
First Judicial District of Pennsylvania

51CR00184852011

Cherelle Parker

*Motion Volume 1
September 20, 2011*



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[1] IN THE COURT OF COMMON PLEAS
 [2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
 [3] MUNICIPAL COURT DIVISION
 [4] -----
 [5] COMMONWEALTH : MC-51-CR-0018485-2011
 [6] :
 [7] vs. :
 [8] :
 [9] CHERELLE PARKER :
 [10] MOTION
 [11] -----
 [12] TUESDAY, SEPTEMBER 20, 2011
 [13] -----
 [14] Courtroom 806
 [15] Criminal Justice Center
 [16] Philadelphia, Pennsylvania
 [17] -----
 [18] **BEFORE:** THE HONORABLE CHARLES HAYDEN, J.
 [19] -----
 [20] **REPORTED BY:** KATHY A. ROBINS

[1] **APPEARANCES:**
 [2] JOHN FLANNERY, ESQ.
 [3] ATTORNEY GENERALS OFFICE
 [4] For the Commonwealth
 [5] JOSEPH KEVIN KELLY, ESQ.
 [6] Attorney for the Defendant

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[1] **THE COURT:** For the record, could I
 [2] have both counsel's names for the record.
 [3] **MR. KELLY:** Joseph Kelly, for Ms.
 [4] Cherelle Parker, Judge, good afternoon.
 [5] **THE COURT:** Good afternoon, counsel.
 [6] **MR. FLANNERY:** Good afternoon, Your
 [7] Honor, my name is John J. Flannery,
 [8] F-L-A-N-N-E-R-Y, Jr., on behalf of the
 [9] Commonwealth.
 [10] **THE COURT:** Okay. Now, my understanding
 [11] is there were motions, Mr. Kelly?
 [12] **MR. KELLY:** There are, Judge.
 [13] **THE COURT:** And I do mutual
 [14] sequestration, so if there are any defense
 [15] witnesses, I'd ask that they be asked to step
 [16] out. Commonwealth, do you have more than one
 [17] witness?
 [18] **MR. FLANNERY:** We have more than one
 [19] witness and I don't see anybody in the courtroom,
 [20] Your Honor, I think they have already been
 [21] sequestered.
 [22] **THE COURT:** Okay. Mutual sequestration
 [23] is in effect. Okay. Mr. Kelly, state the grounds
 [24] for your motion.
 [25]

[1]
[2] **MR. KELLY:** Judge, this is a motion to
[3] suppress any and all evidence acquired against my
[4] client's interest. It's based on the US
[5] Constitution, the Pennsylvania Constitution,
[6] Article One, Section 8 of the Pennsylvania
[7] Constitution, the 4th, 5th and 14 Amendments of
[8] the US Constitution. The factual basis, Judge,
[9] here I'm going to take separate --

[10] **THE COURT:** And PA is Article --

[11] **MR. KELLY:** Article One, Section 8 of
[12] the Pennsylvania. I'm going to try to simplify
[13] this as much as I can. The first issue, Judge,
[14] we're going to challenge is the stop. The
[15] factual basis that my client will testify, and
[16] she will testify, that she was traveling off of
[17] Germantown Avenue, the Commonwealth is going to,
[18] I believe, allege that she was traveling the
[19] wrong way on Haines. She will testify she was
[20] not ever on Haines. She crossed over Haines from
[21] Baynton, never going the wrong way on a one way
[22] street as alleged by the Commonwealth. So,
[23] that's the first issue with the stop.

[24] The second issue here is the probable cause
[25] to arrest. The Commonwealth interacts with my

[1] client very briefly, under a minute, she's
[2] subsequently arrested without probable cause. The
[3] other issue is that she solicits a statement,
[4] after the brief interaction the officer comes
[5] upon her and says, give me your license,
[6] registration, which she gives within about 30
[7] seconds. After that, the officer asks her,
[8] without any proper warnings under the 5th
[9] Amendment, have you been drinking and she
[10] responds, yes, without Miranda Warnings. Thereby,
[11] in violation of those. After that she then is
[12] subsequently arrested and taken to the
[13] roundhouse. Under Title 63 I would argue she was
[14] not observed for 20 minutes. She will also
[15] testify that she was down the roundhouse, she had
[16] a very brief interaction, was never read any
[17] warnings, she was interactive, she was told she
[18] had to take the test, which she subsequently did,
[19] but not observed under Title 67 for 20 minutes as
[20] required. And also that the officer who
[21] calibrated this machine was not certified to
[22] calibrate the machine, and subsequently
[23] calibrated this machine on one day, on 3/23/2011,
[24] and my client was subsequently arrested and
[25]

[1] charged on 4/30. Over a month lapsed. And I
[2] would argue that the machine was out of service
[3] and never properly calibrated after that. That is
[4] all based on title 67 and 1547 C.

[5] **THE COURT:** All right. Let me make sure
[6] I have it. So, essentially you have three
[7] separate motions. The first one was motion to
[8] suppress based on lack of probable cause or
[9] reasonable suspicion under the US Constitution,
[10] the Pennsylvania Constitution, and that's based
[11] on the stop, probable cause to arrest and the
[12] statement?
[13]

[14] **MR. KELLY:** Yes.

[15] **THE COURT:** And secondly, you have a 20
[16] minute motion, and thirdly you have a motion on
[17] calibration; is that correct?

[18] **MR. KELLY:** Yes, that is correct.

[19] **THE COURT:** Commonwealth?

[20] **MR. FLANNERY:** Commonwealth would
[21] respond then, Your Honor, with regard to the
[22] motion to suppress the probable cause and the
[23] stop, that would -- the motion to suppress would
[24] involve Constitutional rights. I would agree
[25] that with Mr. Kelly, that the stop at least would

[1] affect the defendant's Constitutional rights and
[2] it would be subject to a pretrial motion to
[3] suppress. However, 20 minute motion, there is no
[4] such thing as a 20 minute motion, Your Honor
[5] motion to suppress, Your Honor, that's an element
[6] of offense and that's a trial issue similar to
[7] the calibration issue, Judge. There is no motion
[8] to suppress on calibration. That is a proof issue
[9] that either falls, rises or falls on it's face at
[10] trial.
[11]

[12] So, I would basically argue to the Court
[13] that there is no such thing as a 20 minute motion
[14] to suppress, and there is no such thing as a
[15] motion to suppress calibration. These are trial
[16] issues, Your Honor, these are not subject to a
[17] pretrial motion to suppress. So we are ready to
[18] proceed on the probable cause, we're ready to
[19] proceed on the stop, and we're ready to proceed
[20] on the statement.

[21] And we would argue that the other two
[22] matters that counsel has raised pre-trial are not
[23] subject to pretrial and are trial issues.

[24] **MR. KELLY:** Brief response to that, Your
[25] Honor?

[1] **THE COURT:** Yes.
 [2] **MR. KELLY:** Commonwealth versus
 [3] Mayberry, this has been ligated on 15,000 DUI's,
 [4] Judge, Commonwealth versus Mayberry talks about
 [5] motion to supress, it's what the Court said in
 [6] the Superior Court, Commonwealth versus Mayberry
 [7] says that you can challenge and you can challenge
 [8] calibration pretrial. That's what is says,
 [9] making -- maybe it should be phrased motion in
 [10] limine or maybe the proper verbiage is motion in
 [11] limine, motion to eliminate evidence based on
 [12] violation of Title 67.

[13] My client is going to testify, she's going
 [14] to testify she'd been forced to testify to
 [15] challenge that. You cannot force a defendant to
 [16] testify at trial, it's all pretrial, so that's
 [17] why it's a 20 minute motion, it's Title 67 and
 [18] 1547.

[19] **MR. FLANNERY:** I'm not arguing that
 [20] Title 67, as a matter of element in regards that
 [21] the defendant be observed for 20 minutes and that
 [22] she not eat and that she not congest alcohol, but
 [23] that's a trial issue, Judge. That's a matter of
 [24] -- that's an element of the offense, it's not a
 [25]

[1] motion to supress.
 [2] **THE COURT:** Well, here's what I'm going
 [3] to do. Mr. Flannery, and counsel, if you both
 [4] would just stand up for a second.

