couple of ways to try to address
19 that. One is that Mr. Blackmon had some psychological
20 testing done fairly recently, and it described the same kind
21 of -- I put that somewhere else. I apologize.

22 His most recent progress note that was available
23 to me was from October 2 of this year. And at that time, he
24 was being treated with a long-acting injectable medication
25 called Haldol Decanoate. He gets that every 4 weeks. Plus,

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1 he was also given Haldol in immediate acting form,
2 10 milligrams twice daily, and Depakote 500 milligrams by
3 mouth twice daily, which is probably being prescribed to
4 minimize his manic symptoms. And he was getting a medicine
5 called Vistaril, I believe 100 milligrams twice daily, and
6 that would've been for the side effects of the Haldol.

7 Those, as I said, seemed to target both his
8 psychotic and his mood symptoms. They're consistent with
9 things that have been used in his treatment over many, many
10 years. He was described at that time as well kempt --
11 meaning clean, groomed, put together properly; cooperative
12 and appropriate. His mood was described as neutral, neither
13 depressed nor expansive or irritable. He was directly
14 oriented to person, place, and time.

15 He was not complaining of hallucinations, and the
16 doctor did not perceive any. Occasionally, patients deny
17 that they are having hallucinations and it's obvious that
18 they are, but the doctor didn't believe that he was. His
19 thoughts were generally goal directed but with a little bit
20 of the loosening associations that I talked about earlier.
21 He did not voice any delusions that the psychiatrist caught
22 in their interview.

23 He did have some significant medical concerns. He
24 had some peripheral vascular disease.

25 So that was his presentation to the psychiatrist

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1 who is familiar with him. Doing well, calm, appropriate,
2 not with a whole lot of the crazy delusions and
3 hallucinations at the time.

4 But, of course, Mr. Blackmon has many, many cyclic
5 episodes of compensating with treatment and decompensating
6 either due to noncompliance or whatever. Part of that is
7 just the episodic nature of the manic symptoms that he has.
8 They will come and go a little bit on their own regardless.

9 So the best I can tell, that is the description of
10 Mr. Blackmon right now.

11 Q. And you were recently provided the interview
12 transcript between commission staff and Mr. Blackmon?

13 A. Yes, ma'am.

14 Q. Based on that, do you have any additional opinions
15 that you need to add that weren't provided with the report
16 that you provided the Commission?

17 A. I don't think so. In a number of ways, what
18 transpired in that context was reminiscent of the things you
19 see in the other records.

20 MS. GUICE SMITH: Commissioners, do you have
21 questions for Dr. Landis?

22 (12:28 p.m.)

23 MR. GRACE: Good afternoon, Doctor. How are
24 you?

25 THE WITNESS: I'm good. And you?

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1 **MR. GRACE:** Good. I'm well.

2 I want to ask you to home in on this
3 interview statement, walk through things like we did with
4 the police over Saint Aug.

5 You alluded to it a bit, but I'm wondering
6 if, at that point, James Blackmon had the ability to
7 malinger and to tell the truth about what he did with
8 throwing in all of these red herrings, "I transported
9 through the door and left my body" and the other things.

10 How do we determine which -- which part is
11 his mental health issues and which part of him deflecting?

12 **THE WITNESS:** Well, my first reaction to that
13 would be that I know that officers seemed to believe that
14 when he -- when they took him back to Dorothea Dix to be
15 checked in, that he was sort of putting on a show to get
16 himself back in the hospital.

17 That's entirely possible in the case of a
18 person who is quite mentally ill at that point.

19 I never said being mentally ill makes you
20 incredibly dull. And after all, people who have been in the
21 hospital a bunch of times are pretty savvy about what it
22 takes to get back in that hospital. But they can still be
23 pretty crazy the same time.

24 Mr. Blackmon -- if I understand your question
25 correctly, you were focused on the specific trip to Saint

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1 Augustine's.

2 **MR. GRACE:** Yeah. What's the truth? I mean,
3 he said some things that are totally unbelievable and then
4 some of those things that you talked about that were
5 believable.

6 What's the truth?

7 **THE WITNESS:** Well, that is -- you've hit the
8 nail on the head both from the overall perspective of this
9 process, I think, and my sense, which is I don't know.

10 You know, I know a lot of mentally ill people
11 over many years of my life, and I don't know how you can
12 tell from this which details you want to pick and choose and
13 decide those are statements of fact and which ones are
14 foolishness.

15 **MR. GRACE:** Given his long history, is it
16 more or less likely that what he was doing there was a
17 stringing together a bunch of delusions?

18 **THE WITNESS:** Well, I think I could go
19 through -- this, actually, is the statements, and you'll see
20 how many little flags I have on here. I mean, I think if
21 you step through there, you can find lots of examples where
22 Mr. Blackmon, for example, is asked --

23 **MR. GRACE:** Give us a few of those, what
24 you're referring to.

25 **THE WITNESS:** Yeah. Let's see. What's the

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1 easiest way to do that?

2 All right. These documents, at least, seem
3 to be Bates-stamped consistently beginning to end; so I am
4 on page 20 of this document that purports to be the
5 transcripts of the interviews with the police detectives.

6 **MS. NEWTON:** Sorry to interrupt -- these are
7 Mr. Blackmon's statements?

8 **THE WITNESS:** Well, you'll need to hear both
9 of the questions and the answers to make any sense of that.

10 So on page 20, there is a discussion of how
11 Mr. Blackmon used masonry to cause the judge to fall out of
12 his chair.

13 On page 22, the question -- so I'm assuming
14 that means one of either Mr. Holder or Mr. Munday -- says,
15 Question: "I think the devil causes us to do a lot of
16 things like that, don't you?"

17 After which, Mr. Blackmon says: "People talk
18 about white man is the devil, okay. In the beginning, God
19 was black and the devil was black, well, then, black has to
20 be the devil. You see what I'm saying?"

21 I don't particularly see what he's saying
22 but ...

23 **MR. GRACE:** Neither do I.

24 **THE WITNESS:** On page 26 -- well, on page 25,
25 the very last lines, "James, these bad things that you've

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1 done in the past, you remember what they are, don't you?"

2 Continuing, Mr. Blackmon says, "Mm-hmm. But
3 you know something? Sometime I can send out -- I have to
4 learn how to control my thoughts, you know, but I can
5 telegraph something to someone and it happen to somebody and
6 somebody's going to do something, you know, and I seen that
7 happen to me."

8 And that discussion continues where the
9 detectives offered to him the term "telepathic" to describe
10 how he accomplishes these things.

11 They ask, "Do you think this ever happened to
12 you before, that you've ever telepathed a thought to you,
13 James, to cause you to do anything?"

14 After which he says, "No, never in my life,"
15 after he's just said, "Yeah, that kind of things happens to
16 me."

17 On page 27, Mr. Blackmon had already been
18 asked about HBCUs in the Raleigh area and whether he had
19 frequented any of them, and he said he had and that he had
20 been to Shaw.

21 The detectives say: "Well, Let's start with
22 Saint Augustine's. Do you know where Saint Augustine
23 College is?"

24 Mr. Blackmon: "No, I've never been there
25 before."

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1 That then, by the beginning of the following
2 page, is: "You've heard of Saint Augustine's, haven't you?"

3 Mr. Blackmon: "Yes."

4 Question: "Wonder what kind of religious
5 people they have over there."

6 Mr. Blackmon gives a rambling answer about
7 nationality and history and courtship and lifestyle.

8 And then the question is: "Do you think your
9 body has maybe been to Saint Augustine College but your mind
10 has been somewhere" -- it literally says "Has your mind been
11 some other place?"

12 Mr. Blackmon: "Yeah, yeah."

13 I don't know what that means, how your body
14 can be in one place and your mind can be in another place.

15 On page 36, they ask Mr. Blackmon: "How are
16 these girls being killed, James? Does your mind tell you
17 how these girls are being killed?"

18 Answer from Mr. Blackmon: "Several are
19 getting choked, some are getting cut, some are getting
20 shot."

21 There's no particular interest in
22 Mr. Blackmon shooting or choking people, only knifing
23 somebody.

24 He is asked: "Do you see anyone getting
25 hurt?" This is in the context of his mind.

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1 His answer: "No, not really."

2 Question: "In the past, when your body was
3 over at Saint Augustine's, does your mind see any lady
4 getting hurt?"

5 "No, not then."

6 On the following page, he's asked to
7 speculate further about how girls might be getting hurt,
8 particularly poor Ms. Payton.

9 His answer was "Either he choked her or he
10 gave her some kind of drugs to mess up her forever, to kill
11 her, or some poison. That's what I see. I can't see no
12 more."

13 So do you infer that Mr. Blackmon poisoned or
14 gave drugs to Ms. Payton or that that's just foolishness?
15 And I don't know the answer to that.

16 **MR. GRACE:** Are those delusions consistent
17 with his history and your diagnosis and the other diagnoses
18 that had been made up until then?

19 **THE WITNESS:** Some of them I would say yes.
20 I mean, some of them were being -- some of them are -- the
21 genesis is the inquiry the officers were undertaking. They
22 need to find an answer to this four-year-old homicide. So
23 there's that context that comes with their questions -- the
24 place, the time, the circumstances, and all that stuff.

25 But the general sort of "Can you work reads

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1 on people," that's something that he was talking about
2 before he ever met these police officers. You know, he
3 thought he could put herbs and oils on his skin and then, by
4 touching someone else, he could gain control over them. So
5 some of the stuff about, you know, influencing people and
6 telepathy and all of that is consistent with his long-term
7 crazy ideas.

8 **MR. GRACE:** And we didn't have any reason
9 to -- and the experts didn't have any reason to contest the
10 sincerity of those delusions back before the police thought
11 he'd murdered someone, did they?

12 **THE WITNESS:** Not that I know of.

13 **MR. GRACE:** We knew they were crazy, but we
14 sort of gave him the benefit of the doubt that these are
15 your crazy delusions.

16 **THE WITNESS:** Right. I would interpret it
17 that way. He said these things, talked about the
18 hallucinations, people recognized his condition for pretty
19 much what was, tried to treat him accordingly.

20 **MR. GRACE:** The moment he's confronted by the
21 police with this horrific crime, then those delusions become
22 something totally different. All of it could be delusional,
23 couldn't it?

24 **THE WITNESS:** Well, with the proviso that,
25 you know, delusions just take it on faith that I'm a person,

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1 you're a person -- things like that. But all of the more
2 thoroughgoing details could all be foolishness, yes.

3 I mean, I should point out that, of course,
4 at the time, he was then referred for a competency
5 evaluation. Dr. Rollins was of the view that there never in
6 his life had been anything wrong with Mr. Blackmon.

7 MR. GRACE: Rollins never found anybody --

8 JUDGE WAGONER: -- incapable of anything.

9 MR. GRACE: -- mentally ill.

10 THE WITNESS: Well, I'm not going there. I'm
11 just pointing out that --

12 MR. GRACE: I've been there.

13 THE WITNESS: I included in my report that at
14 that -- right in that time, there was -- Dr. Rollins got him
15 sometime in '84 -- there was a formal referral for a
16 competency evaluation.

17 Somewhat before that, he was seen by a
18 Dr. Rowles, R-o-w-l-e-s. Dr. Rowles again offered no
19 diagnosis for some sort of top-line thing that we're busy
20 treating. All the report -- that discharge summary said was
21 he had antisocial personality disorder and borderline
22 personality disorder.

23 But strangely, Dr. Rowles renewed his
24 prescription for 60 milligrams a day of Haldol, which I
25 promise you is a whopping dose, and for an every-two-week

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1 injection of Prolixin decanoate, which is good for two weeks
2 at a time. And he even went so far as to note that the next
3 shot was due within four days of that discharge summary and
4 the patient's release. So he was going to have to hustle to
5 get to the shot on time.

6 So I have no idea what to make out of saying
7 somebody has nothing treatable wrong with them and I'm
8 writing you all of these prescriptions. I don't know what
9 that signifies.

10 **MR. GRACE:** Did you find any instance in that
11 back-and-forth with the detective where he, Mr. Blackmon,
12 provided them information that they didn't provide him with
13 first?

14 **THE WITNESS:** I don't know that I can say
15 that with certainty, but what I would say is if you're going
16 to interview somebody who is quite mentally ill and then you
17 want to reason backwards that because some of the things
18 sort of bore out in the real world in some way that that,
19 you know, is sort of self-proving, you'd have to be really
20 darned careful that you didn't do anything to give them the
21 information that you're then going to decide is the proof
22 that, even though it sounds really crazy, that it really
23 happened that way.

24 **JUDGE WAGONER:** Question: Would it be a
25 reasonable assumption that, because of his mental status and

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1 his desire to please law enforcement, that he would be more
2 susceptible, perhaps, than I would be to suggestions they
3 were making about what happened and the way they framed the
4 question?

5 **THE WITNESS:** I think that might be true.
6 But it's also true that schizophrenic people have problems
7 with declarative memory, which is just memory for facts and
8 details. So it's actually pretty easy to trip them up and
9 get them to either misstate things or to get themselves
10 crossed up and like reverse the order of two events and
11 things like that.

12 **JUDGE WAGONER:** Well, they're talking about
13 the good James and the bad James. If they ask yes-or-no
14 question, "Now, the good James would never do anything like
15 this, would he?" --

16 **THE WITNESS:** Right.

17 **JUDGE WAGONER:** -- he's going to say no.

18 "But the bad James would?"

19 He's going to say yes to that.

20 **THE WITNESS:** Yes. There are many flags
21 here. Several of them are examples of that transaction --
22 that kind of transaction exactly.

23 **JUDGE WAGONER:** Okay. I'm done.

24 **SHERIFF FRYE:** My name is Kevin Frye. I'm
25 sheriff in Avery County.

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1 I'm trying to think of how to exactly frame
2 this question.

3 When you're interviewing a mentally ill
4 person, first, if they come across with something that you
5 know is just crazy, it's just far-fetched and you know it's
6 not true, if you challenge them with that or say anything
7 about that, that usually results in them becoming very much
8 more agitated.

9 THE WITNESS: Yes.

10 SHERIFF FRYE: So as part of an interview
11 technique -- I'm not saying you should go along with it, but
12 you shouldn't challenge it if you're trying to keep their
13 cooperation; is that correct?

14 THE WITNESS: Right. I think you've hit it
15 on the head too, that -- I'm not imputing any motives of any
16 kind to the detectives.

17 SHERIFF FRYE: I think they were trying to be
18 sideline psychiatrists and failed miserably, but that's just
19 my opinion.

20 THE WITNESS: I agree.

21 SHERIFF FRYE: But in any interview, if I
22 were interviewing somebody that was mentally ill, I would
23 not want to challenge them if I were wanting to keep their
24 cooperation.

25 I may not go along with them on their trip --

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1 THE WITNESS: Right.

2 SHERIFF FRYE: -- but I wouldn't challenge
3 them on it; correct?

4 THE WITNESS: Right.

5 SHERIFF FRYE: The other thing, if -- on a
6 couple of these occasions, the detectives got him out of
7 Dorothy Dix Hospital to talk to.

8 Since he was in the hospital, he was on
9 medication. That medication would probably make him more
10 lucid and aware than he would have been just coming in off
11 the street.

12 THE WITNESS: Probably, yes.

13 SHERIFF FRYE: Okay.

14 THE WITNESS: Assuming he's cooperating at
15 that time.

16 SHERIFF FRYE: And the last question -- his
17 ability to go to Dorothy Dix and seek treatment on his own,
18 his ability to go to the Raleigh Police Department to talk
19 to these detectives on his own, set up appointments -- what
20 does that tell you about his awareness, his self-awareness
21 of being able to do things?

22 THE WITNESS: I'm not sure I understand. I
23 mean, obviously, he could. He could navigate. He
24 apparently knew how to get the bus to somewhere and then
25 walk the rest of the way to the detectives. And he

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1 certainly knew how to get readmitted when he wanted to get
2 readmitted because it didn't go well when he was in
3 Lumberton. So, you know, he had some fundamental
4 wherewithal to do this.

5 **SHERIFF FRYE:** I liked what you said, and I
6 want to give you kudos for something that I have never heard
7 an expert in your field say, is that, yes, sometimes people
8 that are frequent to mental health hospitals know exactly
9 what they need to do to get checked back in to the
10 hospitals --

11 **THE WITNESS:** (Moves head up and down.)

12 **SHERIFF FRYE:** -- and can utilize that. And
13 I have never heard that said before, and I want to give you
14 kudos for that because I've seen it over and over again.

15 **THE WITNESS:** (Moves head up and down.)

16 If I could pick up on one of your questions,
17 if I can think of how to phrase it, there is a difference --
18 and I can imagine that the detectives at some point -- there
19 was mention in some of the documents that the detective went
20 to Dix to get the files so he could study them and try to
21 figure out how best to interview Mr. Blackmon. And I can
22 envision some wiser person like in the police community,
23 like you, telling him, "Don't argue with a crazy person
24 about their delusions. It's a losing strategy. You'll
25 never win the argument because you're never going to change

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1 their mind, and you're going to antagonize them in a way
2 that you'll never be able to recover from."

3 **SHERIFF FRYE:** (Moves head up and down.)

4 **THE WITNESS:** And I speculate that maybe the
5 detectives got that just a little twisted by deciding that
6 not fighting with him about his delusions was going along
7 with his delusions and framing their inquiry in the terms of
8 his crazy beliefs and that that might be part of why we're
9 here today.

10 **SHERIFF FRYE:** As I read through the
11 detectives talking to him -- and they're the ones who come
12 up with the good James/bad James scenario. When they read
13 that he was schizophrenic, I think they probably immediately
14 associated multiple personality disorder along with that and
15 was trying to use that -- it would be like me trying to do
16 neurosurgery.

17 I think they really just took a little piece
18 of something and tried to confabulate a way to talk to him
19 to try to -- I don't think they did it intentionally. I
20 don't think they did it with malice, but I think they were
21 trying to figure out how to get to the truth and if they
22 could figure out one personality to talk to, they could get
23 the truth as I read through what they're doing.

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

25 **SHERIFF FRYE:** In my mind, I'm thinking

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1 that's what they're trying through that.

2 Does that seem reasonable and logical to you
3 as you read through those same transcripts?

4 **THE WITNESS:** I think that's about where I
5 was, that -- I don't know what would possess you to go in
6 that way, but that maybe somebody told them, "Don't fight
7 him," and their take on it was, "We're going to roll with
8 whatever he says."

9 **SHERIFF FRYE:** And this is in 1979, before
10 any of us got very much need training at all in
11 psychological disorders in law enforcement.

12 **THE WITNESS:** Right.

13 **MR. GRACE:** Doctor, if I am crazy for one
14 reason, am I crazy for all reasonable purposes? Can I
15 function in life and have a severe mental defect?

16 **THE WITNESS:** I think it would depend on what
17 defect we're talking about.

18 **MR. GRACE:** If I have the diagnosis that
19 James Blackmon had --

20 **THE WITNESS:** Yes.

21 **MR. GRACE:** -- would that preclude me from
22 being able to catch a bus?

23 **THE WITNESS:** No.

24 **MR. GRACE:** Knowing a schedule?

25 **THE WITNESS:** No. In fact, you can have

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1 superintelligent, brilliant people that are crazy as the day
2 is long.

3 **MR. GRACE:** And for all other purposes.

4 **THE WITNESS:** And could have a really
5 profound delusion about a thing, and I wouldn't take their
6 word for anything having to do with that, but if they told
7 me how to invest my money, I might be happy to do that.

8 **MR. GRACE:** They have the ability to function
9 and appear like the rest of us, but until you scratch that
10 particular place that they have a problem, it's hard to
11 tell, isn't it, that they have a problem?

12 **THE WITNESS:** I was once interviewing an oil
13 company executive who was charged with a serious, serious,
14 serious federal crime. And for 25 minutes, I was just
15 wondering, "Why did the Court send me this person to talk
16 to?"

17 **MR. GRACE:** "What are we doing here?"

18 **THE WITNESS:** Until I touched on one topic,
19 and there was little light bulb that emerges over my head,
20 "Oh, that's where the problem lies. Okay."

21 **MR. GRACE:** Thank you.

22 **JUDGE WAGONER:** Do you have a question?

23 **MS. NEWTON:** Yes.

24 Dr. Landis, thank you for being here. None
25 of us in the criminal justice system -- prosecutors,

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1 sheriffs, defense attorneys -- and I am a criminal defense
2 attorney -- want to make this kind of serious mistake. A
3 man has been in prison for 30 years, clearly mentally ill,
4 violent, manipulative -- and that's all it is, consistent
5 with what you said.

6 My question has to do with -- goes to the
7 power of the detectives, whatever their motivations, clearly
8 wanted to solve this older crime, on incentivizing him. It
9 brings to mind -- I'm old enough to remember a case that the
10 same prosecutor handled some years earlier that State spent
11 a lot of money on, and the same thing happened from what you
12 said. We had a case called the Little Rascals case here in
13 North Carolina.

14 **THE WITNESS:** Yes, ma'am.

15 **MS. NEWTON:** And you remember that, and a lot
16 of very well-received psychologists got involved, and it was
17 sex abuse of kids. And I remember one thing in particular.
18 The kids were saying -- being incentivized by the parents.
19 They were rallying -- they would give them ice cream if they
20 would talk about how they were abused. They said both that
21 they were sexually abused, these young kids who would not
22 otherwise know, you would think, but they also said they
23 were hung in a tree and eaten by alligators.

24 I worked early on on those cases, and I found
25 that fascinating that you could believe one and not the

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1 other. How do you parse that? Because you clearly can't
2 believe they were hung in a tree and eaten by an alligator;
3 right?

4 **THE WITNESS:** Right.

5 **MS. NEWTON:** And something you said reminded
6 me of that when you said that when Mr. Blackmon was asked
7 about, you know, how things happened, he said, "Well, I
8 think the mind can commit murders and hurricanes and
9 earthquakes" and you clearly can't believe -- no one would
10 believe that.

11 So on someone who is clearly both antisocial,
12 violent, and manipulative but was also schizophrenic
13 depending on who you believe, what is -- to avoid this, what
14 is the power of incentivizing like the officers did? They
15 would be friendly company for him to sit with, they would
16 legitimize his -- they would actually be deferential to him,
17 they would give him cigarettes and coffee and food and time,
18 traveling.

19 Was the power of that incentivizing his
20 company what allowed him to go down that road and adopt
21 their clear suggestions about what he did at Saint
22 Augustine's?

23 **THE WITNESS:** I think that was a significant
24 factor. I don't know that I can say categorically it's the
25 thing that enabled it.

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1 **MS. NEWTON:** Sure.

2 **THE WITNESS:** I mean, part of it is you could
3 probably chat with him as his defense attorney and, without
4 some care, you might yourself get him to be talking about
5 things that didn't really happen.

6 You know, it seems a striking -- again, I've
7 never met Mr. Blackmon, never laid eyes on him, but you
8 really get the sense that when he was finally arrested, he
9 was stunned --

10 **MS. NEWTON:** -- to be arrested.

11 **THE WITNESS:** -- shocked that anybody would
12 think that he had actually killed this woman despite having
13 had these ongoing conversations about going in your mind
14 and, you know, all the various details that they discussed,
15 and then he just seemed completely flummoxed.

16 You know, schizophrenia is a little bit like
17 autism spectrum in that the patients often have a lot of
18 trouble figuring out what you're thinking and what you're
19 reacting in our interaction with one another, and they're a
20 step off with other people. And the idea that you would go
21 sit with the police and talk to them about your imaginings
22 about killing girls and that kind of thing and that it
23 wouldn't lead to some kind of catastrophic result is sort of
24 a demonstration in itself.