[5] **MR. FLANNERY:** Sure, Your Honor.
 [6] **THE COURT:** Here is what I'm going to do
 [7] for my purposes today and, believe it or not,
 [8] before Mr. Kelly said motion in limine, that's
 [9] exactly what I was thinking. And, so, what I'm
 [10] going to do, counsel, and this is what I think
 [11] would be appropriate here today, I'm going to
 [12] treat the calibration and the 20 minute motion,
 [13] as a motion in limine, and I'm going to -- I'm
 [14] going to hear them in secession. So I want to
 [15] hear that motion to supress, then I'm going to
 [16] hear the 20 minute motion in limine and then I'm
 [17] going to hear the calibration motion. Do you
 [18] understand, Mr. Flannery?
 [19]

[20] **MR. FLANNERY:** I believe I do, Judge.
 [21] **THE COURT:** Okay. Now, are you prepared
 [22] to proceed on the 20 minute motion in limine
 [23] today?
 [24] **MR. FLANNERY:** Judge, we will be, based
 [25] on your ruling. We have one officer who is in

[1] route. Oh, he's here, so we are ready.
 [2] **THE COURT:** And for the calibration as
 [3] well?
 [4] **MR. FLANNERY:** Yes.
 [5] **THE COURT:** Okay. I just want to make
 [6] sure for house keeping purposes. Now, since we
 [7] are moving on those motions, are there any other
 [8] witnesses that are Commonwealth's that should be
 [9] sequestered at this time?
 [10]

[11] **MR. FLANNERY:** No, Mr. Montague, is here
 [12] with me, but he has nothing to do with the case.

[13] **THE COURT:** Okay. Mr. Flannery, it's
 [14] your case.

[15] **MR. FLANNERY:** Thank you, Your Honor.
 [16] The Commonwealth would call Officer Miranda.
 [17] We are proceeding on 3802 only.

[18] **MR. KELLY:** Yes, then we would have a
 [19] proceeding, it's pretrial.

[20] **THE COURT:** Well, in an abundance of
 [21] caution, I understand we're pretrial, and I
 [22] understand we are not at trial, but if he wants
 [23] to state that purpose or the section that he
 [24] wishes to proceed under to protect, to preserve
 [25] his rights.

[1] **MR. KELLY:** I'll stipulate that they're
 [2] going to proceed under certain sections, but I
 [3] don't want to prejudice the Court by any sections
 [4] that he might be proceeding under.
 [5]

[6] **MR. FLANNERY:** I don't know how that's
 [7] prejudicial by stating what we're proceeding
 [8] under.

[9] **MR. KELLY:** You have to get to trial to
 [10] make evidence, not tell you what evidence --

[11] **THE COURT:** I understand, but here's the
 [12] thing, if he stipulated to it, then you're good.

[13] **MR. FLANNERY:** All right. Judge, if you
 [14] tell me I'm good, I'm good, Your Honor.

[15] **THE COURT:** Counsel has stipulated to it
 [16] and at the end of this, before we close, we will
 [17] add the section so it's clear for the record. I
 [18] suspect this might not be the last time this case
 [19] is going to be around.

[20] **THE COURT CRIER:** Officer, please
 [21] identify yourself, badge and assignment.

[22] **THE WITNESS:** Police Officer Israel
 [23] Miranda, Jr., Badge No. 7144, currently assigned
 [24] to the 14th District.
 [25] -----

[1]
[2] OFFICER ISRAEL MIRANDA, JR., after
[3] having been duly sworn, was examined and
[4] **testified as follows:**

[5] **THE COURT CRIER:** Thank you, sir.
[6] **THE COURT:** You're up, Mr. Flannery.
[7] **MR. FLANNERY:** Thank you, Your Honor.

[8] ---
[9] **DIRECT - OFFICER MIRANDA**

[10] ---
[11] **BY MR. FLANNERY:**
[12] **Q.** Officer, how are you this morning?
[13] **A.** I'm fine, thank you.
[14] **Q.** Now, you're employed by the Philadelphia Police
[15] Department; is that correct?
[16] **A.** That's correct.
[17] **Q.** And you've been employed by the Philadelphia
[18] Police Department for how long, sir?
[19] **A.** About 11 years.
[20] **Q.** And what's your current assignment?
[21] **A.** I'm what they call a drop back, I work 8pm to
[22] 4am in the morning.
[23] **Q.** And you were working the 14th on April the 30th,
[24] 2011; is that correct?
[25] **A.** That's correct.

[1]
[2] **Q.** And did you have a partner that date?
[3] **A.** Yes, I did.
[4] **Q.** Were you in uniform on that date?
[5] **A.** Yes, I was.
[6] **Q.** Were you in a marked patrol car on that date?
[7] **A.** Yes, I was.
[8] **Q.** Why don't you tell the Court who your partner
[9] was, number one.
[10] **A.** It was Police Officer Allen, badge No. 4275.
[11] **Q.** And is she present here today?
[12] **A.** That's correct.
[13] **Q.** She's outside; right?
[14] **A.** Yes.
[15] **Q.** Now, what were your duties on that day?
[16] **A.** We were just patrolling the area we were
[17] assigned. Actually, we were going to the district that
[18] night.
[19] **Q.** And your district is located where?
[20] **A.** Germantown and Haines Avenue.
[21] **Q.** That's the 14th; am I right?
[22] **A.** That's correct.
[23] **Q.** And on that particular date, did you come into
[24] contact with anybody that you see in this courtroom?
[25] **A.** Yes, I did.

[1]
[2] **Q.** And would you be kind enough to identify and
[3] point to that person?
[4] **A.** The defendant, at the bar, to my right.
[5] **MR. FLANNERY:** Indicating for the
[6] record, Your Honor, the defendant.
[7] **BY MR. FLANNERY:**
[8] **Q.** Now, where did you first come into contact with
[9] her?
[10] **A.** Well, as we were traveling westbound on Haines
[11] street towards Germantown.
[12] **Q.** Yes.
[13] **A.** We noticed Ms. Parker --
[14] **MR. KELLY:** Objection to we.
[15] **THE COURT:** I will sustain the
[16] objection as to the we.
[17] **BY MR. FLANNERY:**
[18] **Q.** What did you see?
[19] **A.** Well, I saw Ms. Parker traveling eastbound on
[20] Haines towards Baynton --
[21] **THE COURT:** I'm sorry, you saw her
[22] traveling eastbound --
[23] **THE WITNESS:** Eastbound on Haines.
[24] **THE COURT:** On Haines?
[25] **THE WITNESS:** Yes.

[1]
[2] **BY MR. FLANNERY:**
[3] **Q.** Now, what drew your attention to the defendant?
[4] **A.** On that night, well, she was traveling eastbound
[5] and that's a one-way street, she was traveling the wrong
[6] way on Haines Street.
[7] **Q.** Which way, you said Haines runs --
[8] **A.** Westbound.
[9] **Q.** So it runs westbound, out towards where?
[10] **A.** Out towards Germantown.
[11] **Q.** And do you remember -- well, after you observed
[12] the defendant driving the wrong way on Haines Street what,
[13] if anything, did you do next?
[14] **A.** As she was traveling eastbound on Haines, she
[15] was swerving left and right. When she got to the corner
[16] of Haines and Bateman, she made a left on Bateman going
[17] northbound, that's when we turned on our emergency lights
[18] and she pulled over to the side by Baynton and Ridge,
[19] which is the 1500 Block of Baynton.
[20] **Q.** Now, what happened next, tell the Court.
[21] **A.** Well, when we stopped Ms. Parker, I got out of
[22] my vehicle and I approached the driver side where Ms.
[23] Parker was behind the wheel. I asked her for her driver
[24] license and registration and insurance, as she was -- she
[25] had a big black handbag, she was fumbling looking for

[1]
[2] information, then she stopped then she told me she had
[3] just came from Champagne's --

[4] **MR. KELLY:** Objection, not in
[5] discovery.

[6] **THE COURT:** Overruled.

[7] **THE WITNESS:** She had fish platters on
[8] the back seat. And I asked her --

[9] **THE COURT:** I'm sorry, I couldn't
[10] understand.

[11] **THE WITNESS:** I'm sorry, some fish
[12] platters in the back seat.

[13] **THE COURT:** Okay.

[14] **THE WITNESS:** I asked her if she had
[15] something to drink, she said yes, she had two
[16] beers and --

[17] **MR. KELLY:** Objection, not in discovery.