25 **MS. NEWTON:** And you're suggesting that the

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1 reason I could, as his defense lawyer -- and I'm asking if
2 this is what you meant -- convince him of certain facts
3 that, you know, he might not have otherwise adopted, is he
4 would have wanted to please me. Like, if I spent time with
5 him and, you know, if he got a suggestion of something and a
6 positive result, he would want to keep that going.

7 Is that what you're saying?

8 **THE WITNESS:** I think I'd say that's the foot
9 in the door, but it still depends on the fact that this is a
10 person whose thinking just doesn't work right.

11 **MS. NEWTON:** I understand.

12 **THE WITNESS:** So he'll sit with you and talk
13 with you because you're nice to him, you're looking out for
14 him. "You're innocent, right, James?"

15 And the next thing you know, you -- if you
16 push and lead and massage what he's saying, there are
17 examples in this transcript where he says one thing and it's
18 immediately turned into "So when you went to Saint
19 Augustine's," or, "No, I never killed anybody," and then a
20 page later it's "So when you stabbed the girl, you know, how
21 did that happen? Where did that happen?"

22 You know, I think if I sat with Mr. Blackmon,
23 I could probably get him to tell me he can play the piano
24 and tap dance.

25 **MS. NEWTON:** It's very consistent with

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1 something else he said in one of this interviews in this
2 process, and I found -- it hasn't come up, but I'm sure you
3 saw it. In his interview, he talked about -- in one of the
4 last interviews -- ruminating constantly about getting money
5 and that his case was just like Floyd's, and that's someone
6 who had gotten, apparently, their case reversed and a lot of
7 money out of the State for being wrongfully convicted.

8 So he seems to be on the -- very incentivized
9 by something that might benefit him. It seemed consistent
10 to me when I read that.

11 Do you think that is the mistake that the
12 officers made -- whether intentionally or not? I mean,
13 incentivizing him maybe too much to keep that conversation
14 going with someone who is this ill?

15 **THE WITNESS:** Well, I mean --

16 **MS. NEWTON:** I guess asked differently, could
17 you believe anything he said one way or the other? Like, if
18 he said, "I was hung in the tree and eaten by alligators,"
19 we clearly know that didn't happen. Those cases were
20 reversed.

21 **THE WITNESS:** Right. I actually thought of
22 the Little Rascals case and Kelly Michaels, the New Jersey
23 case, as quite similar where, if you stay at it long enough,
24 the kids are reporting all kinds of things that absolutely
25 everyone knows didn't happen.

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1 **MS. NEWTON:** Sure.

2 **THE WITNESS:** And then you've got to ask,
3 "Well, am I going to prosecute this person for the alleged
4 sexual abuse and what do I do with the supposed murders and
5 burying the bodies out back and all of this other kind of
6 things?" And those people -- presumably these young
7 children, as witnesses, were not mentally ill.

8 **MS. NEWTON:** No. They're just young and
9 impressionable.

10 Well, I found it odd that it was also the
11 same prosecutor, Bill Hartman, in this case.

12 Thank you, Doctor.

13 **MR. EDWARDS:** I have a few questions.

14 Dr. Landis, I am the prosecutor on this
15 panel. Schizophrenia -- does that necessarily mean
16 multi-personality or split personality?

17 **THE WITNESS:** You should not associate those
18 two ideas.

19 **MR. EDWARDS:** Okay.

20 **THE WITNESS:** So schizophrenia is an
21 unfortunate term that comes to us because the person who
22 wrote sort of the first scholarly treatises about it was
23 German so he chose this term which means "split" or
24 "shattered," "fractured" mind. And that part of it is
25 somewhat accurate. A person's faculties really are kind of

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1 shattered and disjointed, but it doesn't have anything to do
2 with dissociative identity disorder or what back in the day
3 people called multiple personality disorder.

4 **MR. EDWARDS:** And the reason I'm asking
5 that -- Mr. Blackmon, when they talk about the good James,
6 the bad James, those kinds of things, or did your spiritual
7 body ever leave your physical body -- I mean, was he ever
8 diagnosed with having multiple personality disorder?

9 **THE WITNESS:** Not that I saw.

10 **MR. EDWARDS:** One thing that concerns me --
11 or bothers me, I guess, about this case is when Mr. Blackmon
12 was taken to Saint Augustine's and the narrative of one of
13 the detectives states that, "At this time, Holder asked
14 Blackmon to look into the bathroom and see if it looked
15 familiar to him. Blackmon went into the bathroom at that
16 time (Blackmon entered the bathroom from the west side),
17 walked past the bathroom stalls until he got to the last
18 stall. Blackmon turned to his right facing the stall,
19 pushed open the stall door, and said, quote, 'This is where
20 it happened.' Holder asked Blackmon, 'What happened, James?
21 Where were you?' Blackmon said, 'I was here and she was
22 there.'"

23 According to the diagrams, there were five
24 stalls or toilets, and he walks past the first four, stops
25 at the fifth one, where this homicide occurred.

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1 So assuming that someone hadn't told him
2 where it happened, assuming that the detective's report is
3 true and accurate -- and those are two big assumptions, I
4 understand -- but assuming those things are true, how would
5 he know that?

6 **THE WITNESS:** I don't know. I have no idea.
7 I don't even know that he did know that. He may -- for all
8 I know, Mr. Blackmon was the perpetrator. I have no idea.
9 I have never been to Saint Augustine's, certainly not there
10 at that time; so I can't say.

11 I have no idea if he just walked to the end
12 and decided it was time to stop, if he had been there in
13 fact before -- I don't know.

14 **MR. EDWARDS:** Could have just been a lucky
15 guess too, so to speak.

16 **THE WITNESS:** I guess that's what I mean.

17 **MR. EDWARDS:** Unlucky for him.

18 **MR. BOSWELL:** I wanted to clarify one thing I
19 may have misheard in your original testimony.

20 The question was put something like what were
21 the side effects of the drugs he was on and how that would
22 affect him being interviewed. And you explained the side
23 effects, but you said -- I think you indicated something
24 about it was more likely the intended effects would have had
25 an effect on him being interviewed.

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1 So would the drugs that he was actually on
2 have made him more compliant to go along with the
3 interviewer's questions or less compliant or neither -- the
4 intended effects, not the side effects.

5 **THE WITNESS:** Well, I think my impression was
6 that, as a threshold matter, the medicines were literally
7 necessary for him to be interviewed.

8 **MR. BOSWELL:** Right.

9 **THE WITNESS:** So he doesn't have to be in an
10 exclusion room, he doesn't have to be locked down. So in
11 that sense, it makes it -- it facilitates him participating
12 in an interview.

13 I don't know that you can say that the
14 medicine -- I mean, after all, the purpose of the medicine
15 is to improve all of his mental faculties --

16 **MR. BOSWELL:** Right.

17 **THE WITNESS:** -- not the opposite.

18 So they may have been sufficient to make him
19 able to talk with the police and, you know, interact with
20 them on this ongoing basis.

21 But what I was basically saying was that the
22 main side effects of especially the antipsychotic medicines,
23 they are personally annoying and unpleasant for the patient.
24 They are not inherently likely to just make you -- I think
25 he actually complained recently that they make them like a

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1 zombie, but that's actually not what we would observe. We
2 would observe him getting calmer and talking less about his
3 delusions and his hallucinations, not, "Yes, I'll agree to
4 everything you say because of the medicines I'm taking."
5 But he might be inclined to, you know, be easily swayed and
6 confused by the symptoms that he still has as opposed to
7 being from the medicines he was taking, if that makes sense.

8 **MR. BOSWELL:** Yeah. That clarifies my
9 question. Thank you.

10 **JUDGE WAGONER:** More questions anyone?

11 (No verbal response.)

12 **JUDGE WAGONER:** Thank you so much, sir.

13 **THE WITNESS:** Thank you.

14 (Witness stands down, 1:02 p.m.)

15 **MS. GUICE SMITH:** Judge Wagoner, now would be
16 a good time for our lunch break.

17 Some logistical questions for the
18 commissioners over the lunch break that I will come in and
19 talk to you-all about.

20 30 to 45 minutes -- depending on what
21 commissioners want to do.

22 **JUDGE WAGONER:** We need to decide about our
23 field trip.

24 (Discussion off the record.)

25 (Recess taken, 1:03 to 2:04 p.m.)

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1 JUDGE WAGONER: All right.

2 MS. GUICE SMITH: The Commission calls James
3 Holder.

4 JUDGE WAGONER: All right.

5 * * * * *

6 Thereupon, JAMES HOLDER, a witness having been called by the
7 Commission, was examined and testified as follows:

8 MS. GUICE SMITH: I'm actually going to open
9 it up to the Commissioners.

10 Mr. Holder, I'm Lindsey Guice Smith. I'm the
11 Executive Director of the Innocence Inquiry Commission, and
12 the folks around the table here are our commissioners, and I
13 believe that they have some questions for you today.

14 They have had an opportunity to read the
15 transcript of your interviews with commission staff as well
16 as the original law enforcement file.

17 THE WITNESS: Okay.

18 MS. GUICE SMITH: Commissioners.

19 (2:05 p.m.)

20 MR. BARROW: We look to be about the same
21 age.

22 THE WITNESS: Tell me about it.

23 MR. BARROW: Let me ask you the question that
24 I start off with.

25 How much about this case do you remember?

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1 **THE WITNESS:** Well, I spent two hours with
2 Ms. Tanner, and she made me feel really old because she kept
3 referring to the '70s and '80s.

4 But, no, that is the reason I tried to be as
5 detailed as I could in my report. Some of what you read was
6 recorded, and really, I don't remember a lot of it. Some of
7 it I do remember. I'm sure Beth can tell you how sketchy I
8 was.

9 But to answer your question, not a lot of
10 detail.

11 **MR. BARROW:** Okay. Okay. Do you remember
12 Mr. Blackmon?

13 **THE WITNESS:** I do remember Mr. Blackmon. I
14 was showed a picture of him, but I didn't remember -- I
15 remember him in sort of a vague sense or way.

16 **MR. BARROW:** Setting aside appearance and
17 physical stuff, do you have any memory that you can share
18 with us about him as a person -- just a layman reflecting on
19 that as opposed to a psychologist or somebody with one of
20 their big fancy reports?

21 Do you remember him as a person?

22 **THE WITNESS:** Yes. I would say he was easy
23 to talk with. But I think, overall, you know he -- he
24 communicated pretty well.

25 **MR. BARROW:** In reading some of the

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1 transcripts of Mr. Blackmon, candidly, I have had trouble
2 following.

3 Were you able to talk with him? Or did he
4 kind of bounce around or go do strange stuff?

5 **THE WITNESS:** He went sort of -- go around,
6 bounce around.

7 **MR. BARROW:** You went with him on the day
8 that he -- actually, it's two occasions when he went to
9 Saint Augustine's?

10 **THE WITNESS:** Yes.

11 **MR. BARROW:** One thing that has interested
12 me, and I'll be honest with you about it, was the -- the
13 reports about the bathroom stall.

14 Can you remember today or you just have to
15 say, "Read my report"?

16 **THE WITNESS:** That's what I was going to say.
17 I would have to rely on the report from that time.

18 **MR. BARROW:** Okay. Well -- and there's no
19 reason you should remember it this long later.

20 But you say he was a cooperative person?

21 **THE WITNESS:** Well, yes, he had his -- he had
22 his moments.

23 **MR. BARROW:** Now, do you remember -- were you
24 in the car that went down and picked him up from Lumberton
25 to bring him back to Raleigh?

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1 THE WITNESS: You know, I don't remember.

2 MR. BARROW: Thank you very much.

3 THE WITNESS: I am sorry I wasn't much help.

4 MR. BARROW: No, I understand. Trust me.

5 JUDGE WAGONER: Yes, sir.

6 MR. EDWARDS: Mr. Holder, good afternoon.

7 THE WITNESS: How are you?

8 MR. EDWARDS: I'm fine. My name is Seth
9 Edwards. I'm the prosecutor on this panel. I'm a district
10 attorney in the eastern part of the state.

11 How many years did you have in law
12 enforcement when you retired?

13 THE WITNESS: I used some of my medical
14 leave; so about 27, 28 years.

15 MR. EDWARDS: And during that time, how much
16 of that was spent as a homicide investigator -- detective?

17 THE WITNESS: Probably, say, the last 10
18 years, maybe.

19 MR. EDWARDS: I know that the commission
20 staff -- they called you and interviewed you on the phone,
21 they came to your home and interviewed you as well, and they
22 asked you a lot of questions about your practices and
23 procedures back then as far as recording interviews.

24 Did you have, like, a small little mini
25 cassette recorder that you used back in the late '70s,

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1 early '80s?

2 THE WITNESS: Yes.

3 MR. EDWARDS: Now, during the times that
4 Mr. Blackmon came in to the police department and you
5 actually had the recorder, I guess, sitting on the table,
6 you know, he made certain, I would say, admissions
7 somewhat -- or implicating himself somewhat in this crime.

8 But there are other things that implicated
9 him that is contained in your narrative of your report.
10 Okay.

11 Does that sound accurate?

12 THE WITNESS: Yes.

13 MR. EDWARDS: And I would like to just be
14 frank here. The implication is that when you and Detective
15 Munday were taking him to Saint Augustine College, that some
16 things he did and said may not have actually happened.
17 That's the implication.

18 So I wanted to ask you about that. For
19 example --

20 JUDGE WAGONER: What page?

21 MR. EDWARDS: -- I am looking the brief,
22 page 388.

23 You have got an investigative note, and I
24 think it's dated October 25, 1983, a Tuesday. You,
25 Detective Munday, and Blackmon go to Saint Augustine's

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1 campus. And at the bottom of that page, it appears y'all
2 got back in the car, and your note says "After Blackmon got
3 back into the car, we continued to drive out onto the circle
4 of Saint Augustine College campus and prepared to leave the
5 campus at that time. As we were leaving, Blackmon was
6 seated in the back seat and suddenly he said, quote, 'That's
7 the girls' dorm. That's the girls' dorm.' (Blackmon pointed
8 at Latham Hall)."

9 Now, would you have included that in your
10 investigative report if it were not true?

11 **THE WITNESS:** No.

12 **MR. EDWARDS:** Would you have made that up
13 just to get a murder suspect?

14 **THE WITNESS:** No.

15 **MR. EDWARDS:** I do want to ask you, though,
16 about that type of thing. At what point -- just -- I know
17 you don't remember this specific incident. I wouldn't
18 expect you to. But at what point would you have maybe
19 dictated that into the cassette?

20 **THE WITNESS:** At the moment it happened.

21 **MR. EDWARDS:** And would you have done that
22 when he was in the car with you?

23 **THE WITNESS:** Yes.

24 **MR. EDWARDS:** Because the next sentence says
25 "Blackmon continued to say, quote, 'I have been there

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1 before.' At that time, we continued to leave Saint
2 Augustine College campus."

3 So would it have been your practice either
4 contemporaneously with or shortly thereafter to have made
5 that note in the investigative report?

6 **THE WITNESS:** Yes.

7 **MR. EDWARDS:** More specifically, getting back
8 to a previous question about when you took Mr. Blackmon back
9 to the college and you went up actually on the sixth floor
10 of Latham Hall, and he was walking you and Detective Munday
11 around -- do you specifically remember that?

12 **THE WITNESS:** You know, Beth -- we were
13 talking about maybe -- I was trying to think -- he showed us
14 the way that he went up there. We followed. And I think --
15 I think we met with -- boy, I'm not sure. I want to say
16 somebody from security, but I don't know.

17 **MR. EDWARDS:** I mean, I realize it's --
18 what? -- 39 years ago.

19 So I want to now direct you to a note -- and
20 I'm referring to page 404 on the brief. This is an
21 investigative note, October 26, 1983, a Wednesday. So it
22 looks like it's the day after what I just read about him
23 being in the car saying "That's the girls' dorm, that's the
24 girls' dorm." So you take him back the next day.

25 And this -- again, this is an investigative

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1 note. It is not words -- you're not holding the Dictaphone
2 or the recorder to Mr. Blackmon.

3 It says "James Blackmon entered the front
4 door of Latham Hall. Once inside, Blackmon walked --
5 Blackmon walked down the stairway to a door and stopped.
6 Blackmon said, as he entered through the door, 'This door
7 was unlocked.'"

8 So when do you think you would have made that
9 particular entry? Or when would you have dictated that into
10 your recorder?

11 **THE WITNESS:** At that moment.

12 **MR. EDWARDS:** As it was happening?

13 **THE WITNESS:** Yes. Yes.

14 **MR. EDWARDS:** Okay. Now, on the next page,
15 page 405 of the brief, your note says "Blackmon went into
16 the bathroom at that time (Blackmon entered the bathroom
17 from the left side), walked past the bathroom stalls until
18 he got to the last stall. Blackmon turned to his right
19 facing the stall, pushed open the stall door, and said,
20 quote, 'This is where it happened.'

21 "Holder asked Blackmon, quote, 'What
22 happened, James? Where were you?'

23 "Blackmon said, 'I was here and she was
24 there.'"

25 Would you have put that in your narrative if

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1 he didn't say that?

2 THE WITNESS: No.

3 MR. EDWARDS: Prior to that moment, do you
4 recall if you or Detective Munday spoke -- obviously of your
5 knowledge, would you have disclosed that fact or did you
6 disclose that fact to Mr. Blackmon as to where the crime
7 occurred?

8 THE WITNESS: No. No. I don't remember, but
9 I would say no, we wouldn't -- we didn't.

10 MR. EDWARDS: Well, again, the implication --
11 one of the implications is that that entry in your report is
12 just completely false, that he never made that statement.

13 THE WITNESS: What's that?

14 Oh, no, he made the statement about the
15 stall.

16 MR. EDWARDS: Right. Okay.

17 THE WITNESS: Because at that time, you know,
18 we had the recorder, and he was leading and we were behind,
19 describing what he was doing.

20 MR. EDWARDS: So you had the cassette tape, I
21 guess, in your hand, and you would be talking into it as he
22 was leading you?

23 THE WITNESS: Yes.

24 MR. EDWARDS: Did you do that in other cases
25 separate from this case?

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1 **THE WITNESS:** Yes.

2 **MR. EDWARDS:** Now, I believe when Ms. Tanner
3 talked with you for a couple of hours not long ago, she was
4 asking you about your practices and your procedures as you
5 were a detective and when you would record and when you
6 would not record. And you indicated to her that -- she was
7 essentially asking you, "Why did you not record Mr. Blackmon
8 at the college?"

9 And you indicated the only thing that you
10 could think of, "Notes were being made, details of what he
11 was doing, not to be interfering with what he was showing us
12 he did."

13 So in other words, you weren't stopping him
14 every few steps and saying, "Okay, what are you doing now?
15 Why are you doing this?" You were just watching; is that
16 right?

17 **THE WITNESS:** Just observing him, just like
18 you would observe somebody in a parking lot or something.

19 **MR. EDWARDS:** Okay.

20 The other implication, Mr. Holder, is that,
21 prior to questioning Mr. Blackmon about this unsolved
22 murder, you and Detective Munday got his records from
23 Dorothy Dix, studied up on him, knew what his -- some of his
24 mental history was, and you used his mental health -- mental
25 illness history to essentially exploit him, get him to say

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1 what you wanted him to say.

2 Do you have any recollection of that?

3 **THE WITNESS:** No.

4 **MR. EDWARDS:** Would it have been your
5 practice back then to essentially do your homework on any
6 suspect -- find out what you could about his family, where
7 he grew up, what schools he went to, other crimes he may
8 have committed -- would you do that before you talked to
9 him?

10 **THE WITNESS:** I don't -- yeah, I guess, you
11 know, really, you would like to know a little bit about the
12 person that you are going to be dealing with. So how
13 detailed, it -- it varies.

14 **MR. EDWARDS:** Well, if your report indicates
15 that you did obtain medical records, some things from
16 Dorothy Dix Hospital, prior to questioning Mr. Blackmon, if
17 your report says that, do you believe that that is what you
18 did?

19 **THE WITNESS:** Yes. If it's in the report,
20 yes.

21 **MR. EDWARDS:** The last thing I'll ask you,
22 Mr. Holder, is in this entire investigation, in particular
23 your narratives -- you know, your narratives were really
24 your thoughts as to what was happening and what was being
25 said.

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1 Did you put anything in those narratives that
2 was just completely false, a total lie?

3 THE WITNESS: No. Never.

4 MR. EDWARDS: That's my questions.

5 MR. GRACE: Sir, good afternoon. My name is
6 Mike Grace. I am from Winston-Salem.

7 May I ask you a few questions?

8 THE WITNESS: Sure.

9 MR. GRACE: How long did you serve?

10 THE WITNESS: About 20 -- again, about 28
11 years. 27, 28.

12 MR. GRACE: When did you retire?

13 THE WITNESS: I retired -- I don't remember
14 the date, to tell you the truth.

15 MR. GRACE: Roughly what year? How long have
16 you been retired?

17 THE WITNESS: Okay. I retired and then went
18 on to another job, and I was there ten years. So I guess,
19 you know, I've been retired -- what? -- 20 years maybe.

20 MR. GRACE: How's your health generally?
21 Pretty good?

22 THE WITNESS: Yeah.

23 MR. GRACE: I see you're wearing glasses now.
24 Were you wearing them back on the job?

25 THE WITNESS: Part of the time, I was. I

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1 started needing my glasses.

2 **MR. GRACE:** You and a couple of us
3 white-haired old gentlemen around the table here, as we get
4 older, we start having a few aches and pains.

5 Are you having any problems with your memory?

6 **THE WITNESS:** I can tell, yeah.

7 **MR. GRACE:** It happens.

8 **THE WITNESS:** I'm not as sharp in remembering
9 things like I could.

10 **MR. GRACE:** I think I've lost a step or two
11 myself.

12 Now, when you got this case, you got a tip --
13 do you know where you got the case from, James Blackmon's
14 name? James Blackmon's name?

15 **THE WITNESS:** I believe it -- I'm not really
16 sure how it surfaced.

17 **MR. GRACE:** If the record reflected that you
18 got the tip from a narcotics agent, would you agree with
19 that -- the possibility of that?

20 **THE WITNESS:** Beth and I talked about that,
21 and he could have had an informant or something that told us
22 or something like that.

23 **MR. GRACE:** Let's assume for the sake of this
24 discussion that you did get a whisper from a narcotics agent
25 who had an informant over there at Dorothea Dix. Let's just

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1 assume that that happened.

2 If that happened, wouldn't it have been
3 proper police protocol for you to talk to that informant to
4 be able to corroborate what kind of information he gave?

5 **THE WITNESS:** Sometimes a confidential
6 informant that the drug unit had, we didn't have much
7 contact with.

8 **MR. GRACE:** Well, I understand that the
9 detective -- the narcotics agents had the contact with him,
10 but wouldn't you want in your file a statement from that
11 person saying that James Blackmon told him that he killed
12 some girls and killed one over at Saint Aug's?

13 **THE WITNESS:** Yeah. I would think so. I
14 mean, I really don't remember how that came about because I
15 think the drug squad was on the same floor but around the
16 corner from us, and I think this information came about
17 later.

18 **MR. GRACE:** Later than what, Detective?

19 **THE WITNESS:** I think -- I'm not really sure.
20 I think -- the narcotics informant, I never talked with.
21 No.

22 **JUDGE WAGONER:** You never saw him or never
23 talked to him?

24 **THE WITNESS:** Never talked with him.

25 **MR. GRACE:** And you never asked the narcotics

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1 detective to get a statement from him -- from that
2 informant?

3 THE WITNESS: I don't recall.

4 MR. GRACE: Did you or your partner have any
5 idea why James Blackmon was at Dorothea Dix?

6 THE WITNESS: No, no more than after we were
7 alerted to, you know, what he was saying. I don't remember
8 how that came about.

9 MR. GRACE: At the risk of being flippant,
10 and I promise you I'm not, you had to know that if he was
11 Dorothea Dix, he was having some problems, didn't you?

12 THE WITNESS: Yes. Yes.

13 MR. GRACE: And he was having some sort of
14 mental problems?

15 THE WITNESS: Yes.

16 MR. GRACE: Did you ever talk to the doctors
17 out there or his caregivers to find out exactly what his
18 problem was?

19 THE WITNESS: I don't recall whether we did
20 or not. If we did talk to them, it should have been in the
21 report, I would think.

22 MR. GRACE: And so we have to assume that if
23 it's not in the report, you did not talk to the doctors and
24 caregivers?

25 THE WITNESS: No. We could have. We could

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1 have.

2 **MR. GRACE:** You could have talked to them and
3 still not be in the report? Is that what you're saying?

4 **THE WITNESS:** It should be in the report, but
5 we could have talked with the doctor, but I'm not really
6 sure whether we did or not.

7 **MR. GRACE:** But you feel like had you talked
8 to the doctor, you would have documented that in your
9 report. Is that what you're telling us?

10 **THE WITNESS:** When we got -- I just don't
11 remember. I really don't.

12 **MR. GRACE:** Well, I'm not talking about what
13 you remember. I'm asking you if your practice would have
14 been to document in your report the fact that you had talked
15 to the doctor if you, in fact, did talk to the doctor.

16 **THE WITNESS:** I would think that would be
17 true, if we talked with doctor, because of the -- there were
18 medical records part of the report; is that right?

19 **MR. GRACE:** Yes. Yes, there were.

20 **THE WITNESS:** We could have talked to the
21 doctor.

22 **MR. GRACE:** Why did you get medical records?
23 Why did you feel the need to have these medical records?

24 **THE WITNESS:** Just to -- like we discussed
25 earlier, to know a little bit about the person we're dealing

James Holder - by the Commissioners

1 with.

2 **MR. GRACE:** Did you have any particular
3 training in psychology or psychiatry that would allow you
4 and your partner to decipher those records and understand
5 them?

6 **THE WITNESS:** No, I didn't have any.

7 **MR. GRACE:** And please, Detective, if there
8 is anything I ask you now that you don't remember, feel free
9 to say you don't remember. Okay?

10 **THE WITNESS:** Okay.

11 **MR. GRACE:** Did the records give you any
12 insight into what his diagnosis was?

13 **THE WITNESS:** I don't -- don't remember,
14 don't recall.

15 **MR. GRACE:** As you sit here, would you hazard
16 a guess that the purpose of getting his record was to get
17 some insight into what his mental condition was?

18 **THE WITNESS:** Oh, yes.

19 **MR. GRACE:** And at the risk of sounding
20 insensitive, I mean, you and your partner had to know he was
21 a little to a lot crazy if he was over there at Dix. Is
22 that not correct?

23 **THE WITNESS:** I don't think everybody at Dix
24 was crazy. I mean ...

25 **MR. GRACE:** Not even a little?

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1 **THE WITNESS:** Well, could be a little off
2 like I am. I don't know.

3 **MR. GRACE:** And me, Detective.

4 But if they're at Dix, they're obviously
5 getting some treatment; is that correct?

6 **THE WITNESS:** Yeah. If they're there,
7 they're getting some treatment.

8 **MR. GRACE:** Why did you and your partner --
9 why did you think at that time you could get an honest and
10 accurate statement from a man that you were taking out of
11 Dorothea Dix Hospital?

12 **THE WITNESS:** He -- you know, he was able
13 to -- of course, you know he admitted -- he talked about
14 what he did.

15 **MR. GRACE:** Are you referring to something
16 that he may have said to this snitch? Is that what you're
17 referring to?

18 **THE WITNESS:** To -- yes, that he had talked
19 about what he did.

20 **MR. GRACE:** But you were never able to verify
21 that, were you?

22 **THE WITNESS:** No. But we -- Blackmon --
23 sometimes he could be all over the place. And then, again,
24 he was able to take us out to the campus. He was able, on
25 his own, to identify the building, and he was able show us

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1 what he did that only, you know, the perpetrator would have
2 known.

3 **MR. GRACE:** And you were comfortable that he
4 knew -- that he committed this crime and knew that he
5 committed it, you were comfortable of that before you took
6 him out of Dix; is that correct?

7 **THE WITNESS:** No.

8 **MR. GRACE:** Is there any reason you didn't
9 take him down to the police station, sit him in a room and
10 you and your partner ask him questions about what he had
11 done -- about that particular crime?

12 **THE WITNESS:** I think we did take him there.

13 **MR. GRACE:** Did you do that before you took
14 him out to the school?

15 **THE WITNESS:** I don't remember exactly when
16 we did, but ...

17 **MR. GRACE:** Did you record that session at
18 the police station?

19 **THE WITNESS:** I don't recall.

20 **MR. GRACE:** If the record reflects that there
21 is no recordation of it, could we assume that you did not
22 record it?

23 **THE WITNESS:** I just don't remember whether
24 we did or not.

25 **MR. GRACE:** Well, I'm saying if we don't have

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1 record of it --

2 THE WITNESS: Right.

3 MR. GRACE: -- that it probably didn't
4 happen; is that correct?

5 THE WITNESS: Well, you could assume that,
6 but it could have happened. But ...

7 MR. GRACE: So it could have happened and you
8 not record it. Is that what you're saying?

9 THE WITNESS: Yes.

10 MR. GRACE: But it would have been your
11 practice at that time to record it, would it not have
12 been -- a confession in a murder case?

13 THE WITNESS: If he had confessed there at
14 headquarters, yes, it would be in there.

15 MR. GRACE: Now, when you took him out, did
16 you feel he was of sound mind when you put him in your car
17 to take him out there?

18 THE WITNESS: Yes. He must -- I mean, I
19 couldn't tell about what his mind was thinking at the time,
20 but yes, he seemed -- like I said, I'm not a psychologist or
21 anything --

22 MR. GRACE: I understand.

23 THE WITNESS: -- but he seemed okay.

24 MR. GRACE: Do you remember him talking about
25 good James and bad James as if he were two different people?

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1 **THE WITNESS:** I believe he did. And I think
2 I documented that. I think.

3 **MR. GRACE:** Did you think -- when he started
4 talking about the bad James having left his body and going
5 and committing the crime, did you think he was of sound mind
6 then?

7 **THE WITNESS:** No. Well, I -- I know there
8 was some issues there with him at that time.

9 **MR. GRACE:** You felt like he was competent to
10 give you a complete statement about what he had done or had
11 not done after he started talking about leaving his body and
12 having a good James and a bad James?

13 **THE WITNESS:** Yes. I -- you know, I don't
14 know if he -- when he was not on medication, I don't know
15 what kind of -- if he was on medication or what but ...

16 **MR. GRACE:** And the truth of it is, you
17 didn't know what medication he was on, did you?

18 **THE WITNESS:** Uh-uh.

19 **MR. GRACE:** You didn't know what effect that
20 medication would have on him, did you?

21 **THE WITNESS:** No.

22 **MR. GRACE:** Did you have any confidence that,
23 because you didn't know what medication he was on, that you
24 were going to get the truth from him?

25 **THE WITNESS:** You know, the truth is what we

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1 were searching for.

2 MR. GRACE: I understand.

3 THE WITNESS: And by his actions, he provided
4 for us what I put in the notes that -- on that particular
5 days that he went to the campus.

6 MR. GRACE: Now, when you went over there,
7 you had a cassette player; is that correct?

8 THE WITNESS: Yes.

9 MR. GRACE: Is there any reason why that
10 cassette player could not have been on continuous run while
11 you dictated into it and while he talked to you?

12 Any reason why you couldn't record what he
13 was saying while you recorded what you were saying?

14 THE WITNESS: No, not unless, you know, it
15 was battery-powered, no.

16 MR. GRACE: But if you turned it on and you
17 dictate into it, "We are now following James Blackmon up the
18 steps" and you, in fact, do that, and then he said, "I
19 killed this woman," any reason why you couldn't keep it on
20 and record that as well?

21 THE WITNESS: I don't know. He was -- you
22 know, he was walking and making his movements and showing us
23 what he did, and just didn't want to interrupt what he was
24 doing.

25 MR. GRACE: And you think that leaving the

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1 tape recorder on would have been an interruption to what he
2 was doing?

3 THE WITNESS: No. No. I don't think that.
4 But, again, he was further -- he was, you know, up in front
5 of us.

6 MR. GRACE: Well, you didn't let him get too
7 far away from you, I'm sure.

8 THE WITNESS: Well, there was -- there was a
9 couple of other -- there was my partner. And I'm not -- I
10 don't know if it was a security officer or not with us.

11 MR. GRACE: What did you think of what he was
12 telling you when he started saying all of these things that
13 you knew couldn't have been true -- that he had the ability
14 to project his mind out and cause things to happen? What
15 did you think about what he was telling you overall?

16 THE WITNESS: About the good James and the
17 bad James?

18 MR. GRACE: All of that. Yes, sir.

19 THE WITNESS: All of that?

20 MR. GRACE: Yes, sir. All of that that you
21 knew was not possible.

22 THE WITNESS: Well, my thoughts were that,
23 you know, he did have an issue and all. But there again, he
24 could come right back in line.

25 MR. GRACE: Did it ever occur to you that

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1 maybe that issue would keep him from giving you the real
2 skinny on this case?

3 THE WITNESS: No, not until that day that he
4 took us out there. Where he --

5 MR. GRACE: Well, you didn't --

6 THE WITNESS: Go ahead.

7 MR. GRACE: I'm sorry. I didn't mean to
8 interrupt.

9 THE WITNESS: Go ahead.

10 MR. GRACE: You didn't have any forensic
11 evidence in this case, did you, linking James Blackmon to
12 that crime; is that correct?

13 THE WITNESS: No, just his movements and what
14 he showed us, and only the perpetrator would know. Because
15 I didn't think we got involved in the case until I think it
16 was about three years later, wasn't it? Something like
17 that? We talked about that -- wasn't it about three years?

18 MR. GRACE: Well, let's assume that that's
19 about right.

20 THE WITNESS: Is that about right?

21 MR. GRACE: I think that's about right.

22 So it's safe to say that only a confession
23 would break this case at that point; is that right?

24 THE WITNESS: I don't know about that. Only
25 the truth, and that's what we were looking for. And he

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1 provided things that only the perpetrator could have known.
2 There's no way a street person, anything anybody like that
3 could do what he did.

4 **MR. GRACE:** Well, he didn't take you to
5 Dorothea -- to Saint Augustine's. You took him, didn't you?

6 **THE WITNESS:** Yeah. He rode out there with
7 us, and he -- he showed us the building and then he showed
8 us what he did. And no way could anybody else know what he
9 knew, where he went.

10 **MR. GRACE:** That's the point. You didn't
11 know what he knew because you didn't have anything in your
12 report to indicate what anyone had done, did you?

13 You didn't have anything to compare it to,
14 did you?

15 This was brand-new. This was the first time
16 any of this had been seen.

17 **THE WITNESS:** And the stall where he stopped
18 at and said -- I think -- said where this happened at, that
19 was the correct stall according to where he went to.

20 **MR. GRACE:** Did you get him to describe to
21 you the weapon that had been used? Only the perpetrator
22 would know about that; is that correct?

23 **THE WITNESS:** If he described it, it would be
24 in the -- it would have been --

25 **MR. GRACE:** So if it's not in the report --

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1 THE WITNESS: I think it was a knife. It was
2 a knife.

3 MR. GRACE: I understand it was a knife.

4 THE WITNESS: Yeah.

5 MR. GRACE: Did he describe to you -- did you
6 ask him, "James, what did you use to commit this crime?"

7 THE WITNESS: No. He was just telling us
8 what he did.

9 MR. GRACE: But he didn't describe the knife
10 for you, did he?

11 THE WITNESS: I don't recall whether he
12 described the knife or not.

13 MR. GRACE: If it's not in the report, is it
14 safe to say that he didn't describe it to you?

15 THE WITNESS: He could've described it to me.

16 MR. GRACE: And you not put it in the report?

17 THE WITNESS: I don't recall. I don't
18 remember if it was -- I know that he said it was a knife;
19 so ...

20 MR. GRACE: The best practices and policies
21 at that time would've been to put it in the report, would it
22 not? If he described it to you?

23 THE WITNESS: Yes.

24 MR. GRACE: Did he tell you where he had
25 thrown the knife or that he had even thrown it away?

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1 **THE WITNESS:** You know, I don't recall.

2 **MR. GRACE:** Did he tell you what he was
3 wearing that night?

4 **THE WITNESS:** I don't recall. It would be --
5 I just don't remember.

6 **MR. GRACE:** It would be in the report if you
7 had asked that question and he had answered it, wouldn't it?
8 We would expect to find it in the report?

9 **THE WITNESS:** Maybe not in my report, but in
10 the report earlier. I don't know.

11 **MR. GRACE:** Did he tell you how many times he
12 stabbed the woman that was stabbed?

13 **THE WITNESS:** I don't recall.

14 **MR. GRACE:** Did he tell you how he walked
15 out -- what path he used to walk out of the building when he
16 left? Did you ask him that?

17 **THE WITNESS:** I don't recall that.

18 **MR. GRACE:** Did you ask him where he went to
19 after he left the murder scene?

20 **THE WITNESS:** No. I don't recall.

21 **MR. GRACE:** Detective, I don't have any other
22 questions. Thank you for answering those questions for us.

23 **THE WITNESS:** Yes.

24 **JUDGE WAGONER:** I've got a couple, please,
25 sir.

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1 Do you recall when -- this tip came in from
2 Dorothea Dix, do you know or did you know that the tip was
3 from a patient at Dorothea Dix or an employee?

4 THE WITNESS: I don't recall that.

5 JUDGE WAGONER: Do you recall, sir, if you
6 had any indication of the reliability of this tip that was
7 given to you -- I guess, one of your narcs? I mean, had
8 this person ever been reliable before, the tipster? Do you
9 know that?

10 THE WITNESS: No.

11 JUDGE WAGONER: Had he ever provided any kind
12 of tips to law enforcement before, he or she, that you know
13 of?

14 THE WITNESS: Not that I'm aware of, no.

15 JUDGE WAGONER: So for all you know, it could
16 have been somebody just made it all up? Guessed?

17 THE WITNESS: I guess, yeah, that's possible.
18 But there again, we -- it could. I just don't recall.

19 JUDGE WAGONER: Thank you.

20 And do you remember? When y'all decided to
21 go to Saint Augustine and James was in the car, did you tell
22 him where you were going and why y'all were going there?

23 I'm just trying to figure out how it
24 happened.

25 THE WITNESS: I don't recall what was

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1 actually said and -- I don't know.

2 JUDGE WAGONER: Can you remember? Was it,
3 "Let's just get out of the car and go in this building"?

4 THE WITNESS: No. I know we took him to
5 Saint Augustine's through the campus. We went down Saint
6 Augustine Avenue onto the campus.

7 JUDGE WAGONER: And I believe -- at least in
8 one of the transcripts I'm reading, I believe from you,
9 there was a lot of talk about the good James and the bad
10 James. And at least according to my reading of this, it
11 appears that he is more or less saying that the bad James
12 cut this girl.

13 Does that ring a bell?

14 Because the girl didn't want him to leave
15 her. Does that ring a bell?

16 THE WITNESS: It could be. It could be. It
17 doesn't ring a bell with me now, but if it's in the report,
18 then it is.

19 JUDGE WAGONER: I think it was around
20 page 52.

21 And I believe the knife was found on the
22 table downstairs in the rec room; is that correct -- the
23 murder weapon?

24 THE WITNESS: I'm not sure.

25 JUDGE WAGONER: Okay. Well, did -- I

James Holder - by the Commissioners

1 believe, "James denied ever having a knife like that and
2 said that the bad James buried it."

3 Was this knife found buried somewhere around
4 there that you know of?

5 **THE WITNESS:** I don't recall any of that, no.

6 **JUDGE WAGONER:** Would it be safe to say, at
7 least during all of these talks you were having with James
8 there at Saint Augustine's, he was sort of all over the
9 place? He gave answers that contradicted each other and
10 didn't make a lot of sense?

11 **THE WITNESS:** Sometimes he did. Sometimes,
12 you know, he was right on -- right on target. Sometimes he
13 would just talk to be talking.

14 **JUDGE WAGONER:** Okay. That's all I've got
15 right now.

16 Yes, sir.

17 Thank you.

18 **SHERIFF FRYE:** Kevin Frye. I'm sheriff in
19 Avery County.

20 **THE WITNESS:** Yes.

21 **SHERIFF FRYE:** How much -- what specialty
22 training did you have when you -- by the time you became a
23 detective in 19 -- when this occurred in 1979, '78/'79, what
24 kind of specialized training did you have?

25 **THE WITNESS:** Just up through the ranks of --

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1 I came from the investigative division. I came up to the
2 investigative division from the identification division.
3 And prior to that, you know, I was on the traffic division
4 prior to that. And we had all of these other schools that
5 we went, of course.

6 SHERIFF FRYE: What kind of schools,
7 specialty schools did you to --

8 THE WITNESS: In-house training.

9 SHERIFF FRYE: -- for investigation? Do you
10 remember any of them?

11 THE WITNESS: Right now, I don't remember. A
12 lot of the interview/interrogation, crime scene search.

13 SHERIFF FRYE: Who taught those schools? Do
14 you know where they were taught at or where you went to for
15 them?

16 THE WITNESS: Some of them were in-house and
17 some of them were over at UNC at the Institute of
18 Government.

19 SHERIFF FRYE: Okay.

20 THE WITNESS: I just don't remember.

21 SHERIFF FRYE: You said you had, maybe, some
22 training in interview and interrogation.

23 Do you remember where that was taught at that
24 you had training at?

25 THE WITNESS: I do not.

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1 **SHERIFF FRYE:** Was there any kind of specific
2 technique that you were taught or -- what do you remember
3 about what you were told on interview and interrogation?

4 **THE WITNESS:** A little bit about the body
5 language and how to approach an individual and talk with
6 them.

7 **SHERIFF FRYE:** Were you taught to be
8 confrontational?

9 **THE WITNESS:** No.

10 **SHERIFF FRYE:** To be accusatory? Do you
11 accuse them?

12 **THE WITNESS:** No.

13 **SHERIFF FRYE:** Be confrontational with them?
14 Was that the technique you were taught?

15 **THE WITNESS:** No.

16 **SHERIFF FRYE:** Is that the way you did -- is
17 that the way you conducted interviews --

18 **THE WITNESS:** No.

19 **SHERIFF FRYE:** -- were you confrontational?

20 **THE WITNESS:** No.

21 **SHERIFF FRYE:** Okay. How many death
22 investigations do you believe you worked on while you were
23 doing major cases or homicide? Do you have any idea?

24 **THE WITNESS:** I have no -- no idea.

25 **SHERIFF FRYE:** More than 20?

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1 **THE WITNESS:** Could have been.

2 **SHERIFF FRYE:** Did you ever have a focus of
3 the investigation, what you thought was the suspect -- did
4 you ever find out that the truth was that they were innocent
5 and you just went the whole other direction as soon as you
6 found out they were innocent even though, at the beginning,
7 you thought for sure they were guilty?

8 **THE WITNESS:** Yes.

9 **SHERIFF FRYE:** Does that bother you to do
10 that?

11 **THE WITNESS:** No. Because I was after one
12 thing, and that was the truth.

13 **SHERIFF FRYE:** That's all questions I have.

14 **MR. BOSWELL:** Detective, I'm John Boswell.
15 I'm a lawyer here in Raleigh.

16 **THE WITNESS:** Hello.

17 **MR. BOSWELL:** Do you remember a lady named
18 Jackie Kelly? She was the person who saw the perpetrator
19 walking down the hall and walk right by her. She was sort
20 of the best eyewitness of what the person looked like.

21 Do you remember there being a witness like
22 that in this case?

23 **THE WITNESS:** I don't recall.

24 **MR. BOSWELL:** Okay. She also was -- when you
25 got involved in this, according to the record, she was by

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1 that time in the military at Fort Benning, Georgia.

2 And she has testified that she came up and
3 did a lineup in Raleigh in -- I think it was October 31st,
4 1983, if I'm not mistaken. There was a lineup somewhere in
5 Raleigh, maybe it was at Central Prison.

6 Does this ring a bell with you at all?

7 **THE WITNESS:** No.

8 **MR. BOSWELL:** No?

9 Okay. Is it possible that would have
10 happened and you would not have been involved with it?

11 **THE WITNESS:** Possible.

12 **MR. BOSWELL:** Would it likely have been, if
13 there had been a lineup, that you as an investigator in the
14 case -- you would've been there?

15 **THE WITNESS:** Not necessarily, no.

16 **MR. BOSWELL:** No.

17 **THE WITNESS:** It could have been -- you know,
18 it could have been conducted by someone else.

19 **MR. BOSWELL:** Would it have been your
20 partner? Or could it have been somebody completely
21 unrelated to the case?

22 **THE WITNESS:** Yes. It could possibly be some
23 of all of what you just described.

24 **MR. BOSWELL:** But you don't have any memory
25 of this at all? Doesn't ring a bell?

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1 **THE WITNESS:** No.

2 **MR. BOSWELL:** That's all the questions I
3 have. Thank you.

4 **JUDGE WAGONER:** As one of the lead
5 investigators in this case, sir, if a lineup occurred and
6 you were not there and your partner was not there, someone
7 would've told you about it, wouldn't they? The results of
8 it?

9 **THE WITNESS:** I guess -- you know, I would
10 think so. But I don't recall anything about the lineup.

11 **JUDGE WAGONER:** This is sort of a
12 hypothetical.

13 Based on your practices, if you were there in
14 a live-person lineup and you thought that one of the people
15 in the lineup was the perpetrator of the crime and the man
16 or woman who was there to identify or to pick out people out
17 of the lineup said to you, "You know, I don't think
18 that's -- that's not the one I saw," what would you do as an
19 investigator?

20 **THE WITNESS:** I would certainly take that
21 into consideration. You know, I keep trying to think about
22 that lineup that this gentleman mentioned, and I just
23 don't -- don't recall.

24 **MR. BOSWELL:** Would there be a record of a
25 lineup like that? If Mr. Blackmon had been put in a lineup

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1 and you brought an eyewitness from Georgia up here to look
2 at it, would that be something that you would think would be
3 in the investigative record?

4 **THE WITNESS:** It's not in my records. It
5 should've been documented at some point somewhere.

6 **MR. BOSWELL:** Right.

7 And if it's not documented, if we haven't
8 been able to find a record of it, can you think of why that
9 would be?

10 **THE WITNESS:** I do not.

11 **JUDGE WAGONER:** Yes, ma'am.

12 **MS. NEWTON:** Good afternoon, Mr. Holder.

13 **THE WITNESS:** Hey. How are you?

14 **MS. NEWTON:** Thank you for being with us. We
15 are engaged in trying to find the truth, and things happen,
16 people tell you something, turn out maybe not to be true
17 later. So you are a part of the process helping us to
18 figure out what happened in this.

19 My name is Deb Newton. I'm a criminal
20 defense attorney. Sir, I would like to ask a few questions
21 as well.

22 **THE WITNESS:** Sure.

23 **MS. NEWTON:** At the time of the investigation
24 in this case, do you recall if you or Officer Munday were
25 the lead agent?

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1 THE WITNESS: Munday and I worked together.

2 MS. NEWTON: You worked together as a team?

3 Okay.

4 So you were both a responsible for the
5 interrogation, the investigation -- you were both there
6 together; correct?

7 THE WITNESS: Yes.

8 MS. NEWTON: Okay. Now, at the time of the
9 investigation -- according to my calculations, you had been
10 an officer for about -- what? -- 8 years, maybe 10 if it was
11 '82 that you got involved?