[18] **MR. FLANNERY:** Judge, in the discovery
[19] it clearly indicates that Ms. Parker was asked if
[20] she consumed alcohol and the answer is, yes. And
[21] all he is doing is telling what she said to him
[22] that night.

[23] **MR. KELLY:** Well, it's not in discovery.

[24] I sent a letter --

[25] **THE COURT:** It may not have been in

[1]
[2] discovery. Counsel, here is what I want to do,
[3] let me just nip this in the bud right now, okay.
[4] I will rule on the objections and counsel, Mr.
[5] Kelly, Mr. Flannery, you know the rules on
[6] civility that are passed by -- promulgated by the
[7] Supreme Court of Pennsylvania, so I'm going to
[8] ask each one of you to adhere to. Okay.

[9] **MR. KELLY:** No problem, Judge.

[10] **THE COURT:** All comments are to be
[11] directed to the Court.

[12] **MR. FLANNERY:** Yes, Your Honor.

[13] **THE COURT:** Now, with respect to that
[14] objection, I'm going to overrule the objection.

[15] **THE WITNESS:** She said she had two beers
[16] and a couple of chocolate martinis.

[17] **THE COURT:** And she had what?

[18] **THE WITNESS:** A couple of chocolate
[19] martinis.

[20] **THE COURT:** Two beers and a couple
[21] chocolate martinis, go ahead.

[22] **THE WITNESS:** At that time I smelled a
[23] strong odor of alcohol on her breath, she had
[24] glassy eyes and she was a little disoriented, you
[25] know, she couldn't comprehend what I was asking

[1]
[2] her.

[3] **MR. KELLY:** Objection.

[4] **THE COURT:** Sustained, as to what she
[5] could comprehend.

[6] **BY MR. FLANNERY:**

[7] **Q.** Officer, try to confine your testimony, if I may
[8] Your Honor, with your permission, try to confine your
[9] testimony to what you saw and observed, not what you
[10] thought. Okay?

[11] **A.** Okay.

[12] **Q.** Let me back you up here, she told you about the
[13] beers and the martinis. It's then you observed her eyes;
[14] is that correct?

[15] **A.** Yes.

[16] **Q.** And you described her eyes as being what, sir?

[17] **A.** Glassy.

[18] **Q.** Okay. What if anything did you smell on the
[19] defendant's person?

[20] **A.** A strong odor of alcohol on her breath.

[21] **Q.** Did the defendant remain seated behind the wheel
[22] of the vehicle or did she attempt to get out?

[23] **A.** Well, she was behind the wheel of the vehicle
[24] and as we had a conversation, I asked her politely if she
[25] would step out of the vehicle. And she cooperated. As

[1]
[2] she was stepping out she stumbled a little bit, so I
[3] grabbed her so she wouldn't fall. So I took her to the
[4] back of the vehicle where my partner was.

[5] **Q.** Back of which vehicle?

[6] **A.** Oh, my patrol car.

[7] **Q.** All right, sir.

[8] **A.** And from there my partner did a pat down, that's
[9] our procedure. And from there my partner asked her what's
[10] her name because she didn't have the identification on
[11] her. So my partner got her name and date of birth, she
[12] went back in the car while I stayed with Ms. Parker and
[13] she ran her name through the Bureau of Motor Vehicle, and
[14] that's how we obtained her driver's license.

[15] **Q.** Now, did she have an owner's card for Ms.
[16] Parker's car?

[17] **A.** The car she was driving?

[18] **Q.** Yes?

[19] **A.** She didn't produce one.

[20] **Q.** You also ran the tag -- well, looking at your
[21] paperwork, and how did you determine who the owner of the
[22] car was?

[23] **A.** Well, we ran it through the Bureau of Motor
[24] Vehicles also.

[25] **Q.** Do you recall --

[1]
[2] **A.** It was actually the first thing we did before we
[3] actually --
[4] **Q.** Now, do you recall who the owner of the vehicle
[5] was?
[6] **A.** Well, it came back to Harrisburg.
[7] **Q.** Now, did any traffic or any other vehicle
[8] interfere with your ability to observe the defendant's
[9] driving?
[10] **A.** No.
[11] **Q.** When the defendant was driving, how fast was the
[12] defendant driving?
[13] **A.** She wasn't going too fast, I guess about 30
[14] miles an hour.
[15] **Q.** Now, was the defendant able to maintain her car
[16] within her lane of driving?
[17] **MR. KELLY:** Objection, its a leading
[18] question.
[19] **THE COURT:** Sustained, as to the form of
[20] the question.
[21] **BY MR. FLANNERY:**
[22] **Q.** Can you describe please the manner in which the
[23] defendant drove, operated her vehicle?
[24] **A.** Well, she was driving eastbound on Haines
[25] Street, swerving left and right. As she made the turn

[1]
[2] **A.** No.
[3] **Q.** Did she ever produce proof of insurance?
[4] **A.** No.
[5] **Q.** Now, were you able to see inside of the
[6] defendant's car while this was going on?
[7] **A.** Yes, yes.
[8] **Q.** How close were you to the defendant?
[9] **A.** Very close, about a feet or two.
[10] **Q.** Sorry, I can't hear you?
[11] **A.** A feet or two.
[12] **Q.** A foot or two?
[13] **A.** Yes, real close.
[14] **Q.** And what was the lighting like in that area,
[15] sir?
[16] **A.** The lighting is pretty good. She also had the
[17] dome light on inside her vehicle.
[18] **Q.** Now, you indicated that you smelled an odor; is
[19] that right?
[20] **A.** Yes.
[21] **Q.** And that odor was what to you?
[22] **A.** Alcohol, smelled like alcohol to me.
[23] **Q.** And where was the odor coming from?
[24] **A.** Her mouth.
[25] **Q.** Now, beyond stating that she had some beers and

[1]
[2] onto Baynton, she, instead of staying on the northbound
[3] left, she actually parked on the southbound lane, which is
[4] on-coming traffic.
[5] **Q.** Now, I believe you testified that you activated
[6] your emergency lights; is that correct?
[7] **A.** Yes.
[8] **Q.** Now, when you activated your emergency lights,
[9] when did the defendant stop her vehicle?
[10] **A.** She stopped it right away.
[11] **Q.** Now, at some point you say that you asked for
[12] her license and registration; is that right?
[13] **A.** That's correct.
[14] **Q.** And what, if anything, was her response to that?
[15] **A.** Well, she didn't respond right away, she
[16] actually just looked at me, that's when I asked her for
[17] information and then she started stumbling into her
[18] pocketbook. Then she stopped, then she spoke to me about
[19] the fish platters she had in the back, and that's when I
[20] asked her if she had something to drink and she said, yes,
[21] she had two beers and a couple of chocolate martinis.
[22] **Q.** So, did she ever produce for you an actual
[23] physical driver's license?
[24] **A.** No.
[25] **Q.** Did she ever produce a registration card?

[1]
[2] martinis what, if anything else, did the defendant say to
[3] you?
[4] **A.** Well, all she talked about was the fish platters
[5] that she had in the back of the car.
[6] **Q.** And you described the defendant's eyes for the
[7] Court, did you notice anything else unusual about the
[8] defendant at that time?
[9] **A.** No, what --
[10] **THE COURT:** I'm sorry, what was your
[11] answer.
[12] **THE WITNESS:** Whatever else she started
[13] talking.
[14] **BY MR. FLANNERY:**
[15] **Q.** Now, you indicated to the Court that she stated
[16] that she had been drinking, did she state where she had
[17] been drinking?
[18] **A.** Well, she said she was coming from Champagnes,
[19] which is on Chelten.
[20] **Q.** And how much did she tell you that she had to
[21] drink that night?
[22] **A.** Two beers and a couple of chocolate martinis.
[23] **Q.** And how did the defendant get out of her
[24] vehicle, how did she get out?
[25] **A.** I opened the door, as she was coming out she

[1]
 [2] stumbled, so I grabbed her so she wouldn't fall. And I
 [3] walked her to the car.
 [4] **Q.** Now, how did she walk from her car, to your car?
 [5] **A.** Well, I was holding on to her, I had her arm and
 [6] then we walked down to the car.
 [7] **Q.** So you assisted her in walking?
 [8] **A.** Yes, that's correct.
 [9] **Q.** Now, do you have training in detection of
 [10] impaired drivers?
 [11] **A.** Yes, they teach us that in the Academy.
 [12] **Q.** And what's that training they give you in the
 [13] Academy?
 [14] **A.** We go through all the motor vehicle laws and all
 [15] the DUIs, how to detect DUIs.
 [16] **Q.** I see. And have you ever made a DUI arrest
 [17] before?
 [18] **A.** Yes.
 [19] **Q.** About how many times?
 [20] **A.** I'd say about 200 in my career.
 [21] **Q.** And have you had occasions to see intoxicated
 [22] persons during the course of your career and in your
 [23] personal life?
 [24] **A.** Yes.
 [25] **Q.** And about how many times?