12 THE WITNESS: Yeah, about that.

13 MS. NEWTON: About 10?

14 Do you think you got involved in about 1982,
15 '83, somewhere?

16 THE WITNESS: Yeah.

17 MS. NEWTON: Okay. So you would have some
18 years as an officer before investigating this case; correct?

19 THE WITNESS: Yes.

20 MS. NEWTON: You had gone through Basic Law
21 Enforcement Training; right?

22 THE WITNESS: Yes.

23 MS. NEWTON: Okay. Had you spent your whole
24 time in Wake County or did you go somewhere else?

25 THE WITNESS: In Wake County.

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1 **MS. NEWTON:** You had been in Wake County?

2 All right. Were you taught during training
3 to provide incentives to get people to talk to you? Is that
4 one of the tactics that you were trained to use to get
5 people to talk to you?

6 **THE WITNESS:** No.

7 **MS. NEWTON:** You were not.

8 **THE WITNESS:** I wasn't trained that way.
9 But, you know, like Beth and I talked, if we were dealing
10 with an individual and we stopped to eat or something, we
11 would also include the person that was with us.

12 **MS. NEWTON:** Sure.

13 **THE WITNESS:** But I just did that out of the
14 way I was brought up.

15 **MS. NEWTON:** Yeah. Sure. You were.

16 In this case, do you recall offering
17 Mr. Blackmon incentives?

18 **THE WITNESS:** No, I do not.

19 **MS. NEWTON:** Cigarettes, coffee, food, trips
20 maybe --

21 **THE WITNESS:** No.

22 **MS. NEWTON:** -- anything like that?

23 **THE WITNESS:** (Moves head side to side.)

24 **MS. NEWTON:** You don't recall doing that?

25 **THE WITNESS:** No.

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1 **MS. NEWTON:** Okay. Do you recall his status?
2 Was he -- did he have an apartment? Did he have a place to
3 live? Did he have a support system -- Mr. Blackmon?

4 **THE WITNESS:** I have no idea.

5 **MS. NEWTON:** Okay.

6 **THE WITNESS:** Or I don't recall anyway.

7 **MS. NEWTON:** Okay. This notion of good
8 James/bad James -- do you know how that came about? Was
9 that suggested in the course of his conversation by you or
10 Officer Munday? Or did he actually use the terms himself --
11 Mr. Blackmon?

12 **THE WITNESS:** I don't recall. But I do know
13 that he did, you know.

14 **MS. NEWTON:** Do you know whether someone
15 suggested that to him, "Maybe" -- you or the other
16 officer -- "Maybe you didn't do it, but the bad one did"?

17 **THE WITNESS:** (Moves head side to side.)

18 **MS. NEWTON:** You don't recall that?

19 **THE WITNESS:** No.

20 **MS. NEWTON:** All right.

21 Now, do you recall -- when you think back --
22 I know it's been a long time, almost 40 years. But when you
23 think back, what kind of hair did Mr. Blackmon have when you
24 were dealing with him, when you were interacting with him?

25 Do you recall his hair?

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1 **THE WITNESS:** No.

2 **MS. NEWTON:** Do you recall giving an
3 interview to the Innocence Commission -- maybe it was a
4 telephone interview, could have been in person -- and you
5 said that he had long dreadlocks?

6 I'm sorry. That might have been the other
7 officer.

8 You don't recall his hair at the time?

9 **THE WITNESS:** No.

10 **MS. NEWTON:** Okay. Do you recall if, when
11 you interviewed Mr. Blackmon, if he wore any particular
12 strange clothing?

13 Was he wearing a cape?

14 **THE WITNESS:** Could have. Could be.

15 **MS. NEWTON:** You don't --

16 **THE WITNESS:** I don't recall, but it could
17 be.

18 **MS. NEWTON:** Okay. You would notice
19 something like that -- right? -- if he was walking around
20 with a cape?

21 **THE WITNESS:** I don't recall but he could
22 have.

23 **MS. NEWTON:** Okay. This notion of -- do you
24 recall any facts about this case related to the girls in the
25 dorm engaging in prostitution as a possible reason why

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1 people might have access to the dorm?

2 Do you recall how that fact came up?

3 **THE WITNESS:** No.

4 **MS. NEWTON:** Do you recall that fact at all?

5 You don't?

6 **THE WITNESS:** Now I don't, no.

7 **MS. NEWTON:** All right.

8 Now, Mr. Holder, during the course of your
9 investigation of this murder, when you and your partner
10 focused on Mr. Blackmon, did it dawn on you to try to figure
11 out if he was actually physically in the city at the time of
12 the killing?

13 I realize that it was a couple of years
14 earlier that the killing happened.

15 But at the time in 1982, did your office have
16 a way to track someone's movements -- basically, NCIS or,
17 you know, arrest records or Social Security records or --
18 did you have a way to investigate whether this man was
19 actually in the city at the time this killing happened?

20 **THE WITNESS:** No.

21 **MS. NEWTON:** You didn't have the ability --

22 **THE WITNESS:** I don't recall where he was --
23 well, I don't know.

24 **MS. NEWTON:** Do recall even checking?

25 I'm not criticizing you. I'm just asking.

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1 **THE WITNESS:** I know. I know what you're
2 saying. I just don't -- I don't know whether --
3 something -- I don't know whether he was living on the
4 street or -- I just don't know.

5 **MS. NEWTON:** Maybe he was homeless.

6 **THE WITNESS:** Yes.

7 **MS. NEWTON:** Okay. But that was in '82/'83,
8 when you got involved.

9 When you were taught to investigate a case,
10 were you taught to go back in public records to try to find
11 out the location of that person? Let's say, for example, he
12 was arrested in Fort Lauderdale, Florida.

13 **THE WITNESS:** Yeah.

14 **MS. NEWTON:** There would be a record of him
15 being arrested on a certain date and you could see that, and
16 if that happened to be -- not that it was; it's a
17 hypothetical -- if that happened to be the date of the
18 killing, then you know you don't have your guy because he
19 was somewhere else; right?

20 **THE WITNESS:** Yes.

21 **MS. NEWTON:** So do you recall if you or --
22 and/or your partner actually checked to see if Mr. Blackmon
23 was in the city of Raleigh at the time in any way?

24 **THE WITNESS:** I just -- I don't recall.

25 **MS. NEWTON:** Thank you, sir.

James Holder - by the Commissioners

1 Now, just one more question. Do you recall
2 getting a CCBI report of fingerprint analysis of the crime
3 scene?

4 **THE WITNESS:** We could have, but I can't say
5 for sure.

6 **MS. NEWTON:** Okay. You don't independently
7 recall it.

8 But you would routinely have had someone come
9 in and take fingerprints if they could be lifted off where
10 she was killed --

11 **THE WITNESS:** Right.

12 **MS. NEWTON:** -- right?

13 Okay. So you came in later, a couple of
14 years later. Do you know how the fingerprint analysis came
15 about? Did y'all order it or was it done before you got
16 there?

17 **THE WITNESS:** I don't recall, but it could --
18 I don't know.

19 **MS. NEWTON:** Regardless, you would have seen
20 if there was a fingerprint analysis of the crime scene.

21 **THE WITNESS:** I think there would be one
22 done.

23 **MS. NEWTON:** Okay. And do you recall, if you
24 do, were there any identifications made at the time that you
25 were investigating?

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1 THE WITNESS: Any identification of?

2 MS. NEWTON: Fingerprints --

3 THE WITNESS: No.

4 MS. NEWTON: -- to an individual.

5 THE WITNESS: No.

6 MS. NEWTON: Do you recall the name of James
7 Leach? Does that ring a bell at all from your
8 investigation?

9 THE WITNESS: (No response.)

10 MS. NEWTON: Well, let me ask you this,
11 Mr. Holder. If a fingerprint had come back to an individual
12 from the location of the crime scene, would that have been
13 an important lead for you to follow up to determine whether
14 that person had been involved in the killing?

15 THE WITNESS: If the fingerprint had been
16 identified as someone else's?

17 MS. NEWTON: Specifically someone other than
18 Mr. Blackmon.

19 THE WITNESS: And we had knowledge of that?

20 MS. NEWTON: Yes, sir.

21 THE WITNESS: Yes.

22 MS. NEWTON: That would be important to you
23 in your investigation?

24 THE WITNESS: Yes.

25 MS. NEWTON: And you don't recall any prints

Housekeeping

1 or -- as Mr. Grace asked you, any forensic evidence linking,
2 objectively, Mr. Blackmon to the crime scene? Nothing but
3 his movements and his statements; correct?

4 **THE WITNESS:** Correct.

5 **MS. NEWTON:** Okay. That's all I have. Thank
6 you for answering my questions and for being here.

7 **THE WITNESS:** You're welcome.

8 **JUDGE WAGONER:** Anyone?

9 Okay. Thank you very much, sir. You're free
10 to go.

11 **THE WITNESS:** I apologize for being so -- I
12 just can't, you know, focus like I used to.

13 **JUDGE WAGONER:** That's okay. It's a long
14 time ago.

15 **MR. BOSWELL:** 40 years ago. I can't remember
16 what I did 40 years ago either.

17 **THE WITNESS:** And, you know, during that
18 time, it's just -- anyway.

19 **JUDGE WAGONER:** Thank you. You're free to
20 go.

21 (Witness stands down, 3:09 p.m.)

22 (Discussion off the record.)

23 (Recess taken, 3:10 to 3:18 p.m.)

24 **JUDGE WAGONER:** I believe Ms. Smith had
25 someone to call.

Housekeeping

1 **MS. GUICE SMITH:** I am going to recall
2 Ms. Bridenstine.

3 **JUDGE WAGONER:** You are still under oath.

4 **THE WITNESS:** Yes.

5 (Julie Bridenstine recalled.)

6 **MS. GUICE SMITH:** Commissioners, for the
7 record, over the lunch recess, you-all made a decision not
8 to go to Saint Augustine's this afternoon but, rather, to
9 view some photographs that commission staff took when we
10 visited Saint Augustine's during our investigation.

11 So you will review those over the recess.
12 They will become a part of our record as handout number 50.
13 I am not putting them in your folders. You viewed them.
14 We'll save paper there.

15 Do you-all have any questions for
16 Ms. Bridenstine about the photos? She was present when
17 those were taken.

18 **MR. EDWARDS:** I'd just like to make a brief
19 comment.

20 I'm fine with the decision not to go out
21 there, but the photos, I don't think, really answered Tex's
22 question as to all -- of us having one photo of the stalls.
23 I'm not even sure if the bathroom is big enough to even take
24 the photographs.

25 So I just want to -- I don't need to -- I

Julie Bridenstine - by the Commissioners

1 just wanted to make that point. That was just my opinion.

2 (3:19 p.m.)

3 Q. Ms. Bridenstine, based on your viewing of the
4 bathroom, would you have been able to take a photograph of
5 all of the stalls at once?

6 A. It would've been difficult. It's pretty narrow.

7 MR. EDWARDS: And I don't doubt that at all.

8 MS. GUICE SMITH: Mr. Barrow?

9 MR. BARROW: But it's my understanding
10 from -- it's my understanding that the stall of which we
11 have a picture was, to the best of your knowledge, distinct
12 from every other stall in terms of having that metal
13 protruding from the back wall of the cinderblocks.

14 THE WITNESS: That's correct. If you're
15 looking at the toilet where the crime -- the stall where the
16 crime happened, it was to -- if you were facing, it was to
17 the left next to the toilet.

18 MR. BARROW: And the other stalls did not
19 have that same appliance?

20 THE WITNESS: That's correct.

21 MR. BARROW: Which is what I was interested
22 in.

23 MR. EDWARDS: Okay.

24 JUDGE WAGONER: I will say -- I will ask --
25 these photographs were taken a week or two ago?

Julie Bridenstine - by the Commissioners

1 **THE WITNESS:** They were taken in September.

2 **JUDGE WAGONER:** In September.

3 To the best of your knowledge, they look like
4 what they did almost 40 years ago, but you don't know for
5 sure.

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

7 We do have photos of that bathroom, the
8 toilet, that were taken on September 28, 1979. And they do
9 show a metal thing that looks similar to what we saw. They
10 did not take pictures of every single stall so we don't know
11 what the other stalls looked like at the time of the crime
12 or at the time that Mr. Blackmon was in the bathroom.

13 **JUDGE WAGONER:** I just have one other
14 question. It's probably very obscure.

15 On page 404 of the brief, when you walk into
16 Latham Hall, the front door, are there any steps?

17 **THE WITNESS:** So we are going to go through
18 that.

19 **JUDGE WAGONER:** That's fine.

20 **MS. GUICE SMITH:** Commissioners, just as an
21 aside, the crime scene photos are provided in your brief
22 beginning on page 602. There are photos of the bathroom.
23 Where we could, we labeled areas on those photos for you to
24 help orient you. So you may wish to look back at those as
25 well for photos from closer in time to the assault.

Julie Bridenstine - by Ms. Guice Smith

1 Q. Ms. Bridenstine, I'm going to put on the screen
2 the diagram of the first floor of Latham Hall.

3 MS. GUICE SMITH: Commissioners, you do not
4 have a copy of this in your hearing handout notebook, but if
5 anybody wants to have a close-up view, we can make copies of
6 this. But it is on all of the screens in the room.

7 Q. Ms. Bridenstine, can you first orient the
8 commissioners to the first floor.

9 A. This is the first floor of Latham Hall. This is
10 the south side, which is the main entrance. This is the
11 front door.

12 I'm going to be referring to page 404 of the
13 brief. This is the narrative report from Detectives Holder
14 and Detective Munday's trip with Mr. Blackmon on October 26,
15 1983.

16 According to the report, Mr. Blackmon walked into
17 the front and went to one of the stairwells. It doesn't
18 specify which stairwell. However, later in the report, it
19 indicates that he came down the stairwell that he went in
20 and when he got to the bottom of the stairs, he made a
21 right.

22 You can only -- to walk towards the front to the
23 game area.

24 You can only turn right here. So the assumption
25 is, I guess, that he went up -- when he came into the front,

Julie Bridenstine - by Ms. Guice Smith

1 he went to this stairwell. They said he went down the
2 stairs. There is a short flight, and then you reach
3 basically the ground level and you can exit the dorm. It's
4 the same on this side as well. And as I stated, the report
5 doesn't clarify which stairwell Mr. Blackmon went up.

6 They said that he went up the stairs and made a
7 couple of stops on the way up. He stopped at the second
8 floor. He stopped on the fourth floor. And then he
9 continued up the stairs onto the sixth floor.

10 And before -- just again, to point out, this is
11 the elevator. This is where the dorm matron's apartment
12 was.

13 The knife was found in this game area right here.

14 Q. Ms. Bridenstine, I want to clarify a couple of
15 things.

16 Based on witness accounts at the time of the
17 crime, which stairwell did the perpetrator use to exit the
18 building?

19 A. The perpetrator came down this stairwell. Came
20 through -- somehow came into this area. The knife was found
21 here and left out of the front door.

22 Q. And based on page 404 of the report from the
23 detectives' notes, it indicates when Mr. Blackmon came down
24 the stairs during his viewing at Latham Hall, that when he
25 came down, he turned right out of the stairwell to head

Julie Bridenstine - by Ms. Guice Smith

1 toward the front.

2 A. It said that he turned right and then made a left
3 to go into the game area. That's correct.

4 Q. Okay. All right.

5 This is the diagram of the sixth floor of Latham
6 Hall.

7 A. When Mr. Blackmon came onto the sixth floor --
8 when he entered the lobby, he is quoted as saying, quote,
9 "There it is. That's the lobby I was telling you about.
10 And there is a telephone I was telling you about."

11 This drawing was made close in time to the crime
12 in 1979, and it shows that there are phones here and it
13 has -- this is a lounge area. I visited the floor and it
14 looks like this is still the only part of the floor that you
15 could term a lobby.

16 After he made that statement, he walked down the
17 hall. The report says he walks down the east hallway. This
18 is the east hallway. He stopped at room 608. This was the
19 victim's room with Elvin Turner. He stared at the room for
20 several seconds -- 15, 30 seconds. At that time, Detective
21 Holder asked Mr. Blackmon, quote, "Does that look familiar
22 to you?"

23 Blackmon said, quote, "He had been there before."

24 At this time, the report indicates that
25 Mr. Blackmon walked down the hall, and it says north side,

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1 to room 610, which is up here.

2 When he was looking at that room, the report
3 indicates that he said, quote, "He has been in that room
4 before." He entered that room, 610. He said, quote, "He
5 has been in that room before" -- excuse me. I already said
6 that.

7 And at that time, Ms. Latta, that's Pauline Latta,
8 and two girls were in that room. When he went -- when he
9 left that room, he walked down the hall to 605, which is
10 this room here. He requested to go into this room. They
11 allowed him to go in the room. He stayed there a short time
12 and said that the room looked familiar.

13 (3:27 p.m.)

14 **MR. GRACE:** Were those rooms occupied on the
15 night of the incident?

16 **THE WITNESS:** They were.

17 We spoke to Annette Goldring. She was there.
18 Her roommate was there. And the same with Patricia Peterson
19 and Susie Farmer. We interviewed both of them. They were
20 there that morning and the night before as well.

21 **MR. BOSWELL:** Did you just say he spoke to
22 Annette Goldring?

23 **THE WITNESS:** No. When he was there in 1983
24 on his visit on October 26, he said, when he went to room
25 605, that the room looked familiar.

Julie Bridenstine - by the Commissioners

1 MR. BOSWELL: Okay.

2 THE WITNESS: The report indicates that
3 Ms. Pauline Latta also walked down to room 605 at that time.
4 He left the room. He went into the hallway -- this is this
5 south hallway -- and he walked west. He went this way. He
6 headed in a northerly direction to the end of hallway up
7 here. He turned around. The report indicates that he
8 looked like he was avoiding going into and looking at the
9 bathroom area.

10 At this time, Detective Holder asked
11 Mr. Blackmon to look into the bathroom to see if it looked
12 familiar to him. Mr. Blackmon went into the bathroom at
13 that time. It says he entered the bathroom from the west
14 side -- so this is, again, the west side. It doesn't
15 indicate which door, but it says that he walked past the
16 stalls here until he got to the last stall, which is here,
17 and this is where the victim was attacked.

18 He turned to his right. He faced the stall.
19 He pushed open the stall door and he said, quote, "This is
20 where it happened."

21 Detective Holder asked Mr. Blackmon, quote,
22 "What happened, James? Where were you?"

23 And Mr. Blackmon said, quote, "I was here and
24 she was there."

25 From that location, Mr. Blackmon went to a

Julie Bridenstine - by the Commissioners

1 sink. It doesn't indicate which sink, but there are sinks
2 on both sides of the door. He was here. It indicates he
3 went to a sink, washed his hands and again said, quote,
4 "This is what I did."

5 From this location, Mr. Blackmon went out of
6 the east exit -- I don't know if they are referring to this
7 exit or this exit. He turned right, walked in a south
8 direction down the east hall. And then it says he went to
9 the stairway leading down, meaning the same stairway that he
10 entered the sixth floor on. He turned slowly, opened the
11 exit door, and walked down the stairway.

12 At this time, Mr. Blackmon made the statement
13 that -- where he described his walking as, quote, "cat
14 walking." He walked down the stairwell and picked up his
15 walking speed. He was still walking, not running, down the
16 stairwell and entered onto the first floor. After entry on
17 the first floor, Blackmon took a right, and that's why --
18 that would only make sense if you were coming down the west
19 stairwell, took a right --

20 **MS. NEWTON:** Could you go back to the sixth?

21 The way you just said it, to the right of
22 that photograph where that stairwell is, are you -- as you
23 are narrating, did he go down that stairwell?

24 **THE WITNESS:** I don't know.

25 **MS. NEWTON:** I mean in '83.

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1 THE WITNESS: I can't tell based on the
2 report.

3 MS. NEWTON: You said, when you got right
4 there, "he went down the stairwell." If that's true, he
5 didn't even pass Jackie Kelly's room.

6 THE WITNESS: Well, the report seems to
7 suggest that he went down this stairwell.

8 MS. NEWTON: Right. And her room is on the
9 other --

10 THE WITNESS: Her room is over here.
11 The issue, I think, with the way the report
12 is written is that they say when he exits on the first
13 floor, he made a right and then made a left to go to the
14 game room.

15 MS. NEWTON: Right.

16 THE WITNESS: And that's just not possible if
17 you're walking down the east stairwell. But the report does
18 seem to suggest that that is the stairwell that he went
19 down.

20 JUDGE WAGONER: If that is accurately
21 written.

22 THE WITNESS: Correct.

23 MS. NEWTON: If that's accurate, he did not,
24 in 1983, walk by Jackie Kelly's room.

25 THE WITNESS: That's right.

Julie Bridenstine - by the Commissioners

1 MS. NEWTON: Okay.

2 MR. EDWARDS: What you're talking about --
3 what you're reading from is when the detectives took him to
4 Latham Hall and tracked his -- the way he walked then.

5 THE WITNESS: That's right.

6 MR. EDWARDS: But looking at the diagram on
7 the screen up by the bathroom and there is some black
8 handwriting and some arrows --

9 THE WITNESS: Yes.

10 MR. EDWARDS: -- isn't that the assailant's
11 route?

12 THE WITNESS: That is the assailant's route,
13 and that's actually -- this was written by someone with RPD
14 at the time.

15 MR. EDWARDS: Okay. So if the assailant took
16 that route, he would have walked by Jackie Kelly who is at
17 the bottom.

18 THE WITNESS: That's correct.

19 MR. EDWARDS: Okay.

20 MS. NEWTON: But in '83, when -- like Officer
21 Holder testified, only the assailant would know these facts.
22 If he walked that way, those weren't even the facts
23 consistent with their theory of the case, because he
24 apparently walked right by Jackie Kelly.

25 THE WITNESS: That's correct.

Julie Bridenstine - by Ms. Guice Smith

1 **SHERIFF FRYE:** Did he say he was going
2 exactly the way he went? I didn't read that into that
3 statement, that he was following his exact --

4 **MS. NEWTON:** Wasn't the suggestion he was
5 going to show them what he did and where he did it?

6 **SHERIFF FRYE:** Well, I think --

7 **MS. GUICE SMITH:** I think this is probably
8 deliberation.

9 **JUDGE WAGONER:** And we can ask him --

10 **MS. GUICE SMITH:** And we can put this on the
11 screen as well while you're deliberating.

12 **SHERIFF FRYE:** Sorry.

13 **MS. GUICE SMITH:** No problem.

14 (3:33 p.m.)

15 **Q.** Did you have anything further, Julie, from the
16 first floor?

17 **A.** We can go back to the first one.

18 I guess in 1983 this was a sitting room, not the
19 gaming area, but they said that he went over here. He
20 slowed down when he got to this part of the dorm, almost
21 stopping. He went to the curtains that covered the front
22 window of the building, paused, took a right, went to the
23 front door, took a left out the front door, continued
24 walking left this way until he reached the east side of the
25 building. And then when he was outside, walked up this way,

Julie Bridenstine - by Ms. Guice Smith

1 west.

2 Q. And going back to what witnesses saw the night of
3 the crime, how did witnesses say the assailant left the
4 building?

5 A. They said that he came out the front. William
6 Judkins was the security guard who saw him from the parking
7 lot and said that he went this way, the assailant, and then
8 went up this side of the building and went around.

9 Q. Okay. Do you need anything on this one?

10 A. Just to continue going -- yes.

11 So when Mr. Blackmon, on October 26, 1983, came
12 out the front, he went this way. He went north, up this
13 side of the building, and then they said he went into this
14 dorm behind Latham Hall, which is Baker Hall, and got a
15 drink of water from someone there at that dorm.