[1]
 [2] **A.** About 100.
 [3] **THE COURT:** I'm sorry?
 [4] **THE WITNESS:** About 100, roughly.
 [5] **BY MR. FLANNERY:**
 [6] **Q.** So, let me ask you this, sir, based on your
 [7] professional and personal experience and training, did you
 [8] form an opinion as to whether or not the defendant was
 [9] capable of safely driving a car at the time that she was
 [10] arrested?
 [11] **A.** No, she wasn't.
 [12] **Q.** So, do you have an opinion --
 [13] **A.** Yes, I'm sorry, yes, that's my opinion.
 [14] **Q.** He next question, what is that opinion?
 [15] **A.** She wasn't capable of driving.
 [16] **Q.** And you base that opinion on what, sir?
 [17] **A.** On my training and observation and my previous
 [18] DUI arrests.
 [19] **Q.** Now, let me ask you this, officer, when you
 [20] first encountered the defendant, I think you said it was
 [21] on Baynton Street; is that right?
 [22] **A.** That's where we stopped her at.
 [23] **Q.** When you first, when you stopped her finally on
 [24] Baynton Street, you first observed her on Haines; is that
 [25] right?

[1]
 [2] **A.** Right, she was traveling eastbound.
 [3] **Q.** When you stopped her on Baynton Street, did you
 [4] and your partner fill out a '48, an incident report?
 [5] **A.** Yes.
 [6] **MR. FLANNERY:** And I'd ask that this be
 [7] marked as Commonwealth Exhibit-1.
 [8] **THE COURT:** Okay. C-1, has it been shown
 [9] to counsel?
 [10] **MR. KELLY:** Yes, I have it.
 [11] **MR. FLANNERY:** Can this be marked and
 [12] shown to the witness with the Court's permission?
 [13] **THE COURT:** Absolutely.
 [14] **BY MR. FLANNERY:**
 [15] **Q.** Now, does that '48 relate to this incident, the
 [16] arrest of Ms. Parker?
 [17] **A.** Yes.
 [18] **Q.** And on your '48, if you look at the top, if I
 [19] can direct your attention to the top, it indicates the
 [20] year; is that correct?
 [21] **A.** That's correct.
 [22] **Q.** And what's the year?
 [23] **A.** 2011.
 [24] **Q.** And the District is what, sir?
 [25] **A.** The 14th.

[1]
 [2] **Q.** And the DC number is the District Control
 [3] number; right?
 [4] **A.** Correct.
 [5] **Q.** That hasn't changed since I've been down here.
 [6] And the report date is what, sir?
 [7] **A.** The report date is 4 -- April 30th.
 [8] **Q.** And what time is the stop, what time is
 [9] indicated?
 [10] **MR. KELLY:** Objection, creates a stop.
 [11] **BY MR. FLANNERY:**
 [12] **Q.** Well, what time do you have indicated on your
 [13] report?
 [14] **THE COURT:** I will overrule the
 [15] objection. I don't think it comes under legal
 [16] conclusion. Go ahead, you can answer.
 [17] **THE WITNESS:** It says 12:18 am.
 [18] **BY MR. FLANNERY:**
 [19] **Q.** And it says location of occurrence?
 [20] **A.** Baynton and Haines.
 [21] **Q.** And you and your partner fill this '48 out; is
 [22] that correct?
 [23] **A.** Yes, that's correct.
 [24] **Q.** And you indicated and you've written, either you
 [25] or your partner have written a description of the

[1]
 [2] incident; is that correct?
 [3] **A.** Yes, that's correct.
 [4] **Q.** And can you read that please for the Court?
 [5] **A. It says:** "While on patrol noticed below female
 [6] driving the wrong way, eastbound on Haines. Upon
 [7] observing the below female a strong odor of alcohol came
 [8] from her breath and glassy eyes, female was unable to
 [9] stand, female operator was transported to PDU for
 [10] processing."
 [11] **Q.** And SDUI arrest, what does that mean, up top?
 [12] See up above, where you read while on patrol --
 [13] **A.** Yes, she was the driver, no passengers.
 [14] **Q.** No "S" it says "S"?
 [15] **A.** Oh, that's a site arrest.
 [16] **Q.** Thank you. Now, a PAR report was prepared in
 [17] this case as well; is that correct, sir?
 [18] **A.** That's correct.
 [19] **MR. FLANNERY:** Your Honor, I'd ask that
 [20] that be marked as Commonwealth Exhibit-2 and
 [21] shown to the witness please.
 [22] **THE COURT:** C-2 is the PARS, Mr. Kelly?
 [23] **MR. KELLY:** I got it, Your Honor.
 [24] **MR. FLANNERY:** Counsel, if you don't
 [25] have something, just let me know, I'll be glad to

[1]
 [2] pass it to you.
 [3] **MR. KELLY:** Sure.
 [4] **BY MR. FLANNERY:**
 [5] **Q.** Now, on the PARS report, again, it has various
 [6] information listed on the PARS report as well; is that
 [7] correct?
 [8] **A.** Right.
 [9] **Q.** And the, again the year is 2011, and the
 [10] District is 14th; is that right?
 [11] **A.** That's correct.
 [12] **Q.** And, once again, it has the District Control
 [13] number; is that correct?
 [14] **A.** Yes.
 [15] **Q.** Now, with regard to the section where it relates
 [16] to DUI information, obviously the first two areas where it
 [17] says time of test, number one, and time of test number
 [18] two, you did not perform them; is that correct?
 [19] **A.** That's correct.
 [20] **Q.** So that does not pertain to you, that pertains
 [21] to Officer Brown. The below section though, where there
 [22] are a list of questions there, you see those questions,
 [23] sir?
 [24] **A.** Yes.
 [25] **Q.** And that section is based on the information you

[1]
 [2] provided and Officer Allen provided; is that correct?
 [3] **A.** That's correct.
 [4] **Q.** And the first question, if you can just read
 [5] along with me, it says --
 [6] **MR. KELLY:** Judge, I object. This is
 [7] direct examination. We can -- I mean he did the
 [8] paperwork he's asking questions based on the
 [9] paperwork, what, we're going to go line by line
 [10] on each page?
 [11] **MR. FLANNERY:** Yes, because it's
 [12] consistent with his testimony, and it's
 [13] consistent with his 48, prior consistent
 [14] testimony is admissible under the rules of
 [15] evidence.
 [16] **MR. KELLY:** Well, is it going to refresh
 [17] his memory or something --
 [18] **MR. FLANNERY:** It doesn't matter, Judge,
 [19] it's a prior consistent statement, and it's
 [20] admissible under the rules of evidence, which I
 [21] happen to sit on.
 [22] **MR. KELLY:** We're proud that you sit on
 [23] the committee, it's good for you --
 [24] **THE COURT:** Counsel, counsel. Now, let
 [25] me ask a question of Mr. Flannery with respect to

[1]
 [2] this objection.
 [3] **MR. FLANNERY:** Yes.
 [4] **THE COURT:** Because it's not just a
 [5] question of whether it's necessarily admissible
 [6] or inadmissible it goes to can you put the
 [7] evidence into the record.
 [8] **MR. FLANNERY:** Yes.
 [9] **THE COURT:** One could argue that this
 [10] could come after cross examination because it's a
 [11] prior consistent statement, but is it your
 [12] assertion it's important to point it in at this
 [13] point in this juncture in the proceeding?
 [14] **MR. FLANNERY:** You know what, Judge,
 [15] I'll wait for cross examination, if that's
 [16] acceptable. It doesn't matter, it's marked and I
 [17] will withdraw my questions with regard to this
 [18] and I will come back to it later if I feel it's
 [19] necessary, with permission of the Court.
 [20] **THE COURT:** Absolutely.
 [21] **MR. FLANNERY:** Thank you.
 [22] **THE COURT:** Any other questions for this
 [23] witness?
 [24] **MR. FLANNERY:** I don't believe so, not
 [25] at this time.