16 MR. GRACE: Which is different from what the
17 witnesses saw on the night of the murder?

18 THE WITNESS: That's correct.

19 He said that he had been there before at that
20 dorm. He walked out of the dorm at time and went to the
21 rear of Latham Hall -- so back here.

22 They said he walked and looked around the
23 area. He stopped behind a dumpster and urinated.

24 When we visited on September 25, there were
25 dumpsters back there. I don't know if there were at the

Julie Bridenstine - by Ms. Guice Smith

1 time.

2 At this time, Mr. Blackmon said he went into
3 the woods but he did not want to go now because there were,
4 quote, "bad spirits in there."

5 And then from that location, everyone walked
6 to the parking lot.

7 **MS. GUICE SMITH:** Additional questions for
8 Ms. Bridenstine?

9 (No verbal response.)

10 **MS. GUICE SMITH:** Commissioners, you have
11 already read this, but beginning on page 406 of the brief,
12 shortly after visiting Saint Augustine's and what
13 Ms. Bridenstine has just described, law enforcement brings
14 Mr. Blackmon back -- I'm sorry. Yeah.

15 October 26, 1983, at 12:32 p.m., they
16 returned from Saint Augustine's. They then go through a
17 series of questions that talks about that visit as well.
18 You may want to look back at that at some point. It's a
19 couple of pages there.

20 Any additional questions for Ms. Bridenstine
21 about any of her testimony during this hearing?

22 I anticipate that this is the last time I am
23 calling her.

24 **MS. NEWTON:** I have three quick ones.

25 **MS. GUICE SMITH:** Okay.

Julie Bridenstine - by the Commissioners

1 **MS. NEWTON:** Go ahead.

2 (3:37 p.m.)

3 **MS. THOMPSON:** Just really quickly. I think
4 you testified that he had a friend attending Saint
5 Augustine's in 1982?

6 **THE WITNESS:** Allen Thompson. He attended in
7 the spring semester of 1980. And I don't know if he
8 continuously went there, but he did three or four semesters
9 at Saint Augustine's and finished his degree there.

10 **MS. THOMPSON:** Do we know what dorm -- did he
11 live in a dorm and what dorm he lived in?

12 **THE WITNESS:** I don't know that.

13 **MS. NEWTON:** The print was taken off of the
14 bathroom stall door. Do you know -- I know it was taken a
15 long time ago.

16 Was the print in blood or was it just ink?

17 **THE WITNESS:** So we asked CCBI to examine the
18 print and let us know that, and they did not see blood on
19 the print card or anything like that.

20 **MS. NEWTON:** So we don't even know if that --

21 **THE WITNESS:** And there's nothing mentioned
22 in the RPD file about that.

23 **MS. NEWTON:** Okay.

24 Second question is: There is conversation
25 with Officer Munday that Mr. Blackmon, at the time, was

Julie Bridenstine - by the Commissioners

1 wearing dreads on the streets of Raleigh -- in his hair.

2 So how does his -- how do all of his
3 photographs come to be short hair or short Afro -- of that
4 time? Did you see any photographs of him at Dix or anywhere
5 with dreads?

6 **THE WITNESS:** I've only seen photographs of
7 him from 1974, 1980, which you have that as handout --

8 **MS. NEWTON:** On tab 40, page 57, Andrew
9 Munday says at the question by Ms. Tanner, "When you say he
10 was crazy out on the streets, can you explain to me how that
11 might relate to him being dangerous, if that's correct, out
12 on the streets?"

13 And Officer Munday said "Well, he -- at this
14 time, he had long dreadlocks ... matted dreadlocks, you
15 know. And he wore a cape ... like Superman or somebody."

16 Is he talking about in '83?

17 **THE WITNESS:** I believe he is talking about
18 1983. They didn't even know who he was until February of
19 1983. I don't know when.

20 There is a nursing note from Dorothea Dix on
21 October 5 that said that a female patient had braided
22 Mr. Blackmon's hair. And then there were later progress
23 notes and doctors' reports from Dorothea Dix that indicated,
24 from the time that he was discharged on October 18, 1983,
25 until the time he was admitted on October 28, 1983, that he

Julie Bridenstine - by the Commissioners

1 had gotten a haircut and a shave.

2 MS. NEWTON: But there are no photographs or
3 notations about the long, matted dreadlocks when he was on
4 the streets in -- when he got back to Raleigh in, I guess it
5 was '80, '81, and whenever he got back?

6 THE WITNESS: That's correct. There's
7 nothing.

8 MS. NEWTON: But we do know at least from
9 Officer Munday that that is how he remembered him, with long
10 dreadlocks.

11 THE WITNESS: That's correct.

12 MS. NEWTON: Okay. The conversation about --
13 with Officer Holder, he says -- he kept saying "only the
14 perpetrator would know these facts," and clearly meaning if
15 he was going that route, that one way.

16 There's another fact. Officer Munday
17 suggested that only the person who killed her would know it
18 was in that stall in that bathroom and right there.

19 But I remember that there was discussion that
20 Jackie Kelly spoke to the press at the time and someone else
21 in a transcript in the investigation where Susan Edwards
22 prosecuted those two -- I'm sorry, it wasn't the psychiatric
23 workers, it was the librarian -- when they were
24 investigating Mr. Blackmon masturbating in front of the
25 librarian, she said he would come in and read the newspaper.

Julie Bridenstine - by the Commissioners

1 But he's got a second grade education. Do we know if he
2 read the newspaper?

3 In other words, would he have seen the
4 articles or read anything about this fact to know, if he did
5 make that statement, as Mr. Edwards has pointed out, that he
6 knew it happened that stall, Mr. Blackmon -- would he have
7 been able to read it in the newspaper?

8 In other words, can he read? And would he
9 have read it in the newspaper at the time in order to know
10 that if that is, in fact, there?

11 **THE WITNESS:** I don't have the answer to
12 that. The only thing I can say is he has been described in
13 mental health records as being functionally illiterate at
14 times. I don't know to the extent he can read and write
15 very well.

16 **MS. NEWTON:** So he could have been faking the
17 newspaper with the librarian just to be in there.

18 **THE WITNESS:** I don't know.

19 **MS. NEWTON:** Okay. Thank you.

20 **MR. GRACE:** Was a rape kit done for the
21 victim?

22 **THE WITNESS:** No. There wasn't anything to
23 indicate that a sexual assault had occurred in this case.
24 And she was in the bathroom, according to her roommate, less
25 than a minute before she heard the scream.

Julie Bridenstine - by Ms. Guice Smith

1 **MR. GRACE:** So Blackmon -- we deduce from
2 that that Blackmon could not have had sex with her.

3 **MS. NEWTON:** One more thing to follow up on.
4 We talked about it at break, but I just to make sure to put
5 it on the -- to ask you about it when you're up there.

6 The print that we got on the latent card in
7 '79 was taken then, but it was not until the Commission had
8 it tested and uploaded that Edward Leach was connected and
9 identified in 2013?

10 **THE WITNESS:** That's correct. James Leach.

11 **MS. NEWTON:** I'm sorry. James Leach.

12 So these officers would not have known that.
13 They would have the prints, but there's no identification of
14 any of the prints until much later, in 2013, when you-all
15 got involved?

16 **THE WITNESS:** That's correct. And they did
17 not have the databases available for searching at that time.

18 **MS. NEWTON:** Okay.

19 **JUDGE WAGONER:** Any other questions?

20 Mr. Grace?

21 **MR. GRACE:** No, thank you.

22 (3:43 p.m.)

23 Q. Ms. Bridenstine, is it correct that Mr. Blackmon
24 told you and Ms. Tanner on several occasions during that
25 interview that he could not read and write?

Julie Bridenstine - by the Commissioners

1 A. That's correct.

2 Q. Did he also tell you during that interview,
3 though, that he would go to the library and read the
4 newspaper?

5 A. Yes.

6 JUDGE WAGONER: Questions?

7 MS. NEWTON: Did anybody see the newspaper
8 clippings of articles of this killing at the time, from '79?
9 Are there any microfiche -- what was reported in the press?

10 THE WITNESS: In the RPD file, there are
11 newspaper articles from around the time of the crime, and
12 the commission staff did go back and look and found some
13 additional articles from 1988 when Mr. Blackmon was
14 sentenced.

15 MS. NEWTON: So they're articles from the
16 time of the killing in '79?

17 THE WITNESS: There were articles, yes.

18 MS. NEWTON: Do we have those?

19 THE WITNESS: We do.

20 MS. NEWTON: I would like to read an article.

21 MS. GUICE SMITH: Okay.

22 MR. EDWARDS: Do you recall just of your
23 memory whether specific details were listed in those
24 articles other than the fact, you know, there was a female
25 student at Saint Augustine's, maybe even Latham Hall, was

Housekeeping

1 murdered? Do you recall?

2 **THE WITNESS:** I recall that they said that
3 she'd been stabbed in the bathroom. I believe they
4 mentioned a dashiki and the knife, but I would have to
5 double-check if they got that detail.

6 (3:45 p.m.)

7 **MS. GUICE SMITH:** We will pull those from the
8 file and have information for you-all in the morning.

9 If there are no more questions for
10 Ms. Bridenstine, I believe we are at a point where we will
11 break for the afternoon.

12 **JUDGE WAGONER:** We just need for all of the
13 commissioners just to go back in the break room for a break
14 for a few minutes before we all leave.

15 **MS. GUICE SMITH:** Yes.

16 **JUDGE WAGONER:** Okay. Otherwise, will be in
17 recess until tomorrow morning at 9:00 a.m.

18 **MS. GUICE SMITH:** Yes, ma'am.

19 (Overnight recess, 3:46 p.m.)

20 (Volume 3 begins on page 410.)

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1 NORTH CAROLINA GENERAL COURT OF JUSTICE

2 SUPERIOR COURT DIVISION

3
4 State of North Carolina,

5 WAKE COUNTY

6 v

83 CRS 84695

7 James Blackmon,

8 Defendant.

9
10 *****

11 TRANSCRIPT, Volume 3 of 3

12 NOVEMBER 14, 2018, through NOVEMBER 16, 2018

13 *****

14 Special Session.

15 Before

16 The North Carolina Innocence Inquiry Commission

17
18 COMMISSION HEARING19
20
21
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APPEARANCES

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Judge Anna Mills Wagoner, Chair

Nigle B. Barrow, Jr., Discretionary Member

John Boswell, Discretionary Member

Camilla Cover, Public Member

Seth Edwards, Prosecuting Attorney

Kevin Frye, Sheriff, Avery County

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Jennifer Thompson, Victim Advocate

Deborrah L. Newton, Alternate, Non-deliberating

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Lindsey Guice Smith, Executive Director

Beth Tanner, Associate Director

Julie Bridenstine, Staff Attorney

C O N T E N T S

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Allison Redlich - by Ms. Guice Smith

1 Friday, November 16, 2018 (9:08 a.m.)

2 JUDGE WAGONER: Good morning.

3 MS. GUICE SMITH: The Commission calls
4 Dr. Allison Redlich.

5 * * * * *

6 Thereupon, ALLISON D. REDLICH, a witness having been called
7 by the Commission, was examined and testified on DIRECT
8 EXAMINATION as follows (via video conference):

9 BY MS. GUICE SMITH: (9:10 a.m.)

10 Q. Good morning, Dr. Redlich. My name is Lindsey
11 Guice Smith. I am the Executive Director of the North
12 Carolina Innocence Inquiry Commission. We've spoken on the
13 phone a couple of times.

14 Can you please state your full name for the
15 Commission.

16 A. Allison Diane Redlich.

17 Q. And can you generally outline your education,
18 please.

19 A. Sure. I did my undergraduate work at the
20 Pennsylvania State University. And then I did my graduate
21 work, both my master's and Ph.D., at the University of
22 California Davis in developmental psychology. And then I
23 had two years as a postdoctoral fellow at Stanford
24 University, and in addition, one year there as a research
25 scientist.

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Allison Redlich - by Ms. Guice Smith

1 Q. Okay. And can you generally outline your
2 professional qualifications.

3 A. Sure. I have my Ph.D. in psychology, and my area
4 of research has -- I focus on three different areas on
5 police interrogations: On confessions, true and false
6 guilty pleas, and something called mental health courts. In
7 all of those areas, I study voluntary, intelligent, and
8 knowing decision-making by different subpopulations,
9 including juveniles and persons with mental health problems.

10 I received my doctorate in 1999, and before and
11 since then, I have published more than 75 peer-reviewed
12 articles, I would say -- I'm not really sure of the
13 number -- in addition to book chapters and about probably
14 six books or so, some of which I have co-authored, some of
15 which I co-edited.

16 I've received grant funding from the National
17 Institute of Justice, the National Science Foundation, the
18 Federal Bureau of Investigation, among others, to study
19 those topics.

20 Q. Okay. And have you provided the Commission with
21 your CV that outlines that education, training, and
22 experience?

23 A. Yes.

24 Q. And did you also provide the Commission with a
25 report in this case?

Allison Redlich - by Ms. Guice Smith

1 A. Yes, I did.

2 Q. Does your report also outline your professional
3 qualifications, your prior testimony, the materials you
4 reviewed for us, your compensation from the Commission, your
5 areas of expertise, and your anticipated opinions in the
6 case?

7 A. Yes.

8 Q. Were you asked to formulate opinions in this case?

9 A. I believe so.

10 Q. And did you, in fact, formulate opinions in the
11 case?

12 A. Yes.

13 MS. GUICE SMITH: Your Honor, you-all were
14 provided Dr. Redlich's CV and report over the overnight
15 recess on Wednesday.

16 At this time, I would ask that you qualify
17 Dr. Redlich as an expert in police interrogations,
18 confessions, and false guilty pleas.

19 JUDGE WAGONER: All right. She may testify
20 as an expert witness in police interrogation -- and what
21 were the other things?

22 MS. GUICE SMITH: Confessions.

23 JUDGE WAGONER: Confessions.

24 MS. GUICE SMITH: And false guilty pleas.

25 JUDGE WAGONER: And false guilty pleas, yes.

Allison Redlich - by Ms. Guice Smith

1 Q. Dr. Redlich, do you have with you today your
2 report, your CV, and a copy of the materials that you
3 reviewed in this case?

4 A. I have the report printed out and I have access to
5 the CV and the other materials.

6 Q. Okay. When the Commission hired you, was it your
7 understanding that the Commission was a neutral agency and
8 that we weren't seeking any specific outcome?

9 A. Yes. Absolutely.

10 Q. What were you asked to do in this case?

11 A. I was asked to review materials related to the
12 police interrogation and *Alford* plea of James Blackmon.

13 Q. And what materials did you review generally?

14 A. They are listed on page 2 of my report. I
15 reviewed the initial police reports; the initial
16 investigation; some photos; media information from the
17 police files; the police reports after Blackmon became a
18 suspect; Blackmon's criminal history as gathered by the
19 police; the interviews with police conducted between
20 October 25, 1983, and December 7, 1983; Blackmon's state
21 hospital records; court file documents; newspaper articles
22 collected by your commission; some commission interviews,
23 specifically with Blackmon, with Detective Holder and
24 Munday; and the State's appellate brief with attachments;
25 the defendant's appellate brief with attachment; a summary

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Allison Redlich - by Ms. Guice Smith

1 of Dorothea Dix records; statement -- I can continue, but --
2 do you want me to continue with all of the materials?

3 Q. No.

4 A. In addition, there is one thing that I've reviewed
5 since writing the report, which is Dr. Landis' report.

6 Q. Did you also have an opportunity to hear
7 Dr. Landis' testimony as it was recorded yesterday?

8 A. I did. I did review that -- listened to it.

9 JUDGE WAGONER: Lindsey, just if people have
10 not found it --

11 MS. GUICE SMITH: 43.

12 JUDGE WAGONER: -- the report is under tab
13 43.

14 MS. GUICE SMITH: Yes, ma'am.

15 Q. Dr. Redlich, before we get to your opinions, I
16 would like to talk to you a little bit about the areas on
17 which you have formulated opinions.

18 Let's start with the psychology of police
19 interrogation and false confessions, which is Roman numeral
20 III on your report.

21 What have we learned about confessions as it
22 relates to exonerations?

23 A. We have learned a great deal, really, since, I
24 would say, 1996. The research has really boomed and
25 blossomed. I mean, there were certainly research articles

Allison Redlich - by Ms. Guice Smith

1 prior to that, but they were few and far between.

2 But what we do know is that about 25 to 28 percent
3 of DNA-based exonerations from the Innocence Project are
4 either false confessions, false guilty pleas, or both. When
5 we look at the national registry of exonerations, which does
6 not limit itself to DNA-based exonerations, we see about 10
7 to 12 percent are false confessions and I think about
8 18 percent are false guilty pleas.

9 So we have -- since 1996, there has been a
10 tremendous amount of research. We know that there is about
11 three different main types of false confessions. There are
12 voluntary false confessions, coerced compliant false
13 confessions which really make up the bulk of the confessions
14 in the national registry of exonerations and the Innocence
15 Project, and we -- the third type is called coerced
16 internalized confessions, and the coerced compliant and
17 coerced internalized are two types of false confessions that
18 are induced through police interrogation methods.

19 The distinction between them is that, in compliant
20 false confessions, the person recognizes that he or she is
21 innocent and didn't commit the crime but will nonetheless
22 falsely confess in order to escape being -- a police
23 interrogation situation. Whereas coerced internalized are
24 those who, again, through police interrogation methods, come
25 to actually temporarily believe that they indeed committed

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Allison Redlich - by Ms. Guice Smith

1 the crime, but typically, at least the ones we know about,
2 soon after they leave the interrogation room and leave that
3 atmosphere, they realize that they did not commit the crime.

4 So that's one of the things that we know.

5 We know that there are both situational and
6 dispositional risk factors to false confessions.
7 Situational risk factors are typically things that are
8 involved with the interrogation itself. Typically, it could
9 be the length of the interrogation -- let me look at my
10 notes. We talk about the presentation of false evidence or
11 lying or trickery and deceit with suspects, which we
12 acknowledge is legally permissible but it has been a common
13 factor in false confession cases. It creates confusion.

14 And then the third situational factor that is
15 commonly discussed is what's called minimization tactics.
16 And these are very, very common interrogation tactics. They
17 relate to the Theme 2 of the John Reid and Associates
18 Interrogation Method -- I'm sorry -- Step 2. And so themes
19 are just ways to make it morally acceptable for the person
20 to confess. And they use a variety of different themes,
21 including justification or self-defense or blaming it on the
22 victim -- anything that kind of lowers the person's
23 culpability or their defenses, really, to confess.

24 And then we talk about dispositional risk factors.
25 And typically, we talk about a person's young age if they

Allison Redlich - by Ms. Guice Smith

1 are a juvenile, for example, or we talk about whether or not
2 they have mental health problems or intellectual
3 disabilities.

4 I'm not sure how much you want me to go on as
5 opposed to you going through the report with me.

6 Q. All right. Let me back up and ask you a couple of
7 questions before we move further into that.

8 A. Sure. Okay.

9 Q. You talked a minute ago about the three types of
10 false confessions.

11 In reviewing this case, did you form an opinion as
12 to whether or not any of those types were implicated in this
13 case?

14 A. I would -- yes. I mean, I would say that -- what
15 I didn't mention is I tend to view these on a continuum. I
16 don't think they are three discrete categories. I think
17 that there's obviously gray areas in between.

18 When we talk about voluntary false confessions,
19 the one end of the -- the extreme end of the continuum, I
20 see that as people who voluntarily, on their own accord, may
21 go to the police, may go to the media even, and false
22 confess without any kind of prompting.

23 You can also have people that are kind of in
24 between voluntary and coerced compliant. For example, you
25 may have a gang member who -- the police are aware of the

Allison Redlich - by Ms. Guice Smith

1 gang crime, they come to interview or interrogate some of
2 the gang members. And during that interrogation, the gang
3 member will falsely confess in order to protect another gang
4 member who is actually the true perpetrator.

5 That, to me, is kind of in between because that
6 person didn't go to the police on their own accord but,
7 rather, once they were identified and they kind of realized
8 that, "Hey, my true perpetrator friend is going to really
9 get in trouble here, I'm going to step up to the plate. I
10 know I'm a juvenile," for example, "I'm going to get less
11 time" or something along those lines.

12 So I actually see Mr. Blackmon's confession
13 somewhere kind of in that gray area between voluntary false
14 confession and a coerced compliant false confession.

15 Q. Okay. And also, you spoke about situational and
16 dispositional factors that are identified as rationales in
17 false confessions.

18 In this case, did you identify any situational
19 factors?

20 A. Yes. Let me go to that part of my report.

21 So I would point to a lot of the interrogation
22 techniques that were used by Detective Mulder and Detective
23 Holder -- Munday and Holder -- sorry -- excuse me.

24 There was a lot of asking Mr. Blackmon to
25 speculate. I would point specifically to the themes that

Allison Redlich - by Ms. Guice Smith

1 they developed, which, again, is Step 2 in the Reid
2 technique. And these included kind of the theme of the good
3 versus bad James, the theme of your body being there but not
4 your mind, which were used repeatedly across the different
5 interrogation sessions. And some of these themes have been
6 implicated in other high-profile false confession cases.

7 I would say, you know, another kind of recurring
8 theme is -- related to interrogation technique is they were
9 all friends there. They really started each interrogation
10 of Mr. Blackmon with this idea that "We're all friends."
11 They admitted it in their recent interview with your
12 commission that, you know, they tried very hard to befriend
13 him. So they really downplayed the adversarial nature of
14 the interrogation itself, which, in my opinion,
15 interrogations are adversarial without seemingly being so;
16 which I think, again, they downplayed.

17 Let me just review my notes to make sure I've got
18 everything there.

19 Of course, you know, there was this idea that
20 there was no social support. He was being -- you know, he
21 was alone, he was in custody in the police station, although
22 I understand that that's more of a legal consideration.

23 So, you know, they confront him with his guilt.
24 They use a lot of techniques that -- you know, and they also
25 strategized around his mental health problems. I think that

Allison Redlich - by Ms. Guice Smith

1 was made clear in the materials that I reviewed, that the
2 police detectives had reviewed his mental health records and
3 really built their interrogation strategy around his mental
4 health.

5 Q. Okay. You also talked about dispositional factors
6 generally.

7 Did you identify any dispositional factors in this
8 case?

9 A. Yes. Absolutely.

10 So dispositional risk factors are factors that are
11 inherent to the suspect him or herself. Which, again, as I
12 mentioned, the two most common ones are juvenile status and
13 mental impairment, in which mental impairment is often
14 talked about either mental health problems and/or
15 intellectual disabilities.

16 And so in Mr. Blackmon's case, it's clear to me
17 that he has a serious mental health illness as well as
18 intellectual disabilities. His IQ is somewhere between 69
19 and as high as 80.

20 I believe Dr. Landis, who reviewed the records
21 recently, also opined that he, Mr. Blackmon, has mild mental
22 retardation or mild intellectual disabilities, which was my
23 assessment. He is clearly undereducated. It appears that
24 his education stopped as early as the second grade. He was
25 in reform school. He's been in mental health institutions

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1 for about, I would say, at least 35 years.

2 Q. Okay.

3 A. And both of those factors can absolutely put
4 somebody at risk for false confession especially when
5 combined with the interrogation tactics that were used.

6 Q. And you have read Dr. Landis' report and heard his
7 testimony; correct?

8 A. Yes.

9 Q. Did you hear Dr. Landis testify about the presence
10 of schizo spectrum or psychotic diagnoses such as
11 schizophrenia and schizoaffective disorders?

12 A. Yes, I did.

13 Q. And did you hear Dr. Landis testify about whether
14 Mr. Blackmon was exhibiting certain symptoms of mental
15 illness at the time that he made his statements to law
16 enforcement?

17 A. Yes. Yes.

18 Q. And you just testified that you heard Dr. Landis
19 testify about Mr. Blackmon's intellectual impairments at the
20 time of his statements; correct?

21 A. Yes.

22 Q. After reviewing Dr. Landis' report and hearing his
23 testimony, do you have any additional or different opinions
24 related to Mr. Blackmon's mental illness and/or intellectual
25 impairments as dispositional risk factors in this case?

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1 A. Not beyond what I've already concluded in my
2 report.

3 Q. Okay. You mention that police interrogators do
4 not receive additional training surrounding mental illness
5 as one of the dispositional risk factors in your report.

6 Were you able to determine from the materials you
7 reviewed whether or not Detective Holder and Detective
8 Munday had received any training surrounding mental illness
9 or how to question the mentally ill population?

10 A. First of all, let me clarify. If I said that none
11 of the -- no police officer receives training, that's not
12 what I intended to say. I just -- I meant to say that it's
13 often not the case, and especially in the late 1970s, 1980s.
14 I think it is becoming more common today.

15 And I will qualify, it's not necessarily
16 interrogating people with mental health problems as it is,
17 rather, talking to them in the community and handling crisis
18 situations that may arise and learning about the different
19 mental health disorders, but not specifically to
20 interrogations.

21 But to answer your more pointed question, no, I
22 didn't remember reviewing anything about either of the
23 detectives having received training in mental health issues,
24 although it was made clear to me that they were both aware
25 of Mr. Blackmon's mental health problems.

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1 Q. Okay. Thank you.

2 You also mentioned as one of the dispositional
3 risk factors that the confession statements are inconsistent
4 with -- both with other statements and with the forensic
5 evidence in cases.

6 And in this case, were you able to determine --
7 I'm sorry -- in cases generally.

8 Were you able to determine in this case whether
9 that is true?

10 A. I'm sorry. Can you point me to where you are in
11 my report and repeat your question? I think I missed it.

12 Q. We are on page 14 of the report -- I'm sorry -- 19
13 of the report, Part 3.

14 A. Yes. Okay.

15 So that's not dispositional factors, but it's
16 another commonality that's emerged in false confession
17 cases. So there have been studies of proven false
18 confession cases -- and there's different ways to prove that
19 a confession is false. But that is one of the commonalities
20 that has emerged, that the confession statement does not
21 contain any new information that the police weren't already
22 aware of, and it doesn't -- it's nongenerative, that -- in
23 that the confession statement does not lead the police to
24 new evidence.

25 For example, say the weapon -- the murder weapon

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1 had not been found. In a true confession statement, if the
2 suspect can point and lead police to find where the murder
3 weapon is, that would be an indication that the statement
4 was more reliable.

5 Q. So how does that apply in this case?

6 A. Well, my understanding is that all of the
7 information in -- within Blackmon's interrogations, there
8 was nothing in there that was not known to the police. Or
9 certainly not -- sorry -- not verifiable information. So
10 there may have been, allegedly, statements made about where
11 he was standing or something along those natures, but that
12 is not verifiable information.

13 It's also my understanding that there was no new
14 information generated after speaking with Mr. Blackmon
15 multiple times. And he could not provide any new
16 information. And for the segments that were recorded, you
17 can track where the information is coming from. And
18 Mr. Blackmon gets many details incorrect. And he is asked
19 repeated questions, especially when he gets pieces of
20 information that are incorrect with what the police already
21 know to be true.

22 For example, very basic part of the crime was that
23 Ms. Payton was stabbed, and there are portions of the
24 interview where Mr. Blackmon says she was -- she was cut
25 with a knife, she was shot with a gun, she was choked. And

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1 in that instance, the police only follow up with the cutting
2 portion -- things of that nature.

3 So there are many details that are inconsistent
4 with known facts of the crime, and that's another
5 commonality in proven false confession cases.

6 Q. Okay. The next piece that I want to turn your
7 attention to is page 20 of your report. You talk about
8 taking suspects to crime scenes or showing photos and how
9 that affects subsequent statements.

10 Can you talk about whether that was a factor here.

11 A. Sure. I mean, that kind of goes to this idea of
12 fact contamination and tainting the originality of the
13 statements.

14 Again, you know, is the information coming from
15 the suspect, which, in a true false confession, that's
16 exactly what you would expect to see, rather than, you know,
17 from the interrogators themselves or -- and/or, I should
18 say, coming from external sources.

19 So, again -- and there have been several false --
20 proven false confession cases where the police have shown
21 the innocent false confessor either pictures of the crime
22 scene or they've taken them to the crime scene, and those
23 kind of external sources serve to taint the reliability or
24 the originality of the suspect's statements.

25 Q. Okay. I'm going to turn your attention now to

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1 Part IV of your report where you focus on the psychology of
2 guilty pleas.

3 Can you talk about the four areas of concern
4 related to guilty pleas that you've outlined in your report?

5 **JUDGE WAGONER:** Lindsey, what page?

6 **MS. GUICE SMITH:** Page 9 -- I'm sorry. Page
7 8 -- beginning on page 8.

8 A. So the four general arguments that I laid out in
9 this report specifically is one that all defendants who
10 plead are not factually guilty, and there's ample evidence
11 to support that. And there is -- you know, the courts have
12 been aware that innocent people either do plead guilty or
13 may plead guilty, really, since the inception of plea
14 bargaining. And there's -- certainly, as I mentioned, about
15 18 percent of known exonerations to date are of people who
16 were wrongly convicted through the guilty plea mechanism.

17 The second argument was that all defendants who
18 plead guilty do not understand the information given to them
19 even if they have met the requirement for competence to
20 stand trial, which I review in my report has a very low
21 threshold, and I think that's commonly accepted.

22 And then I kind of detail in my report reasons
23 why -- there are several reasons why to suspect that many
24 defendants do not really understand, at least not fully
25 understand, the conditions, the consequences, everything

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1 that goes into a plea decision because of things related to
2 legalese, because of things related to additional
3 characteristics like mental health problems -- things of
4 that nature.

5 My third argument was that all defendants who
6 plead guilty do not have sufficient information to make
7 informed plea decisions.

8 And I will say in Mr. Blackmon's case it's not
9 very clear -- that there wasn't much information that I
10 reviewed specifically about the plea. I do know that, in
11 his most recent interview with the Commission, which was,
12 you know, some 35 years later, he talks about how he
13 resisted taking a plea and that he didn't -- he didn't have
14 enough opportunity to discuss it with his attorney -- or at
15 least he wanted to discuss it more with his attorney and it
16 seemed like, in his opinion, that his attorney was
17 unwilling.

18 And then my fourth argument was that all
19 defendants who plead guilty are not necessarily making
20 voluntary decisions. And I go over some of the research in
21 all of these areas I and others have conducted why it may be
22 the case in that argument specifically why people aren't
23 making a voluntary decision despite the fact that all plea
24 decisions must be knowing, intelligent, and voluntary and
25 made with a factual basis of guilt.

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1 Q. Thank you. And I know you just mentioned that
2 Number 3 may have had some place in this case.

3 But did you find specific to Mr. Blackmon's case
4 any of these other areas that you've just outlined for us
5 that would have been applicable?

6 A. Well, especially Number 1. I mean, I -- my
7 opinion is that Mr. Blackmon falsely confessed. And as
8 result, I do believe this is a false guilty plea -- an
9 instance of a false guilty plea.

10 In regards to Number 2, I am aware that he was
11 assessed to have been competent, and maybe, I think, twice.
12 But, to me, that doesn't necessarily mean that he actually
13 understood the decision that he was making.

14 And -- I'm sorry -- I was going to say something
15 about that. I like to make -- I'm sorry.

16 I like to make the distinction between competence,
17 which is the capability of making the decision, and actually
18 understanding, which I think I point to a U.S. Supreme Court
19 case *Godinez versus Moran*, from 1983, which also makes that
20 distinction, where this case was about whether or not the
21 *Dusky* standard of competence also applies to the plea
22 decision. And they found that it does, but they do make a
23 distinction between actually understanding and having the
24 ability to understand.

25 So even if Mr. Blackmon had the ability to

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1 understand, which I am not in a position to question his
2 assessment of competence, it is very possible that he didn't
3 have an actual understanding of the proceedings and of the
4 decision and those kinds of things.

5 And then in terms of voluntary -- again, I don't
6 believe there was much information for me to review about
7 that, especially going back some 30 years at this point.

8 I think if -- my supposition, if you will, is if
9 you would ask -- if you would ask Mr. Blackmon today if he
10 felt that it was voluntary, I think that he might say it
11 wasn't voluntary, that he felt he was pressured into it,
12 that he resisted four or five times, and then did agree to
13 do an *Alford* plea.

14 Q. And did the fact that Mr. Blackmon pled pursuant
15 to *Alford* add any additional information for you in this
16 case?

17 A. I think it's just another piece of information
18 that he was insisting upon his innocence. You know, again,
19 I don't know the degree to which it was the defense attorney
20 insisting, I don't know how much Mr. Blackmon really
21 understood the difference between an *Alford* plea and a
22 traditional guilty plea at the time. I just don't have
23 access to that information. I doubt that Mr. Blackmon knew
24 about the *Alford* plea option and was the one to raise this
25 possibility. I just don't know.

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1 Q. Okay. Thank you.

2 MS. GUICE SMITH: Commissioners, do you have
3 questions for Dr. Redlich?

4 JUDGE WAGONER: Yes, sir, Sheriff.

5 SHERIFF FRYE: My name is Kevin Frye. I'm
6 sheriff in Avery County. It's nice to meet you.

7 THE WITNESS: Nice to meet you.

8 SHERIFF FRYE: Have you ever conducted a
9 criminal interrogation with the police?

10 THE WITNESS: No.

11 SHERIFF FRYE: Okay. When was it that you
12 said you worked with the FBI in training them about false
13 confessions?

14 THE WITNESS: So what I said specifically was
15 that I received a grant, funding through the FBI. So this
16 is -- it's called the HIG, it's the High-Value Detainee
17 Interrogation Group, and this was an initiative that began
18 by Obama in his first term, really in early January of 2009
19 when he took office, and it still continues today.

20 But the HIG is an organization that -- it's
21 kind of a twofold purpose where one purpose is to deploy
22 elite interrogators to interrogate high-value detainees, the
23 second purpose was to conduct research. And so I receive
24 research funding from the HIG through the FBI. It's the
25 FBI, it's the Department of Defense, and it's the CIA -- and

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1 that's what I was referring to.

2 **SHERIFF FRYE:** Okay. So in this
3 organization, you say they deploy high-value interrogators.

4 In your opinion, what would be the first
5 step? If I were interrogating a suspect, what would be the
6 first step that I would need to do?

7 **THE WITNESS:** Well, a lot of methods have
8 moved away from the model of interrogation. So when you say
9 "interrogation," I'm not sure if you're meaning the same
10 thing that I am.

11 So I make a distinction, and I know the Reid
12 technique makes a distinction, between interviews and
13 interrogation. So interviews are much more -- much less
14 formal, I should say, not in a controlled setting. And so a
15 big part of the Reid technique is that the interrogation is
16 guilt presumptive.

17 So I don't know if you've reviewed my very
18 lengthy report.

19 **SHERIFF FRYE:** I did. I'm very interested in
20 interview and interrogation.

21 **THE WITNESS:** Thank you.

22 But they make a distinction, as I said,
23 between the interview and an interrogation.

24 And the purpose of the interview is to more
25 or less determine if the person is truthful or deceptive,

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1 like lying or telling the truth, which they do through
2 reliance on nonverbal cues, paralanguage cues -- things
3 like if people use a contraction or something like that in
4 their speech. And all of these things have really been
5 demonstrated by scientists not to be indicative of lying per
6 se, but rather being nervous, which I think many people are
7 nervous, even well-seasoned criminals, if you will. You
8 know, they can get nervous when they are being interviewed
9 by the police.

10 And so what happens then is they use these
11 diagnostic cues, in their opinion, to say, "Okay. This
12 person is truthful, this person is lying." And so they
13 begin the interrogation with a presumption of guilt. And
14 this is very dangerous because it creates what's called
15 confirmation bias.

16 And confirmation bias is just a very, very
17 well-studied, well-proven phenomenon in that -- it's
18 basically hypothesis seeking, that we go to confirm our
19 hypothesis, our theories. And in this case, the theory is
20 that this person is guilty. And so everything that confirms
21 my theory, I give credence to, I give weight to. But
22 everything that's in opposition to my theory, I tend to
23 ignore, I discount, I reinterpret it even in order to be
24 consistent with my theory.

25 And, you know, there has been research

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1 specific to interrogations that, when you manipulate whether
2 an interrogator has a presumption of guilt versus a
3 presumption of innocence, it does make a difference in terms
4 of the questions they ask, how they interpret it, the effort
5 that they put into it -- and those kinds of things.

6 So to go back to your original question, a
7 lot of other countries, in -- in Europe and in Australia and
8 New Zealand, they have moved away from the interrogation
9 method. So they moved to what's called an inquisitorial or
10 an information-gathering approach. And that's what the HIG
11 and the researchers recommend. That's what they train their
12 elite interrogators to do, is to just use, you know,
13 open-ended questions and certainly not go in with a
14 presumption of guilt, to really -- to seek out information
15 as opposed to seeking a confession or incriminating
16 statements.

17 SHERIFF FRYE: I agree with you.

18 But the first step -- when I was taught by
19 the FBI and when I went through the North Carolina Justice
20 Academy, one of the first steps we were taught is you gain
21 rapport with the suspect.

22 THE WITNESS: Yes.

23 SHERIFF FRYE: In other words, you can't go
24 in as an adversarial role, like you were saying.

25 THE WITNESS: Right.

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1 **SHERIFF FRYE:** You have to go in on at least
2 a way to gain rapport and friendly -- that is common with
3 all the interview techniques. Is that not correct?

4 **THE WITNESS:** Certainly from what I've seen.

5 You know, as I said in my report, I think
6 interrogation methods here in the United States, they work,
7 but they really work too well. And it's this -- if you have
8 an innocent suspect, it's not necessarily the gaining
9 rapport or being friendly on its own. It's in combination
10 with all of the other tactics.

11 But certainly in Mr. Blackmon's case, this
12 idea of being friends -- he was clearly seeking out their
13 friendship. There are instances in his mental health
14 records from Dorothea Dix that, you know, he calls the
15 police his friends. He is seeking them out. He wants to
16 please them. There is some indications of that.

17 And so, you know, certainly with a suspect
18 who does not have mental health problems, and certainly one
19 who is guilty, you know, it's -- building rapport is fine
20 and it's not in and of itself going to lead to a false
21 confession among someone who is innocent.

22 **SHERIFF FRYE:** Correct.

23 And you mentioned the Reid technique, and let
24 me say this from the get-go, I am not a fan of the Reid
25 technique at all. Okay?

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1 THE WITNESS: Okay.

2 SHERIFF FRYE: I do not like it because I do
3 think that it can elicit false confessions.

4 But when we go back to Detectives Holder and
5 Munday, they -- when they began this in 1980-something, the
6 Reid technique, even though it started in 1947 in Chicago,
7 it really didn't get -- start to be put out for training
8 until the late '70s.

9 When I asked Detective Holder yesterday what
10 training he had had, and the only training he had in -- was
11 through the North Carolina School of Government, which would
12 not be a Reid technique because they are a moneymaking
13 operation. They're there to try to make money. Every seat
14 that you buy in the Reid technique is like \$250 an officer
15 to get them trained in that. So I have never subscribed to
16 that. I don't believe in it.

17 I don't believe that Detective Holder or
18 Munday, either one, had a clue what the Reid technique even
19 was in the early '80s, like this --

20 THE WITNESS: Right.

21 SHERIFF FRYE: -- because hardly any of us
22 did in law enforcement.

23 So I was just throwing that out there.

24 THE WITNESS: Yeah.

25 And I would just say to that, you know, I

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1 think the Reid technique has kind of become a synonym for
2 interrogation, accusatorial methods in the United States.
3 To me, it's not necessarily important to demonstrate that,
4 yes, this one detective in this certain case received
5 training from the Reid technique because I don't think
6 that's how people generally learn how to interrogate. I
7 think people are interrogating suspects before they go to a
8 Reid training technique. I mean, I don't think people are
9 in the academy going to the Reid training methods. I think,
10 you know, they are usually using it as a supplement or
11 something like that if they do receive that training.

12 But if you look at other interrogation
13 methods, other brands of irrigation, certainly, in the
14 United States, they are all of this nature. They are all
15 built on the main methods of the Reid even if they're not
16 Reid per se.

17 And so, you know -- I should be more clear
18 about that. It's really just more of the accusatorial,
19 confrontational models of interrogation.

20 **SHERIFF FRYE:** But -- okay.

21 And you talk about that -- one of the aspects
22 that you were talking about was that new information -- in
23 order to make sure it's not a false confession, there needs
24 to be new information.

25 That is not -- that is not possible in many

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1 cases because, a lot of times, the law enforcement officers
2 know the information and they are just getting the person to
3 recount to them the events as they happened.

4 Is that not correct?

5 **THE WITNESS:** That's absolutely correct. And
6 I'm sorry if I indicated that it was an all-or-nothing thing
7 because it's certainly not, because these are just
8 commonalities that appear in false confession cases. And
9 it's certainly not the case that you're going to get every
10 single false confession case to have all of -- 100 percent
11 of these commonalities.

12 For example, you know, interrogation length
13 is often pointed to when you're talking about false
14 confession cases. But from my understanding, I don't see
15 Mr. Blackmon's interrogations as excessively long. I think
16 they were an hour, two hours at the most within individual
17 sessions. Of course, there were many of them. But that
18 doesn't mean that it wasn't a false confession.

19 You have to take in consideration, really,
20 the totality of the circumstances, if you will. And when
21 you start putting all of these pieces together with his
22 mental health problems and dispositional characteristics,
23 but -- so no, certainly -- and it's not -- any one of these
24 things is not diagnostic of a false confession. So we can't
25 say just because there wasn't a long interrogation or

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1 because it didn't generate new information, therefore, it is
2 a false confession. That's not what I meant to say.

3 **SHERIFF FRYE:** Okay. And the last thing I
4 want to ask you is, as I read your report, the detectives
5 that were interviewing him, they -- and I said this
6 yesterday -- I think they were playing sandbox psychology a
7 little bit.

8 But as you read through this, do you see -- I
9 have seen where you -- the critical points that you made,
10 and I tend to agree with many of them. But could that not
11 have been the detectives just stumbling through without a
12 specific purpose, trying to get as much information as they
13 can, and when they saw the grain of -- the nugget of gold in
14 what he was saying, that's what they would focus on and
15 that's where they would generally veer to, rather than it
16 being a planned, "Let's try to get this guy to confess"?

17 **THE WITNESS:** I think, to me, that's --
18 exactly what you just said is confirmation bias, that they
19 picked up on -- they have this theory that Mr. Blackmon is
20 guilty; so everything that was consistent with this theory,
21 they would continue down. And if it wasn't consistent, they
22 would ask him again --

23 **SHERIFF FRYE:** They would --

24 **THE WITNESS:** They would invoke the other
25 James, "Oh, the other James did it. Oh, yeah, yeah, I did

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1 do that." Or, "That was my spiritual self."

2 And you can only see that in times when he's
3 inconsistent with their theory, if you will -- those kinds
4 of things.

5 So, you know -- and, again, I don't
6 necessarily think at the time, in 1983, they necessarily
7 were doing anything wrong. And I certainly don't think that
8 they thought he was innocent and they were trying to frame
9 him, but that doesn't mean that his confession is reliable
10 either.

11 **SHERIFF FRYE:** So do you think it was just a
12 fluke? And this is my final question -- do you think it was
13 just a fluke that James picked out the exact stall?

14 **MR. GRACE:** If he picked it out, Doctor.

15 **THE WITNESS:** That's my feeling. It's -- you
16 know, honestly, yeah -- I don't know who shouted that out,
17 but that is exactly my feeling, and that's something that I
18 mentioned to Julie and Lindsey and Beth, that it's very
19 interesting to me that all of, really, the most damning
20 evidence against Mr. Blackmon was not recorded.

21 And if you go back and look at the sessions
22 that were recorded, and, again, you look at the totality of
23 the circumstances, you know, what was being said and -- you
24 know, I just find it very hard to believe that, across the
25 course of two hours of a crime scene visit, these were the

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1 only things that he said, that these are verbatim.

2 You know -- and, again, confirmation bias is
3 not always conscious. In fact, it's usually unconscious.
4 You know, so the police in this case, you know, they hear
5 these things and maybe -- maybe, I don't know -- maybe
6 Mr. Blackmon said, and they write it down and they take it
7 in their notes, but what were all the other things that he
8 also said that are inconsistent with the theory that, you
9 know, maybe -- and, again -- again, there's, like, this idea
10 of transference -- and I'm pretty sure North Carolina now
11 has blind eyewitness procedures --

12 **SHERIFF FRYE:** We do.

13 **THE WITNESS:** -- because of this idea of
14 transference. Police, anybody -- you don't know when you're
15 giving cues to other people.

16 So what kind of cues were given off during
17 this crime scene visit to Mr. Blackmon? Nobody knows
18 because it wasn't recorded. But it's certainly a
19 possibility.

20 **SHERIFF FRYE:** Thank you.

21 **JUDGE WAGONER:** I would like to just follow
22 up on something you said related to confirmation bias and
23 tunnel vision, perhaps, on the part of the officers
24 investigating this.

25 Do you have an opinion or could you

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1 characterize the fact that, during a lineup, the eyewitness
2 supposedly said, "That's not the man I saw," and nothing
3 else seemed to come of that?

4 Does that indicate confirmation bias to you
5 or what?

6 **THE WITNESS:** I think it certainly could. I
7 mean, my recollection was that she said -- you know, she did
8 not pick Mr. Blackmon out of the lineup, but the police do
9 make notes about -- I'm sorry. I thought I'd written it,
10 but that --

11 **JUDGE WAGONER:** Jackie Kelly was the witness.

12 **MS. GUICE SMITH:** She may not know about
13 this. She wouldn't have had this information.

14 **JUDGE WAGONER:** Okay. Never mind. You might
15 not have ...

16 **THE WITNESS:** I do remember -- I think what I
17 saw was, like, a picture of a lineup or a photo array or
18 something, and I wrote down in my notes that this was
19 exactly the wrong procedures to have done. I mean, I think
20 only one person in the lineup was wearing a dashiki. Like,
21 it's just -- by today's standards, from my perspective --
22 and I'm not an expert on eyewitness identification, but I do
23 teach it in classes and things -- it was not up to today's
24 standards by any account. It would have been thrown out in
25 court, I think.

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1 **SHERIFF FRYE:** Yes.

2 **MS. GUICE SMITH:** Dr. Redlich is referring to
3 some photos of the photographic lineup that was done, but
4 she is not aware of the live lineup because that was not
5 provided in those materials.

6 **JUDGE WAGONER:** Okay. I was thinking of the
7 live lineup, and you didn't know anything about it. So
8 never mind.

9 **THE WITNESS:** That's okay.

10 **MR. EDWARDS:** Dr. Redlich, I do have a few
11 questions. My name is Seth Edwards. I'm the prosecutor on
12 this panel. Good morning.

13 **THE WITNESS:** Hello.

14 **MR. EDWARDS:** One thing that concerns me when
15 we ever go back and review a case from almost 40 years ago
16 is we are looking at a case from an investigation from 1979
17 through a 2018 lens. You know, in 1979, there was no DNA,
18 we did not have a national fingerprint database, every
19 college student did not have a cell phone and within seconds
20 of some event would be recording it, we did not have the
21 ability to track cell phone data to be able to show a
22 person's location and when they say, "Well, I was not at the
23 location," "Well, look yes, you were, here is your cell
24 phone data, and you were talking to your girlfriend at the
25 time."