[1]
 [2] **MR. KELLY:** May I, Your Honor.
 [3] **THE COURT:** Mr. Kelly?
 [4] ---
 [5] CROSS - OFFICER MIRANDA
 [6] ---
 [7] **BY MR. KELLY:**
 [8] **Q.** Officer, before testifying, you reviewed all the
 [9] paperwork; correct?
 [10] **A.** That's correct.
 [11] **Q.** And there is no other paperwork that's prepared
 [12] in preparation for this case, beside what we have in the
 [13] PARS the '48A the '48; correct?
 [14] **A.** No.
 [15] **Q.** You didn't prepare a special document --
 [16] **MR. FLANNERY:** I'm sorry, Judge, you
 [17] know what, I do have some more questions, if you
 [18] don't mind?
 [19] **MR. KELLY:** No, problem.
 [20] **MR. FLANNERY:** I forgot, I got
 [21] side-tracked.
 [22] ---
 [23] FURTHER DIRECT - OFFICER MIRANDA
 [24] ---
 [25] **BY MR. FLANNERY:**

[1]
 [2] **Q.** Directing you back to April 30th, sir, did you
 [3] issue a traffic citation?
 [4] **A.** My partner, Allen, did.
 [5] **Q.** I'm sorry?
 [6] **A.** My partner dd.
 [7] **Q.** Officer Allen did that?
 [8] **A.** Yes.
 [9] **MR. FLANNERY:** I'd ask that this be
 [10] marked as C-3. May I show it to him?
 [11] **MR. KELLY:** I got it, Judge.
 [12] **THE COURT:** C-3, TVR.
 [13] **MR. FLANNERY:** Yes.
 [14] **MR. KELLY:** Sounds like a dumb question,
 [15] but do you have the original by any chance?
 [16] **THE COURT:** Mr. Kelly, do you have a
 [17] copy?
 [18] **MR. KELLY:** I do have it.
 [19] **BY MR. FLANNERY:**
 [20] **Q.** Is that the traffic ticket that you and your
 [21] partner issued?
 [22] **A.** Yes.
 [23] **Q.** Correct, sir?
 [24] **A.** Yes.
 [25] **Q.** Now, in addition to that, sir, you prepared a

[1]
 [2] second report, I'm looking at it, if I can just read from
 [3] it, it's vehicle pedestrian investigation report.
 [4] **A.** The '48A, yes.
 [5] **MR. FLANNERY:** Do you have this, Joe?
 [6] **MR. KELLY:** I do.
 [7] **MR. FLANNERY:** If I can have this
 [8] marked as C-4.
 [9] **THE COURT:** C-4 for identification
 [10] purposes.
 [11] **BY MR. FLANNERY:**
 [12] **Q.** Now, you prepared that as well; is that correct,
 [13] sir?
 [14] **A.** Actually, my partner prepared it.
 [15] **Q.** Okay. And, again, that reflects what, sir?
 [16] **A.** The arrest that we made on April 30th.
 [17] **Q.** And it pertains to the defendant; am I correct?
 [18] **A.** Yes, that's correct.
 [19] **Q.** And, once again, the date of occurrence is April
 [20] the 30th; am I correct?
 [21] **A.** Correct.
 [22] **Q.** And the time is what?
 [23] **A.** 12:18.
 [24] **Q.** And, again, where it says vehicle violation,
 [25] once again, it refers to the traffic citation that you

[1]
 [2] issued; is that correct?
 [3] **A.** That's correct.
 [4] **Q.** Now, after the defendant, you took the defendant
 [5] back to your car, what did you do next after that?
 [6] **A.** After my partner did the pat down, we handcuffed
 [7] her and we sat her in the car. And that's when she started
 [8] running her name and date of birth because she had no
 [9] identification to find out who she was.
 [10] **Q.** Who took her down to the PDU?
 [11] **A.** Another wagon.
 [12] **Q.** And do you remember what wagon that was?
 [13] **A.** That was 1402 wagon.
 [14] **Q.** So once the wagon came, you relinquished her to
 [15] the 1402 wagon; is that correct?
 [16] **A.** That's correct.
 [17] **MR. FLANNERY:** I have no further
 [18] questions at this time. Thank you for your
 [19] patience.
 [20] **THE COURT:** Mr. Kelly?
 [21] ---
 [22] CROSS - OFFICER MIRANDA
 [23] ---
 [24] **BY MR. KELLY:**
 [25] **Q.** Officer, before testifying, as I was saying

[1]
[2] before, you prepared the documents, we have them all
[3] marked C-1, 2, 3 and 4, which is the '48 the PARS the
[4] traffic violation and the '48A, you did all that; right?

[5] **A.** Yes, me and my partner did.

[6] **Q.** Did you do any other documents in preparation
[7] for this case for the Attorney Generals Office?

[8] **A.** No.

[9] **MR. FLANNERY:** Objection, Judge, he
[10] didn't do it for the Attorney Generals Office, he
[11] did it for --

[12] **THE COURT:** I know, it's a separate
[13] question. In addition to your normal --

[14] **THE WITNESS:** I did not do that.

[15] **THE COURT:** That's how I'm interpreting
[16] it. I think the question went to there wasn't
[17] any additional paperwork.

[18] **MR. KELLY:** Right.

[19] **BY MR. KELLY:**

[20] **Q.** Now, before testifying you went through
[21] ostensibly, all this paperwork; correct?

[22] **A.** That's correct.

[23] **Q.** And it's all accurate; right?

[24] **A.** Yes.

[25] **Q.** You're sure?

[1]
[2] **A.** Positive.

[3] **Q.** Okay. You said, one of the questions you said
[4] on direct was that you had 200 DUI arrests?

[5] **A.** Yes.

[6] **Q.** You said you've only come into contact with 100
[7] people intoxicated?

[8] **A.** That's in --

[9] **Q.** Well, 100, so you arrested 100 people that you
[10] believe weren't intoxicated?

[11] **A.** Well, I arrested people that were intoxicated
[12] and they came back not intoxicated, I can't help that.

[13] **Q.** So you arrested 100 people that weren't
[14] intoxicated, is that what you're telling me?

[15] **A.** No, I didn't say that, can you clarify the
[16] question for me.

[17] **Q.** Well, let me get back to your testimony, your
[18] testimony was to the Commonwealth, you said I had 200 DUI
[19] arrests in my 11 years, that's what you said, that's your
[20] testimony?

[21] **A.** Correct.

[22] **Q.** And, now you told the Commonwealth also that
[23] you've only encountered 100 people in your life that were
[24] intoxicated, correct, that's what you said?

[25] **A.** Right.

[1]
[2] **Q.** So now we have, I'm North Catholic, 200 and a
[3] 100, so that's the difference of 100 people; right?

[4] **A.** Right, but I'm comparing my social life to my
[5] police --

[6] **Q.** Let me just finish the question --

[7] **MR. FLANNERY:** Objection, Judge. He
[8] asked the question, he started to answer it.

[9] **THE COURT:** I'm going to sustain that
[10] objection.

[11] **MR. KELLY:** Okay.

[12] **MR. FLANNERY:** Objection he still hasn't
[13] finished the question. Respectfully, Mr. Kelly,
[14] can he take a breath and answer?

[15] **MR. KELLY:** He sustained the objection,
[16] he don't have to answer it.

[17] **THE COURT:** Go ahead.

[18] **BY MR. KELLY:**

[19] **Q.** So we agree, you arrested 100 people without the
[20] intoxication signs; is that fair?

[21] **A.** No, I arrested for DUI.

[22] **Q.** You believe you arrested people who weren't
[23] intoxicated, is that a fair statement?

[24] **A.** No.

[25] **Q.** Now, you're driving, you're the driver or the

[1]
[2] passenger in the police car?

[3] **A.** I'm the driver.

[4] **Q.** And when you first observe Ms. Parker, where is
[5] your vehicle?

[6] **A.** I was facing westbound on Haines, towards
[7] Germantown.

[8] **Q.** So you're between Baynton and Germantown?

[9] **A.** Correct.

[10] **Q.** So you're on Baynton and Germantown and she
[11] crosses you, she actually crossed paths with you?

[12] **A.** No, she didn't.

[13] **Q.** Well, we agree you're between Baynton and
[14] Germantown on Haines, yes?

[15] **A.** Right. I was on the corner of Haines and --

[16] **Q.** Let me get this clear, we agree that you're on
[17] Haines Street; correct?

[18] **A.** I'm on Haines Street.

[19] **Q.** Between Baynton and Germantown; correct?

[20] **A.** No.

[21] **Q.** You just said --

[22] **A.** I'm on the 100 Block of Haines Street, which is
[23] between Baynton and Germantown.

[24] **Q.** Right.

[25] **A.** I don't cross Baynton, so she doesn't cross me

[1]
 [2] at all. When we see her, she is actually making a
 [3] left-hand turn on Baynton, so we see her when she makes
 [4] the left-hand turn.
 [5] **Q.** Well, that's your district?
 [6] **A.** Yes.
 [7] **Q.** You're familiar with the streets?
 [8] **A.** Yes, I am.
 [9] **Q.** Here is a map.
 [10] **A.** Yes.
 [11] **Q.** We agree you have Germantown and Haines, corner
 [12] there?
 [13] **A.** Yes.
 [14] **Q.** You know what's on the corner of Germantown and
 [15] Haines?
 [16] **A.** Germantown and Haines, there's a couple stores
 [17] on the district side, and I believe there's a -- some kind
 [18] of rehab center on the other side.
 [19] **Q.** So now, we agree, between Germantown and Baynton
 [20] on Haines, describe the street for me?
 [21] **A.** Okay. You want me to describe Haines Street for
 [22] you?
 [23] **Q.** No, I want you to describe Haines Street,
 [24] between Baynton and Germantown.
 [25] **MR. FLANNERY:** Objection.

[1]
 [2] **Q.** Okay. We agree that that's a one lane travel,
 [3] one lane?
 [4] **A.** One lane, yes.
 [5] **Q.** Okay. Bike lane on that street?
 [6] **A.** Yes.
 [7] **Q.** Parking lane on that street?
 [8] **A.** Yes, on the right.
 [9] **Q.** On the right, okay, so you're saying my client
 [10] is coming up Haines Street the wrong way?
 [11] **A.** Yes.
 [12] **Q.** Is there any other traffic coming down toward
 [13] Germantown, on Haines?
 [14] **A.** That was 12 o'clock in the morning, there's
 [15] nobody outside.
 [16] **Q.** Excuse me?
 [17] **A.** It's 12 o'clock in the morning, there's nobody
 [18] outside.
 [19] **Q.** Your testimony is, on a Friday night and
 [20] Saturday morning, at 12 midnight, in the Germantown
 [21] section of Philadelphia, there's no cars out?
 [22] **A.** There's cars parked, but there's no cars --
 [23] **Q.** There's no cars traveling?
 [24] **A.** No.
 [25] **Q.** On a Saturday night?

[1]
 [2] **THE WITNESS:** Okay. That street is
 [3] one-way, going westbound.
 [4] **THE COURT:** I'm sorry, what was the
 [5] objection?
 [6] **MR. FLANNERY:** The incident happens on
 [7] Haines Street. Why is he asking him to describe
 [8] Germantown?
 [9] **THE COURT:** I think he is going to --
 [10] **MR. KELLY:** Not Germantown, Haines.
 [11] **THE COURT:** I think he's going to his
 [12] ability to observe and remember.
 [13] **MR. KELLY:** Yes.
 [14] **THE COURT:** I will allow it to some
 [15] extent.
 [16] **BY MR. KELLY:**
 [17] **Q.** Let me rephrase it. You understand the
 [18] question?
 [19] **A.** So in between Germantown and Haines, that street
 [20] goes westbound.
 [21] **Q.** Between Germantown and Baynton.
 [22] **A.** Okay.
 [23] **Q.** Haines Street?
 [24] **A.** That goes westbound one way, there's a church on
 [25] one side, on the right side, and there's a school.

[1]
 [2] **A.** No because everybody's in the club somewhere.
 [3] **Q.** The whole world is in the club?
 [4] **MR. FLANNERY:** Objection.
 [5] **THE COURT:** I sustain the objection.
 [6] **BY MR. KELLY:**
 [7] **Q.** So the only cars on the street are you and Ms.
 [8] Parker, that's your testimony?
 [9] **A.** Yes.
 [10] **Q.** Okay. So she comes down to the red light the
 [11] wrong way; right?
 [12] **A.** You're talking about when she's on Baynton?
 [13] **Q.** Well, you said she was going the wrong way up
 [14] Haines?
 [15] **A.** And she was, she was going eastbound into the
 [16] westbound lane.
 [17] **Q.** Where is your car situated, in distance --
 [18] **A.** She is --
 [19] **Q.** Hold on. I got to finish the question. Where
 [20] is your car physically situated on Haines when you first
 [21] see her, how far is it from her vehicle?
 [22] **A.** Well, I know I was on the front side of Haines
 [23] Street, I'll take, I guess, approximately five or six
 [24] hundred feet.
 [25] **Q.** Five, six hundred feet, okay. So you're half

[1]
 [2] way up the block, you're half way up the block, well let
 [3] me --
 [4] **A.** Well, actually, can I rephrase that --
 [5] **Q.** Sure.
 [6] **A.** Okay. When we observed Ms. Parker we was
 [7] actually stopped at a light.
 [8] **Q.** Oh, so you're stopped at Baynton now?
 [9] **A.** That's what I told you, we were at Baynton and
 [10] Haines. You told me that she crossed -- she can't cross
 [11] us one way because if she crosses she's going to hit us.
 [12] So she went eastbound on Haines and she got to Baynton.
 [13] Now, mind you, we were on the other side of Baynton at a
 [14] traffic light, she made a left, northbound on Baynton and
 [15] we turned on our lights, she pulled over to the southbound
 [16] lane and that's when we were right behind her.
 [17] **Q.** Let's try to focus your testimony. When you
 [18] first see her --
 [19] **MR. FLANNERY:** Objection to the
 [20] characterization.
 [21] **THE COURT:** I'll sustain the objection.
 [22] **MR. KELLY:** I'll strike that.
 [23] **BY MR. KELLY:**
 [24] **Q.** When you first see Ms. Parker's vehicle, where
 [25] in distance are you from her vehicle, what's the distance?

[1]
 [2] **A.** Well, I was stopped at a traffic light --
 [3] **Q.** In distance?
 [4] **A.** I'm not a mathematician, I don't know how far.
 [5] **Q.** Five hundred feet?
 [6] **A.** Probably 500 feet.
 [7] **Q.** Five hundred feet away, so you're 500 feet, I
 [8] guess.
 [9] **A.** She was in the middle of the block when I seen
 [10] her.
 [11] **Q.** She was in the middle of the block. Okay.
 [12] **A.** So you can determine how many feet that is from
 [13] there.
 [14] **Q.** Okay. So you're stopped at a red light;
 [15] correct?
 [16] **A.** Right.
 [17] **Q.** And so she comes up and you're in a marked
 [18] patrol car?
 [19] **A.** Yes.
 [20] **Q.** So she makes a left in front of you you say?
 [21] **A.** Yes, correct.
 [22] **Q.** What color is her car?
 [23] **A.** Silver.
 [24] **Q.** Silver, like the badge that you have?
 [25] **A.** More like a silver gray, like a light silver.