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

2 **MR. EDWARDS:** So would it be fair to say that
3 it is a little bit easier nowadays to be moving away from
4 the interrogation technique because we have so many other
5 more reliable, I guess, techniques in investigation such as
6 DNA that we can rely on as opposed to just going with a
7 straight interrogation?

8 Would that be fair?

9 **THE WITNESS:** You know, I hope that's the
10 case. I'm not entirely sure. I mean, people who study the
11 criminal justice system -- and as you know yourself -- I
12 mean, we are extremely fragmented. There is over, you know,
13 3,000 different counties in the United States, I think
14 something like 18,000 different police jurisdictions. So
15 it's very difficult to say what all of them are doing, what
16 they are aware of, what they know.

17 I mean, I have seen many cases where, you
18 know, these people -- interrogators still want -- or police
19 detectives still want to get the confession in addition to
20 the other evidence just to make it a really strong case and
21 because confession evidence is extremely compelling, as you
22 as a prosecutor are aware.

23 **MR. EDWARDS:** I would like to follow up also
24 the question regarding the allegation that -- are you still
25 there?

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1 (Connection lost.)

2 (Recess taken, 10:03 to 10:10 a.m.)

3 **JUDGE WAGONER:** All right. We are back, I
4 believe, and I think you were asking questions.

5 **MR. EDWARDS:** Yes. I'm sorry I had that
6 effect on you. Forgive me.

7 **THE WITNESS:** Yeah.

8 **MR. EDWARDS:** My question concerns the
9 allegation that the detectives were walking through the
10 bathroom at Latham Hall and the narrative of the report
11 indicates that Mr. Blackmon walked past either four or five
12 stalls and stops at the end stall and makes some comment
13 like, "This is where it happened. I was here. She was
14 there."

15 And this question has a lot of assumptions
16 built in, I understand.

17 So assuming, number one, that the detectives
18 had not already disclosed that to Mr. Blackmon. Assuming
19 that he otherwise had not heard it on the street or people
20 talking about what exact bathroom stall this happened in,
21 what other explanation could there be -- I think the word I
22 used yesterday, he just "got lucky," or maybe he "got
23 unlucky" in picking that last stall -- what other
24 explanation, based on your experience in studying these type
25 of confessions, that he would have done that?

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1 THE WITNESS: That he got lucky?

2 MR. EDWARDS: Yes. Or unlucky.

3 THE WITNESS: It's entirely possible. I
4 mean, I think it's clear -- I mean, I can't point to a
5 specific place but I do believe that they were talking about
6 the bathroom and that it happened in the bathroom. And so I
7 guess if you're considering it to be lucky or unlucky, you
8 have a one in five or six chance of picking the right stall.

9 But like you said, I mean, there's just so
10 many assumptions there that I -- and, again, you know, I
11 just make it clear that nobody knows what happened in that
12 bathroom because it wasn't recorded.

13 But what we do know is we do have all of the
14 recordings and the interactions that were recorded between
15 the detectives and Mr. Blackmon. And if you look at those,
16 you know, there are instance after instance where, you know,
17 he gets it wrong, he has a wrong detail or he says, "No, I
18 never killed anybody in my life" or "Well, the other James
19 did it. Oh, yeah, I guess I did," or he just agrees with
20 things or, you know, there is that repeated questioning and
21 they stop when they get the answer that is consistent with
22 their theory.

23 So I just -- I really don't hold any weight
24 in terms of these statements that were made during the crime
25 scene visit primarily because we don't know what happened.

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1 **MR. EDWARDS:** I guess the other big
2 assumption I forgot to state would be assuming that the
3 detectives were being truthful and accurate in describing
4 what happened.

5 Detective Holder testified before us
6 yesterday, and his testimony was essentially that he had a
7 handheld cassette recorder and was walking behind
8 Mr. Blackmon as he was going to through the dormitory
9 essentially recording things as it was happening, you know,
10 "Mr. Blackmon took a left turn here. He stopped here. He
11 said this here" -- and so, again, that's another big
12 assumption, would be that what the detective recorded in his
13 narrative is true.

14 **THE WITNESS:** (Moves head up and down.)

15 **MR. EDWARDS:** So I failed to state that. I
16 understand that is a big assumption.

17 All right. So your opinion is that there are
18 so many of these variables in place that it's -- you would
19 say that the statements and actions attributed to
20 Mr. Blackmon inside the bathroom are just not reliable?

21 **THE WITNESS:** Yeah. To me, they're not
22 reliable. And I just find it very hard to believe, given
23 the other materials that I've reviewed and how he interacted
24 with the detectives, that he made these spontaneous
25 admissions and that -- you know, I mean, if it's true that

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1 he had a tape recorder and was taping it, we certainly -- it
2 doesn't seem like we have the recording of that. And if it
3 was a two-hour time -- crime scene visit, certainly, the
4 parts that were embedded in the transcribed interrogations
5 don't make up two hours. So what else was said during those
6 two hours? Nobody knows.

7 MR. EDWARDS: Thank you. Those are my
8 questions.

9 JUDGE WAGONER: Yes, sir, Mr. Barrow.

10 MR. BARROW: You have said that, in your
11 opinion, this is a false confession.

12 Did I understand your testimony correctly?

13 THE WITNESS: Yes.

14 May I ask you -- are you a prosecutor?
15 Defense attorney? Or -- can I know who you are?

16 MR. BARROW: Sure. My name is Tex Barrow,
17 and I am a lawyer.

18 THE WITNESS: Okay.

19 MR. BARROW: I am not a criminal lawyer.

20 THE WITNESS: Okay. Thank you.

21 MR. BARROW: But did I understand you
22 correctly that you have concluded that this is a false
23 confession?

24 THE WITNESS: I think, in my opinion, it has
25 many consistencies with a false confession and there is --

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1 yes. Yes.

2 MR. BARROW: Okay. Does "false" mean "not
3 true"?

4 THE WITNESS: Yes. Yes.

5 MR. BARROW: On what basis have you concluded
6 that it is not true?

7 And I make a distinction between "not true"
8 and "unreliable."

9 THE WITNESS: Because of all of the materials
10 that I reviewed -- the interrogation techniques, the extreme
11 dispositional risk factors that are present in
12 Mr. Blackmon's case, the lack of any other evidence. I am
13 especially bothered about how the police came to suspect
14 him. There was no information whatsoever about this
15 anonymous tip who was not even interviewed by the detectives
16 in this case.

17 There is clear indications about four or five
18 months before they came to find Mr. Blackmon to be a suspect
19 that they had very different theories of this crime, that
20 they -- you know, seemingly, when -- they stated in their
21 taped interviews, their transcript interviews, that they
22 were convinced that this is what happened beyond -- you
23 know, "I have no doubt that that's what happened."

24 So there's a lot of different factors that go
25 into my opinion that this was a false confession.

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1 **MR. BARROW:** Wherein do you find the truth?

2 **THE WITNESS:** Well, I mean, I'm using the
3 totality of circumstances approach. I mean, if I -- this is
4 like a philosophical question to me. Is the criminal
5 justice system seeking the truth? Do they ever get the
6 truth in criminal trials? In civil cases? No. They
7 just -- they have to do the best. I mean, if you're asking
8 me do I have reasonable doubt about the validity of the
9 reliability of the confession? Yes, absolutely I do.

10 **MR. BARROW:** But having reasonable doubt
11 about the reliability does not mean it's false.

12 **THE WITNESS:** Yes. I understand what you're
13 saying and what you're asking me. Yes.

14 **MR. BARROW:** And do you still persist that,
15 in your opinion, it is a false confession?

16 **THE WITNESS:** The way that I'm using the word
17 "false," yes. Yes.

18 **MR. BARROW:** So what distinguishes --

19 **THE WITNESS:** I mean, this is what we call
20 false confessions. These are people who are factually
21 innocent who confess to crimes that they did not commit.

22 From the evidence that I reviewed and the
23 dispositional factors, the situational risk factors, the
24 commonalities that are present in other false confession
25 cases, I -- my opinion is that this is an unreliable false

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1 confession.

2 **MR. BARROW:** Now, you say "unreliable" and
3 "false confession." Is false --

4 **THE WITNESS:** To me, I'm equating those
5 terms. I'm not sure -- I feel like you're asking me
6 philosophically is this the truth or false. But I'm
7 equating the term "unreliable" and "false" and "factual
8 innocence" -- I don't think this is some kind of case of
9 legal innocence where, you know, he did some crime or some
10 parts, elements of it, but -- that's not what I'm talking
11 about. I'm talking about factual innocence.

12 **MR. BARROW:** Do you have anything that you
13 can point to that objectively would say that this confession
14 is not true? Or can you only say it's not reliable?

15 **THE WITNESS:** I can point to all of the
16 denials that Mr. Blackmon has said over the course of within
17 the interrogations themselves. I mean, if you're going to
18 say that these confession statements are true, then why
19 aren't his denial statements true?

20 **MR. BARROW:** And if his confession statement
21 is not reliable, why are those protestations of innocence
22 not also unreliable?

23 **THE WITNESS:** For all of the reasons that I
24 have already reviewed and mentioned.

25 **MR. BARROW:** Wouldn't you agree that, for a

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1 person of modest intellect, that giving that person an
2 opportunity to deal with physical objects and physical
3 locations as opposed to expressing them would be a fair
4 thing to do?

5 THE WITNESS: I want to make a clarification.
6 Do you think that Mr. Blackmon has moderate
7 intellect? Because I don't agree with that.

8 MR. BARROW: I said modest, m-o-d-e-s-t.

9 THE WITNESS: You think that he has modest
10 intellect?

11 MR. BARROW: Yes.

12 THE WITNESS: I --

13 MR. BARROW: Okay. Do you think that for
14 someone --

15 THE WITNESS: I don't agree that he has
16 modest intellect. I'm not sure what you mean by that, but I
17 don't agree that he's -- I would say that he has -- he has
18 reached the criteria, and I think that Mr. -- excuse me --
19 Dr. Landis has reached the same conclusion, that he has mild
20 intellectual disabilities, or to use the archaic term,
21 "mental retardation."

22 MR. BARROW: Let's say for someone such as
23 described to us by Dr. Landis yesterday, do you think giving
24 that person an opportunity to deal with physical objects and
25 physical locations as opposed to having to express them

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1 would be a fair thing to do?

2 **THE WITNESS:** Well, let me answer your
3 question by saying that your specific question, I think, is
4 outside of my area of expertise. But within my area of
5 expertise, I will say that by going to the crime scene and
6 by going and showing them photos, it serves to taint
7 somebody's -- contaminate somebody's statements.

8 So, no, I don't think -- I mean, if you --
9 you know, the quotes that I've cited from the Reid
10 technique, from the police interrogators, they advise
11 against this because of the risk of contamination, of
12 tainting, especially when you have somebody with the
13 dispositional risk factors that Mr. Blackmon has.

14 **MR. BARROW:** Would it have been a bad idea,
15 in your opinion, to take Mr. Blackmon to the campus of Saint
16 Augustine's?

17 **THE WITNESS:** Yes.

18 **MR. BARROW:** Would it have been a bad idea
19 when he said, "That's the dorm," to have interrogated him
20 and tried to suggest to him that, "No, it's not that
21 building; it's another building"?

22 **THE WITNESS:** I don't concede that he said
23 "That's the dorm."

24 **MR. BARROW:** You don't concede --

25 **THE WITNESS:** And the -- yeah. I mean, that

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1 part wasn't recorded.

2 And, you know, again, I want to make it clear
3 that I don't think that the detectives were trying to frame
4 an innocent man. I don't think that they were necessarily
5 doing anything wrong with the knowledge that they had at
6 this time. As the prosecutor has pointed out, you know,
7 this is 2018. We investigate very differently from what we
8 did back then.

9 So -- but yes, I do think that there is ample
10 evidence of confirmation bias.

11 **MR. BARROW:** And you have said that you give
12 no weight to the crime scene visit?

13 **THE WITNESS:** Only because it wasn't
14 recorded.

15 **MR. BARROW:** So if wasn't recorded, it didn't
16 happen?

17 **THE WITNESS:** I don't know how it happened or
18 what was said.

19 **MR. BARROW:** Do you give no weight to the
20 report of Mr. Holder?

21 **THE WITNESS:** You mean from just several
22 weeks ago from his interview with the Commission?

23 **MR. BARROW:** From the crime scene visit.

24 **THE WITNESS:** Oh, you mean the thing that's
25 embedded into the transcript of the interrogations?

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1 **MR. BARROW:** Right.

2 **THE WITNESS:** I'm sorry?

3 **MR. BARROW:** Yes, ma'am.

4 **THE WITNESS:** No. That's what we're talking
5 about. I really don't give any weight to that because I
6 don't have access to the verbatim situation of that -- what
7 was said and what other things were said.

8 Again, you know, I think it's clear that if
9 this crime scene visit was two hours, that half a page of
10 transcription cannot possibly cover what was done and said
11 in two hours. And it doesn't have any of the potential
12 nonverbal cues that were given to Mr. Blackmon
13 unconsciously. I'm not saying there was any kind of -- you
14 know, and, again, I don't even know if that -- I'm just
15 saying, raising it as a possibility.

16 **MR. BARROW:** Thank you.

17 **JUDGE WAGONER:** Okay.

18 **MR. GRACE:** Doctor, are you completely
19 comfortable and confident with your findings?

20 **THE WITNESS:** Yes.

21 **MR. GRACE:** And are they consistent with the
22 mainstream thought process in your profession?

23 **THE WITNESS:** Yes. Absolutely.

24 **MR. GRACE:** You don't need me to rescue you
25 any further, do you?

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1 Thank you, ma'am.

2 THE WITNESS: Thank you.

3 JUDGE WAGONER: Mr. Edwards.

4 MR. EDWARDS: Dr. Redlich, this is Seth
5 Edwards again. I do have a follow-up.

6 Again, assuming that the detective had the
7 handheld recorder as -- when they were on campus and
8 assuming he was dictating what was happening as he was
9 viewing it or shortly thereafter, wouldn't you agree that
10 that would be more accurate and more reliable had he waited
11 until he got back to the police department, as some
12 investigators do, maybe even days later, and sat down and
13 typed it up?

14 THE WITNESS: Again, it's like what else was
15 said? Because if we pull things from the transcript of the
16 interrogations and we only pulled the inculpatory statements
17 that Mr. Blackmon made and we didn't include all of the
18 exculpatory ones where he says, "I never killed anybody, I
19 never been to Saint Augustine's, I've never had a
20 dashiki" -- all of those kinds of things and we just threw
21 them away, and we -- they were there, but nobody knows that
22 they were said, then that would be very problematic.

23 Yeah. Oh, yeah, then I would probably hold a
24 very different opinion, just seeing inculpatory statements
25 without having seen the rest of it. So I guess if you're

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1 asking me to make those assumptions, I'm just -- I'm not
2 willing to do that without having seen the remainder of what
3 was said, how it was said, who said -- who introduced it --
4 all of those kinds of things.

5 **MR. EDWARDS:** I guess my question, though, is
6 just in general, if a person is recording -- you say the
7 statements were not recorded. Well, they were not -- the
8 microphone apparently was not held to Mr. Blackmon as he was
9 walking around the dorm, but the detective was recording
10 it -- or recording his observations.

11 Again, assuming what he put down is true, he
12 was recording his observations as he was observing them or
13 within seconds or maybe minutes after it happened as opposed
14 to, you know, waiting a few hours or at a day or two to go
15 back to the police department and then type it up, as often
16 happens.

17 So my question would be wouldn't it be fair
18 to say that recording something as you are seeing it should
19 be more accurate than waiting until a day or two later?
20 Again, assuming it's true what he said?

21 **THE WITNESS:** Okay. But it's still just a --
22 it has to be a partial. And I'm what -- what information
23 inconsistent with the detectives' hypothesis did not make it
24 into that half-a-page transcription? I don't know.

25 **MR. EDWARDS:** Well, and I don't either. I

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1 mean, that is a valid question. I certainly recognize that.

2 All right. Thank you, ma'am.

3 THE WITNESS: Thank you.

4 JUDGE WAGONER: Okay. We've got --

5 MS. THOMPSON: Good morning. My name is
6 Jennifer Thompson. I am a commissioner. I am a victim's
7 advocate; so I'm not a lawyer, I'm not a cop.

8 THE WITNESS: I know who you are.

9 MS. THOMPSON: I thought you might.

10 I have so many problems with this. One is --
11 to Mr. Edwards' point, that the embedded part of the
12 transcript from where they're at the campus, we don't
13 actually know when they came back to the department and
14 wrote this from the recorder.

15 THE WITNESS: No.

16 MS. THOMPSON: It does not say they came back
17 that day and reported it within hours. There is no time.
18 So we really don't know.

19 THE WITNESS: Yeah.

20 MS. THOMPSON: And we don't know what else
21 happened.

22 But isn't it problematic? Because I find it
23 problematic that, when he does come back from the visit, he
24 makes statements, and if we're going to believe --

25 THE WITNESS: Sure.

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1 **MS. THOMPSON:** If we're going to believe his
2 confession, then we have to believe everything he says;
3 right? We can't pick and choose the parts that we like --

4 **THE WITNESS:** Yes.

5 **MS. THOMPSON:** -- about his confession and
6 the other parts we don't like so we disregard them.

7 And so the parts I'm having problems with is
8 the day he comes back from this visit, that he talks about
9 making love to women on different floors and he lights a
10 match and he smokes a cigarette. And then he goes -- and
11 he's in the lobby and he goes into the victim's room and he
12 makes love to her in there and that's where the crime
13 actually occurs.

14 And he also makes a statement which to me is
15 particularly troublesome, where they talk about picking out
16 the stall in the bathroom. And I understand confirmation
17 bias way more than I would like to understand confirmation
18 bias.

19 **THE WITNESS:** (Moves head up and down.)

20 **MS. THOMPSON:** Where he says, "Yes, I stopped
21 where the ventilator wall, where it's been taken out."
22 Like, he says that. And so, to me, I'm reading -- and maybe
23 I'm wrong, but it seems like there's a lot of things that he
24 is saying that you wouldn't necessarily have known unless
25 someone had told you that the ventilator was taken out of

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1 the wall.

2 Like, there's a lot of things I'm reading
3 that I find just so problematic and troublesome in his
4 statements because he comes back and talks about -- very
5 inconsistently, and it's different from what is embedded.

6 It's very, very different; right?

7 **THE WITNESS:** Yes.

8 **MS. THOMPSON:** So I guess what I'm asking --
9 and maybe I'm not really asking anything, maybe I'm simply
10 saying something -- in that if we're going to believe his
11 confession, then we have to believe all of it and we have to
12 believe that he actually went through the wall all by
13 himself and that he made love to several women on the way up
14 to the sixth floor and that he made love to the victim in
15 her room and she screamed because she wanted him to stay in
16 the room.

17 And so what part of this are we to believe
18 and what part are we not to believe?

19 **THE WITNESS:** Right.

20 **MS. THOMPSON:** And I guess I'm basically
21 backing you up, is what I'm saying.

22 **THE WITNESS:** Well, thank you.

23 I mean, to go to your very, very first point,
24 you know, I looked this morning, actually, to see if I could
25 find any kind of date stamp of when the interviews were

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1 transcribed or when -- you know, how soon after this visit
2 the notes were typed up. But I didn't -- I couldn't find
3 anything, not even, like -- you know, sometimes on
4 transcription they have the person at the end, you know,
5 "This is -- I did this on this date," but I couldn't find
6 anything along those lines.

7 And, you know, to go to Dr. Landis' testimony
8 from yesterday and certain parts of my own report, you know,
9 a lot of this I find it to be ramblings of serious mental
10 health problems, which is, you know, I think what Dr. Landis
11 was saying.

12 And so to go to your point, is -- are you
13 going to believe those or, you know, do you just discount
14 those?

15 **MS. THOMPSON:** Thank you.

16 **THE WITNESS:** Thank you.

17 **MS. NEWTON:** Good morning. Thank you so much
18 for being with us. My name is Deb Newton. I'm a criminal
19 defense attorney.

20 **THE WITNESS:** Thank you.

21 **MS. NEWTON:** I'm a specialist in state and
22 federal criminal law.

23 So it is troubling to me -- I think we're,
24 quite obviously, all troubled by the suggestion that
25 suddenly, very clearly, Mr. Blackmon approached the stall,

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1 said, "It happened here," I mean, with all of the ramblings
2 before.

3 THE WITNESS: (Moves head up and down.)

4 MS. NEWTON: And I'm in the camp where, if
5 you believe one thing, you have to believe everything that
6 he says.

7 THE WITNESS: (Moves head up and down.)

8 MS. GUICE SMITH: One of the things -- so I'm
9 looking for any objective indicia of, you know, what he said
10 was actually accurate and accurately reported by law
11 enforcement.

12 What I found interesting was that, one, it
13 wasn't apparent to me in the reports, and I wonder if you
14 saw it, that Mr. Blackmon actually was told or aware of the
15 purpose for the visit. It didn't appear to me that he knew
16 he was going there to show the officers where he committed
17 that crime, and it was almost like just a -- you know, a
18 friendly little visit that he's been taken on.

19 And that was never made clear.

20 And the second thing I found interesting as
21 an objective matter was -- in support of what you're saying
22 was apparently the innocence commission staff went through
23 the statements that law enforcement recorded when they did a
24 visit to the crime scene, and tracking Mr. Blackmon's walk
25 around the dorm, he exited a stairwell to the east that did

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1 not take him by Jackie's room. And we know her to be the
2 one person who, at the time, said -- and told the media and
3 everyone, "He walked right by me and exited."

4 **THE WITNESS:** (Moves head up and down.)

5 **MS. NEWTON:** So I found that very interesting
6 after he left the bathroom that, if you believe everything
7 he said and what they said he did, that you have to believe
8 that, when he walked out, he did not walk by her room.

9 And the response to that when I asked the
10 question was, "Well, maybe the officers weren't actually
11 recording as if he was doing everything that he said he did
12 that night when he killed her." But I find that a
13 convenient explanation.

14 **THE WITNESS:** (Moves head up and down.)

15 **MS. NEWTON:** It appears to be another one of
16 those picking and choosing convenient facts as you're
17 suggesting.

18 **THE WITNESS:** Yeah. You know, I also did
19 not -- again, to go to your very first point, I did not see
20 any indication of -- you know, certainly not in those
21 written documents of "We're going over to Saint Augustine's
22 for this purpose."

23 I do think it was clear that -- my
24 recollection is that they had been talking about Saint
25 Augustine's during the interrogation prior to the visit;

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1 so -- but, again, I don't know what was said to Mr. Blackmon
2 and, you know, they could've said, "This is going to help
3 you jog your memory about the killing you did." I really
4 don't know.

5 You know, I must admit, I was a little
6 confused about the tour.

7 MR. BOSWELL: I think this is going into
8 negotiation by a witness.

9 JUDGE WAGONER: What now?

10 MR. BOSWELL: This seems to be turning into
11 sort of debate of the points through the witness.

12 JUDGE WAGONER: Let's just try to keep it to
13 questions.

14 THE WITNESS: Okay.

15 JUDGE WAGONER: Various hypotheses. Okay.
16 Did you want to keep going?

17 MS. NEWTON: No. Thank you very much.

18 SHERIFF FRYE: One other question.

19 How many times have you testified or
20 presented evidence about confessions in court or in
21 proceedings like this?

22 THE WITNESS: I think I estimated about seven
23 times in my report.

24 SHERIFF FRYE: Okay. And --

25 THE WITNESS: I get asked all the time, but I

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1 typically don't take on cases. My feeling is I have a very,
2 very busy full-time job being a professor.

3 **SHERIFF FRYE:** I understand that.

4 Out of those seven times, have you -- has
5 there ever been a time that you didn't find a problem with
6 the confession?