[1]
 [2] **Q.** Like, describe something?
 [3] **A.** Like --
 [4] **Q.** Like the stenographer's jacket?
 [5] **A.** A little lighter than that.
 [6] **Q.** A little lighter than that. Okay. So she makes
 [7] a left down the street; right?
 [8] **A.** Left, yes.
 [9] **Q.** Now, you said on direct that she pulled in the
 [10] southbound lane, correct? That's a pretty important fact
 [11] to this case; isn't it?
 [12] **A.** Yes.
 [13] **Q.** Why is it not in the paperwork?
 [14] **A.** It's in the paperwork.
 [15] **MR. FLANNERY:** Judge, objection. Can we
 [16] have an instruction to keep the laughter or
 [17] something in the background, can you remind the
 [18] courtroom that you know --
 [19] **THE COURT:** Here is what I'm going to
 [20] say, anyone who thinks that this is a spectacle
 [21] will be asked to leave because this is a trial.
 [22] Now, for the record, I can hear muttering and I
 [23] don't know if that's coming from the cell room.
 [24] Could you push that door closed, and if it's
 [25] laughter, I did not hear it very loudly. But,

[1]
 [2] for the purposes of the record, if anyone here
 [3] thinks this is a spectacle, they will be asked to
 [4] leave.
 [5] **MR. KELLY:** May I re-ask the question,
 [6] Judge?
 [7] **THE COURT:** Yes.
 [8] **BY MR. KELLY:**
 [9] **Q.** Officer, why is the fact that she pulled in the
 [10] southbound lane not in any paperwork?
 [11] **A.** Well, my paperwork is a summary of what actually
 [12] happened, a summary.
 [13] **Q.** Well, you think that's an important fact;
 [14] right?
 [15] **A.** If I --
 [16] **THE COURT:** Here's what we're going to
 [17] do, and this is going to you and Mr. Flannery,
 [18] okay. If you can answer a question yes or no and
 [19] then give an explanation, and that's for, just
 [20] give a yes or no first and then you can explain.
 [21] **BY MR. KELLY:**
 [22] **Q.** If you can look at C-1, you were working 8 to 4?
 [23] **A.** I was working 8 to 4.
 [24] **Q.** Eight to four.
 [25] **A.** 8pm to 4am.

[1]
 [2] **Q.** You were headed to the District?
 [3] **A.** Going to the District.
 [4] **Q.** For what?
 [5] **A.** Drop off paperwork.
 [6] **Q.** Drop off paperwork. Okay. What time did you
 [7] interact with Ms. Parker?
 [8] **A.** 12:18.
 [9] **Q.** Directing your attention to C-2, it says
 [10] occurrence, 12 am. You just said 12:18, which one's
 [11] wrong?
 [12] **A.** It was 12:18.
 [13] **Q.** So the paperwork is wrong?
 [14] **A.** I'm not saying --
 [15] **THE COURT:** The question, there's a
 [16] question he asked, can you read that question
 [17] back, that last question?
 [18] **THE COURT REPORTER:** "So the paperwork
 [19] is wrong?"
 [20] **THE WITNESS:** No, the paperwork is
 [21] right.
 [22] **BY MR. KELLY:**
 [23] **Q.** It says occurrence 12 am.
 [24] **A.** I put 12:18.
 [25] **Q.** So 12am there in that spot of occurrence is

[1]
 [2] wrong; correct?
 [3] **A.** Right.
 [4] **Q.** And you did the PARS; right?
 [5] **A.** Yes.
 [6] **Q.** And you told me it's accurate; right?
 [7] **A.** Yes.
 [8] **Q.** But, here, it's not accurate.
 [9] **A.** That, no.
 [10] **Q.** And what did you say about her eyes?
 [11] **A.** Her eyes were glassy.
 [12] **Q.** You're sure about that?
 [13] **A.** Yes.
 [14] **Q.** Direct your attention to Page 2 of the PARS.
 [15] **THE COURT:** And, for the record, that
 [16] is C-2.
 [17] **BY MR. KELLY:**
 [18] **Q.** C-2, descriptive data, you see eye
 [19] characteristics at the bottom right there? You see that?
 [20] **A.** How far up?
 [21] **Q.** All the way down, near the bottom, descriptive
 [22] data?
 [23] **A.** This one?
 [24] **Q.** Yes, page 2, all the way down the bottom, it
 [25] says descriptive data, you see it?

[1]
 [2] **MR. KELLY:** May I approach, Judge?
 [3] **THE COURT:** Yes.
 [4] **BY MR. KELLY:**
 [5] **Q.** Descriptive data, you see that? You prepared
 [6] that; right?
 [7] **A.** Right.
 [8] **Q.** What does it say about her eyes on the far right
 [9] there, eye characteristics, you put normal. But yet you
 [10] testified on direct it was glassy, which one is wrong?
 [11] **A.** It's glassy.
 [12] **Q.** So the paperwork is wrong again?
 [13] **A.** They were glassy.
 [14] **Q.** The question is, is the paperwork wrong again?
 [15] **A.** I put glassy. Like I said, sometimes the
 [16] computer just, the system is not correct.
 [17] **Q.** Well, you told me the paperwork was accurate?
 [18] **A.** Well I wrote everything on here that I saw.
 [19] **Q.** Well, you said glassy?
 [20] **A.** Yes.
 [21] **Q.** The paperwork says normal.
 [22] **A.** Okay.
 [23] **Q.** So --
 [24] **A.** When I observed her she had glassy eyes.
 [25] **Q.** Then why did you tell me the paperwork was

[1]
 [2] accurate?
 [3] **A.** I put glassy on it, I don't know what happened.
 [4] But I know that when I observed Ms. Parker she had glassy
 [5] eyes, she had a strong odor of alcohol and then I politely
 [6] asked her if she had something to drink, she said yes.
 [7] **Q.** Let's address that. Now, you told this Court
 [8] and the Commonwealth and me --
 [9] **A.** Right.
 [10] **Q.** -- you said that she gave a statement to you;
 [11] correct?
 [12] **A.** She stated that she did.
 [13] **Q.** Yes or no, you told this Court that my client
 [14] gave you a statement, yes or no?
 [15] **A.** She stated to me, yes. I guess if you want to
 [16] call that a statement.
 [17] **Q.** Okay. But yet that's not in the paperwork, is
 [18] it?
 [19] **MR. FLANNERY:** Objection.
 [20] **THE WITNESS:** It is.
 [21] **THE COURT:** What's the basis for your
 [22] objection?
 [23] **MR. FLANNERY:** The objection is, I'm
 [24] reading from the paperwork.
 [25] **MR. KELLY:** It says did you drink

[1] alcohol, yes.
 [2] **THE COURT:** Well at the appropriate
 [3] time, counsel, I think you will have an
 [4] opportunity to re-examine.
 [5] **BY MR. KELLY:**
 [6] **Q.** Okay. Now, we have four documents, right, that
 [7] you have before you right, C-1 through 4; right?
 [8] **A.** Right.
 [9] **Q.** And you testified, well, let's back up. You
 [10] would agree you're recollection was better back
 [11] than it would be today; is that correct?
 [12] **A.** Correct.
 [13] **Q.** So now your testimony is today that my client
 [14] gave you a statement, a detailed statement;
 [15] right?
 [16] **A.** No, all she said was, she drank.
 [17] **Q.** Why is that not in the paperwork? You forgot?
 [18] **MR. FLANNERY:** Objection, Judge, again
 [19] argumentative.
 [20] **THE COURT:** I sustain the objection. But
 [21] I want to give the witness an opportunity. Can
 [22] you read that question back again? It began with
 [23] "why".
 [24] **THE COURT REPORTER:** "Why is that not in
 [25]

[1] the paperwork? You forgot?"
 [2] **THE COURT:** Okay. Why is that not in
 [3] the paperwork? Okay. That's the question. Yes?
 [4] **THE WITNESS:** When we prepare the PARS,
 [5] we do a summary, is what we do, we don't add a
 [6] lot of stuff to, it's going to be a long story
 [7] and a lot of pages, so we do a summary of what
 [8] happened. The beginning of the car stop in the
 [9] middle the DUI arrest and at the end we do the
 [10] paperwork.
 [11] **BY MR. KELLY:**
 [12] **Q.** Like a statement from the defendant, right,
 [13] correct?
 [14] **A.** Correct.
 [15] **Q.** Like you told the Attorney General here, that my
 [16] client gave a statement; correct?
 [17] **A.** Right.
 [18] **Q.** And you know that's not in the paperwork?
 [19] **A.** I didn't see it in the paperwork, but that's
 [20] what she told me.
 [21] **Q.** But you understood that; right?
 [22] **A.** Yeah, I understand that.
 [23] **Q.** It wasn't slurred, her speech was normal; right?
 [24] **A.** She was disoriented. I guess she was talking,
 [25]