7 **THE WITNESS:** Well, honestly, I probably
8 wouldn't have gotten to the point where I testified. So
9 when I list it in my report and when you're asking me, those
10 are the times that I testified in court.

11 So by that point, I can say no.

12 But certainly there were cases where I have
13 been asked to review something by the defense attorney --
14 because I really can't remember a time I've been asked by
15 the prosecution. That's not to say that I wouldn't
16 consider, I certainly would consider doing it. But, you
17 know, if I tell the defense attorney, "You know, look, I
18 don't think I can help you, this is not -- in my opinion,
19 this is not a false confession case," they're not going to
20 employ me further.

21 **SHERIFF FRYE:** How many times has that -- in
22 percentage-wise, how many times has that happened?

23 **THE WITNESS:** I really can't say. I mean,
24 there is something that we call -- researchers call
25 selection bias. So there's, like, many different levels.

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1 Like, first of all, I say no to a lot of cases without even
2 hearing any details.

3 Second of all, you know, I don't know how to
4 say this politely --

5 **SHERIFF FRYE:** You don't have to be polite.
6 Just spit it out.

7 **THE WITNESS:** I don't want to appear
8 conceited or anything, but, you know, I think I tend to get
9 cases where the defense attorneys really do believe that
10 these are false confession cases. I will not work on
11 something that I think is a coerced confession where I
12 think, you know, maybe, by the letter of the law this is a
13 guilty person that didn't provide a voluntary false -- I'm
14 sorry -- a voluntary confession, but, you know, I don't work
15 on those cases. So there's a lot of different factors that
16 makes it very hard for me to answer your question.

17 **SHERIFF FRYE:** My point being is when you're
18 given this and you're looking at it from a defense attorney
19 standpoint, there is that element that you're looking for
20 something to be wrong also.

21 **THE WITNESS:** I understand what you're saying
22 and I appreciate that. And I -- you know, that's certainly
23 possible because I do believe that all of us humans -- we're
24 all humans, we're all susceptible to these kinds of biases.

25 **SHERIFF FRYE:** We all have a bias.

Allison Redlich - by the Commissioners

1 **THE WITNESS:** And I'd also like to think that
2 I'm a trained scientist. I try to be very objective in my
3 work. I mean, that's how I was trained to do research, and
4 that's -- you know, I'd like to think that I hold myself to
5 that standard. I know that I do, but that's not to say that
6 I'm not susceptible to biases.

7 **SHERIFF FRYE:** Thank you. That's my only
8 question.

9 **JUDGE WAGONER:** Any further questions by
10 anyone? Okay.

11 Y'all have anything?

12 **MS. GUICE SMITH:** No.

13 **JUDGE WAGONER:** All right. Thank you so
14 much.

15 (Witness stands down, 10:40 a.m.)

16 **MS. GUICE SMITH:** I am going to recall staff
17 attorney Julie Bridenstine just briefly.

18 **JUDGE WAGONER:** If you'll be sworn again,
19 please, ma'am.

20 * * * * *

21 Thereupon, JULIE BRIDENSTINE, a witness having been called
22 by the Commission, was examined and testified on DIREC
23 EXAMINATOIN as follows:

24 **MS. GUICE SMITH:** Commissioners, on a break
25 yesterday, there was a question about Chief Adams, who is

Julie Bridenstine - by Ms. Guice Smith

1 listed in the report that we've been talking about today as
2 being present for the walk-through of Saint Augustine's
3 College with Mr. Blackmon.

4 JUDGE WAGONER: He is the maintenance man?

5 MS. GUICE SMITH: No. He was the chief of
6 security on campus. I have some additional information
7 about that that I'm going to ask Julie about this morning.

8 BY MS. GUICE SMITH: (10:41 a.m.)

9 Q. Ms. Bridenstine, did you have an opportunity to
10 interview Chief Ernest Adams from Saint Augustine's?

11 A. Yes, last night.

12 Q. Was that interview recorded?

13 A. It was recorded but not transcribed.

14 Q. And what was Mr. Adams' role at Saint Augustine's?

15 A. He was the chief of security. He told us that he
16 started at Saint Augustine's in 1966 and retired in 2009.

17 Q. What did he tell you about this case?

18 A. He said that he remembered the case. He was not
19 there the morning the crime happened, but he was there later
20 that day.

21 Q. Did he tell you anything about his understanding
22 of how the suspect got into the dorm?

23 A. He did. He said that he believed that the suspect
24 went in the front door as the front door was unlocked that
25 night.

Tori Pittman, AOC-Approved per diem Reporter
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Julie Bridenstine - by Ms. Guice Smith

1 Q. Did he tell you anything about the exterior doors
2 at Latham Hall at the time of the crime?

3 A. He did. He said that the ladies had keys for the
4 front door and that his staff would lock the front door. He
5 said that a person could unlock the front door and leave it
6 unlocked at that time. He said that the stairwells were
7 locked and you could not get into them from the outside. He
8 said that he thought that they were alarmed at the time of
9 this case and would make a noise if they were opened.

10 He also said that his staff would go on rounds at
11 the campus and check the doors, but not at any set
12 intervals.

13 Q. And did Mr. Adams tell you anything about the
14 frequency of the front door at Latham Hall being left
15 unlocked?

16 A. He said that it was not frequent and that they
17 told the women to lock the door behind them, but that young
18 ladies could get negligent about doing so.

19 Q. Did he tell you anything about the security in
20 general at Saint Augustine's?

21 A. He did. He said that the public could come onto
22 the campus, but that other than this case, they did not have
23 any issues with that.

24 Q. Did he tell you anything about whether or not the
25 campus had issues with men being in the women's dorms at

Julie Bridenstine - by Ms. Guice Smith

1 night?

2 A. He did. He said that they did not have problems
3 of that nature but that the girls would sneak men in. He
4 said that they did not have a lot of trouble with it and
5 that this crime was the first of its nature there.

6 Q. Did you ask him about drug use on campus?

7 A. I did. He said that there might have been drug
8 use, but that it was not to the point where it was that much
9 and not at Latham Hall. He said he might have heard about
10 marijuana use in general.

11 Q. Did you ask him about prostitution on campus?

12 A. I did. He said that there was no prostitution to
13 his knowledge at any of the women's dorms.

14 Q. Did you ask him about his involvement in the tour
15 of Latham Hall with Mr. Blackmon on October 26, 1983?

16 A. I did. He said that he did not recall
17 Mr. Blackmon and did not recall seeing Mr. Blackmon. He
18 could not recall walking around the crime scene with him.
19 He could not recall any interactions with suspects. Even
20 after reviewing the two-page report from Detective Holder
21 for the October 26, 1983, visit to Latham Hall with
22 Mr. Blackmon, he said that he could not remember it.

23 MS. GUICE SMITH: Commissioners, do you have
24 any questions for Ms. Bridenstine?

25 JUDGE WAGONER: No. Thank you.

James Blackmon - by Ms. Guice Smith

1 **MS. GUICE SMITH:** We're going to call
2 Mr. Blackmon now.

3 **JUDGE WAGONER:** Before we do that, may I ask
4 a question?

5 I was reading somewhere -- whether it was
6 last night -- or maybe it was in the newspaper articles
7 today, I'm not sure -- the name of the officer from Dorothea
8 Dix that gave the tip?

9 **THE WITNESS:** Oh. Who got the tip?

10 **JUDGE WAGONER:** Uh-huh.

11 **THE WITNESS:** Lieutenant Lockey.

12 **JUDGE WAGONER:** Did y'all --

13 **SHERIFF FRYE:** He's dead.

14 **THE WITNESS:** He's deceased.

15 **JUDGE WAGONER:** Gotcha.

16 (At ease, 10:45 to 10:48 a.m.)

17 * * * * *

18 Thereupon, JAMES BLACKMON, a witness having been called by
19 the Commission, was examined and testified on DIRECT
20 EXAMINATION as follows:

21 BY MS. GUICE SMITH: (10:48 a.m.)

22 Q. Good morning, Mr. Blackmon.

23 A. How you doing?

24 Q. My name is Lindsey Guice Smith. I'm the Executive
25 Director of the North Carolina Innocence Inquiry Commission.

James Blackmon - by Ms. Guice Smith

1 A. Mm-hmm.

2 Q. We are here today to ask you some questions. And
3 you have sworn that you are going to tell the truth.

4 Do you understand that?

5 A. Yes, I do.

6 Q. How are you today?

7 A. A little up, a little down.

8 Q. I'm sorry?

9 A. A little up and a little down.

10 Q. A little up and a little down?

11 Can you understand me today?

12 A. Yes, I can.

13 Q. Okay. Can you tell the commissioners here what
14 your name is?

15 A. James Blackmon.

16 Q. Mr. Blackmon, did you ever attack anyone on the
17 sixth floor of Latham Hall at Saint Augustine's College?

18 A. Never in my life.

19 Q. Did you attack Helena Payton?

20 A. I never even knew her.

21 Q. Mr. Blackmon, those are the only questions that I
22 have for you today, but all of these individuals sitting
23 around the table are our commissioners and they might have
24 some questions for you as well. Okay?

25 A. All right. Yes, ma'am.

James Blackmon - by the Commissioners

1 JUDGE WAGONER: All right. I'm going to
2 start, Mr. Blackmon.

3 (10:49 a.m.)

4 THE WITNESS: Yeah.

5 JUDGE WAGONER: Where are you being housed
6 right now?

7 THE WITNESS: Maury.

8 JUDGE WAGONER: Maury? Where is that?

9 THE WITNESS: (No response.)

10 JUDGE WAGONER: If you don't know, that's
11 fine.

12 THE WITNESS: Oh, yeah.

13 JUDGE WAGONER: Could you just tell us a
14 little bit about when you moved to Raleigh -- or did you
15 move to Raleigh? I know that was a long time ago.

16 THE WITNESS: A long time ago.

17 JUDGE WAGONER: Sir?

18 THE WITNESS: It was a long time ago.

19 JUDGE WAGONER: A long time ago.

20 Do you know where you lived before you came
21 to Raleigh to live?

22 THE WITNESS: I was in Central Prison and
23 then I got sick there and they sent me to Dorothea Dix.

24 JUDGE WAGONER: Okay.

25 THE WITNESS: And then from there, I met a

James Blackmon - by the Commissioners

1 young lady, and I was staying with her. We were living at
2 the same place -- like Black & Decker -- back in that time.

3 JUDGE WAGONER: All right. Other people?

4 MR. BOSWELL: Mr. Blackmon, my name is John
5 Boswell.

6 Did you ever come from New York to Raleigh
7 and then back to New York?

8 THE WITNESS: No. No. I came from -- I was
9 in Lumberton and left there. My mama, she moved to
10 Syracuse, New York. I was staying there with my stepfather.
11 And then when she got sick and ill, she left him and she
12 lived back with my grandmother, and I came -- I came to live
13 with her too.

14 MR. BOSWELL: Okay. Once you came from New
15 York, did you ever go back to New York?

16 THE WITNESS: No. I never -- no, no. I
17 haven't, no. No.

18 MR. BOSWELL: Okay. That's the only question
19 I have. Thank you.

20 THE WITNESS: Yeah.

21 MR. GRACE: I have a question.

22 JUDGE WAGONER: Yes.

23 MR. GRACE: Sir, are you on any medications
24 today?

25 THE WITNESS: I take all my medications,

James Blackmon - by the Commissioners

1 yeah, about 13 pills.

2 **MR. GRACE:** Do you know the names of any of
3 those pills?

4 **THE WITNESS:** Not right off, no.

5 **MR. GRACE:** Do you know what they're for?

6 **THE WITNESS:** My nerves, my condition, and my
7 constipation.

8 **MR. GRACE:** All right. Thank you, sir.

9 **JUDGE WAGONER:** Yes, ma'am.

10 **MS. NEWTON:** Mr. Blackmon, my name is Deb
11 Newton. I'm a criminal defense attorney.

12 Can I ask you a question?

13 **THE WITNESS:** Yes, ma'am.

14 **MS. NEWTON:** Do you happen to recall when you
15 were in Lumberton before -- yeah -- before you came to
16 Raleigh, do you recall how your hair -- how you wore your
17 hair?

18 **THE WITNESS:** I always wear turbans on my
19 head.

20 **MS. NEWTON:** Okay. And under your turban,
21 what was your hair like?

22 **THE WITNESS:** It was about like that.

23 **MS. NEWTON:** It was short? You kept it
24 short?

25 **THE WITNESS:** And, like, I'd wear a turban so

James Blackmon - by the Commissioners

1 long, it would make all my hair fall off my head.

2 MS. NEWTON: Okay. One of the officers
3 mentioned that you had -- do you know what dreadlocks are?

4 THE WITNESS: Never in my life.

5 MS. NEWTON: Never had dreadlocks.

6 THE WITNESS: Never, never, never, never.

7 MS. NEWTON: It was always short under your
8 turban?

9 THE WITNESS: Yes. Short.

10 MS. NEWTON: Okay. Thank you.

11 THE WITNESS: Yeah. Or either if I did have
12 it braided up a little bit like that, but it was never like
13 down like that.

14 MS. NEWTON: So how long was it?

15 THE WITNESS: That's been years and years and
16 years ago.

17 MS. NEWTON: When it was braided, was it --
18 how long was it?

19 THE WITNESS: Not -- about like that.

20 MS. NEWTON: Okay. Thank you, sir.

21 MR. EDWARDS: Mr. Blackmon, when you were
22 living in New York and then you came down south, and you
23 said that once you came back down here, you never went back
24 up to New York?

25 THE WITNESS: No, never. Never, never.

James Blackmon - by the Commissioners

1 **MR. EDWARDS:** Do you remember when you left
2 New York and you came down south that, at some point, you
3 went to Florida?

4 **THE WITNESS:** No. Wait a minute.
5 Repeat that question again.

6 **MR. EDWARDS:** When you left New York -- I
7 think you were in Binghamton, New York; is that right?

8 **THE WITNESS:** Yes, yes.

9 **MR. EDWARDS:** Sometime after that, when you
10 came down south, did you go briefly to Florida?

11 **THE WITNESS:** No, not right off. No, not
12 right off.

13 **MR. EDWARDS:** Not right off?

14 **THE WITNESS:** No.

15 **MR. EDWARDS:** But did you ever go to the
16 state of Florida, if you remember?

17 **THE WITNESS:** Yes, I -- yeah, I been there.
18 But that was a long time ago. I went there to try to get
19 with my brother at the house that he lived at. And they
20 didn't want me so I had to go back. And I came back to
21 Raleigh from -- the question? I can't hardly understand the
22 question, man.

23 **MR. EDWARDS:** Okay. But I think I heard you
24 say once you went to Florida then you came back to Raleigh
25 area.

James Blackmon - by the Commissioners

1 THE WITNESS: Yeah, yeah. I did. Yeah.

2 MR. EDWARDS: Okay. That's all.

3 JUDGE WAGONER: I will ask you -- and I know
4 this was a long, long, long time ago.

5 Do you remember ever going with Officer
6 Holder --

7 THE WITNESS: Holder and Munday.

8 JUDGE WAGONER: -- and Munday?

9 THE WITNESS: Yes, I do.

10 JUDGE WAGONER: Do you remember going with
11 them to look around Saint Augustine's?

12 THE WITNESS: Yes.

13 JUDGE WAGONER: Do you remember them taking
14 you there?

15 THE WITNESS: Yes. I remember that.

16 JUDGE WAGONER: Okay. Do you know why? Did
17 they tell you why you were going?

18 THE WITNESS: Ma'am?

19 JUDGE WAGONER: Did they tell you why they
20 were taking you to Saint Augustine's?

21 THE WITNESS: No. Didn't even tell me
22 nothing.

23 JUDGE WAGONER: So do you remember what
24 happened when you got there?

25 THE WITNESS: They -- what happened with

James Blackmon - by the Commissioners

1 the -- I was living with my girlfriend, had a job working at
2 Black & Decker together, and --

3 JUDGE WAGONER: If you don't remember, that's
4 fine.

5 THE WITNESS: Yeah.

6 JUDGE WAGONER: Do you remember what happened
7 when you got there to Saint Augustine's?

8 THE WITNESS: Oh, oh, oh, yeah. When they
9 took me to Saint Augustine's; right?

10 JUDGE WAGONER: Yeah.

11 THE WITNESS: They said -- they said --
12 supposed to be a girl killed; right? And then they said --
13 they said six or something like that, what they was saying
14 that -- they told me, I -- what they told me that they was
15 saying.

16 JUDGE WAGONER: Okay. Anything else you want
17 to tell me?

18 THE WITNESS: I never killed nobody, you
19 know. After they got me locked up, they got a promotion and
20 they went somewhere else.

21 JUDGE WAGONER: They went somewhere else?

22 THE WITNESS: Yeah. My mind goes and comes,
23 you know, because of medication.

24 JUDGE WAGONER: Sir?

25 THE WITNESS: I said my thinking capacity

Housekeeping

1 comes and go off my medication a little bit.

2 JUDGE WAGONER: Yeah. But you feel okay
3 today?

4 THE WITNESS: I feel good. Yeah.

5 JUDGE WAGONER: Good. At least the sun's
6 out.

7 THE WITNESS: Yeah. Not no rain.

8 JUDGE WAGONER: I think that's everything.
9 Do y'all have any other questions?

10 (Commissioners respond negatively.)

11 JUDGE WAGONER: Okay. That's it. Thank you
12 so much.

13 (Witness stands down, 10:56 a.m.)

14 JUDGE WAGONER: Yes, ma'am.

15 MS. GUICE SMITH: Commissioners, if there is,
16 at this point, anything commission staff has that we haven't
17 provided for you that you would like to see, now would be
18 the time to do that.

19 You-all did request last night the newspaper
20 articles from around the time of the crime. Those are
21 provided in your hearing handout notebook as handout 51.
22 You're welcome to review those at any point. You can review
23 them during deliberations. They are officially part of the
24 record now.

25 But if you want to take a few moments to

Julie Bridenstine - by Ms. Guice Smith

1 review in case you have questions of commission staff, we
2 can do that now before we close out.

3 **MR. GRACE:** Before you leave, could you put
4 on the screens our statutory standard of review?

5 **MS. GUICE SMITH:** Yes. I'm not done yet.

6 **MR. GRACE:** Okay.

7 **MS. THOMPSON:** Did anybody find out where
8 Allen Thompson was -- what dorm he lived in?

9 **MS. GUICE SMITH:** Give us just a moment and
10 we'll see if we can find out that information.

11 (At ease, 10:58 to 11:00 a.m.)

12 (Julie Bridenstine recalled, 11:00 a.m.)

13 **MS. GUICE SMITH:** She is ready.

14 **BY MS. GUICE SMITH:** (11:00 a.m.)

15 Q. Ms. Bridenstine, what information do you have
16 about Allen Thompson and his education at Saint Augustine's?

17 A. When he went to Saint Augustine's, he was 31 years
18 old. We don't know where he was living. At the time, in
19 1983, Latham Hall still a women's dorm and Baker Hall was a
20 women's dorm.

21 **MS. GUICE SMITH:** Commissioners, do you have
22 any questions for Ms. Bridenstine as relates to handout 51,
23 the newspaper articles?

24 (No verbal response.)

25 **MS. GUICE SMITH:** Do you-all have any other

Housekeeping

1 questions for Ms. Bridenstine?

2 **JUDGE WAGONER:** I don't believe so. Thank
3 you.

4 **MS. GUICE SMITH:** Judge Wagoner, before we
5 close, there were two interviews handed out to you-all as
6 handout 49. The interviews is October 30, 2018, of
7 Mr. Holder and November 1, 2018, with Mr. Munday.

8 Parts of those interviews include personal
9 information including personal cell phone numbers and
10 information about those individuals' families.

11 Should this case move forward, those
12 interviews will become public record. I would just ask that
13 we be allowed to redact specific sections that are related
14 to that personal information, and I have a list of those for
15 the record.

16 **JUDGE WAGONER:** Any objection?

17 **MS. GUICE SMITH:** Would you like me to read
18 those into the record?

19 **JUDGE WAGONER:** If you'd read them into the
20 record so we can be sure.

21 **MS. GUICE SMITH:** In the Holder interview it
22 is page 4, line 15 through 25; page 5, line 12 through page
23 6, line 11; page 6, line 21 through 23; page 110, line 24
24 through page 111, line 14; page 112, line 9 through line 16;
25 page 116, line 10; and page 116, line 24 through page 117,

Charge to the Commissioners

1 line 8.

2 For Mr. Munday's November 1, 2018, interview,
3 it's page 7, line 11; page 35, line 8 through 17; page 80,
4 line 20 through page 81, line 4; and page 82, line 14
5 through page 83, line 11.

6 **JUDGE WAGONER:** All right. The personal
7 information related to those individuals may be redacted if
8 it goes to a three-judge panel.

9 **MS. GUICE SMITH:** Thank you.

10 Commissioners, thank you-all for your
11 patience and attention during this hearing. This concludes
12 the presentation by the commission staff in this case.

13 You are now asked to decide whether there is
14 sufficient evidence of factual innocence to merit judicial
15 review.

16 Because Mr. Blackmon's case resulted from an
17 *Alford* plea, the vote will be by majority. You have three
18 options: You may decide that there is sufficient evidence
19 and the case will be referred forward to a three-judge
20 panel; you may decide that there is not sufficient evidence
21 and the case will be closed; or you may instruct the
22 commission staff to continue the investigation and reconvene
23 the hearing at a later date to occur prior to December 31,
24 2018.

25 At this time, I would ask Judge Wagoner to

Finding of the Commission

1 close the hearing to the public for deliberations.

2 **JUDGE WAGONER:** Which I will do.

3 Since we are beginning deliberations, we will
4 close the hearing to the public and to any other staff
5 members except for -- you stay, I believe --

6 **MS. GUICE SMITH:** Yes, ma'am.

7 **JUDGE WAGONER:** -- except for Ms. Smith.

8 **MR. BOSWELL:** Your Honor, before we start
9 deliberating, can we just take five minutes?

10 (Discussion off the record.)

11 (Alternate Commissioner Newton released from the
12 proceedings.)

13 (Lunch and Deliberations, 11:04 a.m. to 2:00 p.m.)

14 **JUDGE WAGONER:** We will come back to order.

15 We are now back in session.

16 After deliberations, the Commission has
17 concluded unanimously that there is sufficient evidence of
18 factual innocence to merit judicial review of the case of
19 State of North Carolina versus James Blackmon.

20 The case will now be referred to the
21 Honorable Paul Ridgeway, Senior Resident Superior Court
22 Judge, Judicial District 10, and will further request that
23 the Chief Justice order a three-judge panel to hear this
24 matter.

25 Anything further?

Finding of the Commission

1 **MS. GUICE SMITH:** No, ma'am.

2 **JUDGE WAGONER:** All right. We now stand
3 adjourned. Thank you very much.

4 (Hearing concluded, 2:01 p.m.)

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1 STATE OF NORTH CAROLINA)
2 COUNTY OF WAKE)

3
4 CERTIFICATE

5 I, Victoria L. Pittman, BA, CVR-CM-M, the officer
6 before whom the foregoing proceeding was held, do hereby
7 certify that said hearing, pages 1 through 488 inclusive, in
8 three volumes, is a true, correct, and verbatim transcript
9 of said proceeding.

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties to the action
12 in which this proceeding was heard; and, further, that I am
13 not a relative or employee of any attorney or counsel
14 employed by the parties thereto, and am not financially or
15 otherwise interested in the outcome of the action.

16 Dated at Wake Forest, North Carolina, the 6th day of
17 January, 2019.

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19
20
21
22 

23 Victoria L. Pittman, BA, CVR-CM-M, RCP
24 AOC-Approved Per Diem Reporter
25