[1] but she seemed confused.
 [2] **Q.** Was it normal speech or not normal?
 [3] **A.** No, no normal speech.
 [4] **Q.** No normal speech. But that's not in the
 [5] paperwork either; is it?
 [6] **A.** No.
 [7] **Q.** No. And you have 11 years on the police
 [8] department; right?
 [9] **A.** That's correct.
 [10] **Q.** Would you agree people can drink alcohol and
 [11] operate a vehicle?
 [12] **A.** No.
 [13] **Q.** You can't have one beer and operate a vehicle,
 [14] that's your testimony; right?
 [15] **THE COURT:** Give him a chance to answer
 [16] the questions.
 [17] **THE WITNESS:** My testimony is that if
 [18] you're drinking any type of alcohol and driving,
 [19] more than likely you might be impaired.
 [20] **BY MR. KELLY:**
 [21] **Q.** Right. And we agree that --
 [22] **A.** If we stop you and we investigate you, that's
 [23] our job. So, we have questions. We say how much did you
 [24] have to drink. Most of the time --
 [25]

[1] **Q.** Let me stop you there.
 [2] **MR. FLANNERY:** Objection.
 [3] **MR. KELLY:** Well, he just keeps
 [4] rambling --
 [5] **MR. FLANNERY:** No, objection. I object
 [6] again, Judge, and this is repeatedly being done
 [7] and now I have to stand up and I have to object.
 [8] Can he just answer the questions.
 [9] **MR. KELLY:** Exactly.
 [10] **MR. FLANNERY:** No, he is answering the
 [11] question, Judge, but he interrupts it with a
 [12] second question, like a machine gun, give him a
 [13] chance to answer.
 [14] **THE COURT:** I understand and I do think
 [15] he was in the middle of an answer so, go ahead.
 [16] What is your answer?
 [17] **THE WITNESS:** All right. So when we
 [18] pull someone that's intoxicated -- well, we don't
 [19] even know that's intoxicated, sometimes when they
 [20] actually are intoxicated they do -- they disobey
 [21] the traffic laws. Ms. Parker, she went the wrong
 [22] way down the one way street, that's why we
 [23] stopped her, that's the initial stop. As we
 [24] pulled her over, I came to where she was at,
 [25]

[1]
[2] which is the driver's side.
[3] **MR. KELLY:** Judge, this is not
[4] responsive.
[5] **THE COURT:** On that note, I agree. I'll
[6] sustain the objection.
[7] **BY MR. KELLY:**
[8] **Q.** So, your testimony is you can't drink alcohol
[9] and operate a vehicle; correct?
[10] **A.** Correct.
[11] **Q.** So, and we agree that you told the
[12] Commonwealth's attorney that you have training in DUIs;
[13] correct?
[14] **A.** Through the Academy.
[15] **Q.** You don't have training in DUIs, do you?
[16] **A.** I do.
[17] **Q.** What's the training entail?
[18] **A.** The training we had at the Academy with the
[19] motor vehicle and we have also classes on the side. You're
[20] talking about the year 2000, when I went to the Academy.
[21] **Q.** Classes on the side, you took classes?
[22] **A.** I took classes on the side.
[23] **Q.** What classes did you take?
[24] **A.** I took classes on my own.
[25] **Q.** On your own?

[1]
[2] license?
[3] **A.** No.
[4] **Q.** But yet that's on the PARS report, how did it
[5] get there?
[6] **A.** Can I answer?
[7] **THE COURT:** Yes.
[8] **THE WITNESS:** Yes, I said in the
[9] beginning that when my partner patted her down,
[10] she asked for her name and date of birth. She
[11] ran her through the Bureau of Motor Vehicles,
[12] that's how we obtained her driver's license, as
[13] well as the information on the car.
[14] **BY MR. KELLY:**
[15] **Q.** Let's address that. So my client is out of the
[16] car; correct?
[17] **A.** Uh-huh.
[18] **Q.** Yes?
[19] **A.** Yes.
[20] **Q.** She's in the back of her car being patted down;
[21] correct?
[22] **A.** Correct.
[23] **Q.** Your partner asks her for her name and date of
[24] birth; correct?
[25] **A.** Ah-ha.

[1]
[2] **A.** Yeah.
[3] **Q.** You remember testifying in the this same court
[4] yesterday?
[5] **A.** Yes, I did.
[6] **MR. FLANNERY:** Objection, Judge.
[7] **THE WITNESS:** I remember that.
[8] **MR. FLANNERY:** Objection.
[9] **MR. KELLY:** It's impeachment.
[10] **MR. FLANNERY:** Objection.
[11] **THE COURT:** I will sustain the
[12] objection.
[13] **BY MR. KELLY:**
[14] **Q.** You didn't give him a field sobriety test;
[15] right?
[16] **A.** We're not allowed to do that.
[17] **Q.** Not allowed?
[18] **A.** We're not qualified to do that.
[19] **Q.** Not qualified. So you said that my client had a
[20] black handbag; correct?
[21] **A.** That's correct.
[22] **Q.** And she was going in her handbag for her
[23] license; right?
[24] **A.** Right.
[25] **Q.** And your testimony is, she never got her

[1]
[2] **Q.** Is that a yes?
[3] **A.** Yes.
[4] **Q.** And she said her name and date of birth;
[5] correct?
[6] **A.** Yes.
[7] **Q.** Normal speech; correct?
[8] **A.** Yes.
[9] **Q.** Now, sounds like an odd question, but did you
[10] notice anything about my client's shoes?
[11] **A.** I believe she had on heels.
[12] **Q.** Heels?
[13] **A.** Yes.
[14] **Q.** Did she have them on when she was driving?
[15] **A.** Excuse me?
[16] **Q.** Did she have them on when she was driving?
[17] **A.** Yes.
[18] **Q.** She did?
[19] **A.** Yes.
[20] **Q.** Do you remember the color of the shoes?
[21] **A.** No, I don't recall.
[22] **Q.** They were pretty big heels?
[23] **A.** No, I don't think so. I don't recall the size of
[24] the heel.
[25] **Q.** Not big heels. May I approach, Judge?

[1]
[2] **THE COURT:** You may.
[3] **BY MR. KELLY:**
[4] **Q.** Is that a big heel?
[5] **A.** No, that's not a big heel.
[6] **Q.** That's not a big heel, that's three inches in
[7] length, that's not a big heel?
[8] **A.** No.
[9] **Q.** What's a big heel, nine, eight --
[10] **MR. FLANNERY:** Objection, Judge.
[11] **THE COURT:** I'll sustain the objection.
[12] **BY MR. KELLY:**
[13] **Q.** All right. So does that look like the shoes she
[14] was wearing that night?
[15] **A.** I know she had shoes on, but I don't recall --
[16] **Q.** She had shoes on. Okay. How was her clothing,
[17] neat and orderly?
[18] **A.** She had on a yellow shirt and some jeans.
[19] **Q.** Was it neat and orderly? Yes?
[20] **A.** I don't recall.
[21] **Q.** Well, you didn't put anything on the paperwork
[22] that it was disarrayed; did you?
[23] **MR. FLANNERY:** Objection. He said he
[24] didn't recall.
[25] **THE COURT:** Overruled. I'll allow it.

[1]
[2] **BY MR. KELLY:**
[3] **Q.** You didn't put anything in the paperwork that
[4] she had disarrayed clothing; did you?
[5] **A.** No.
[6] **Q.** Okay. And you said you cited her for reckless
[7] driving; correct?
[8] **A.** Correct.
[9] **Q.** Did you ever read the motor vehicle code?
[10] **A.** Not lately.
[11] **Q.** Did you ever read reckless driving?
[12] **A.** No.
[13] **Q.** So you cited my client for a section of the
[14] motor vehicle code you've never read? Is that fair?
[15] **A.** I read it, I didn't read it that night.
[16] **Q.** You told me you never read it?
[17] **A.** You got to rephrase your question.
[18] **Q.** You ever read the motor vehicle code?
[19] **A.** Yes, I read it.
[20] **Q.** You ever read 3736?
[21] **A.** Yes, I read it, I don't recall what it says, but
[22] I read it.
[23] **Q.** You didn't read it that night?
[24] **A.** I didn't read it that night.
[25] **Q.** When was the time before that you read it, when

[1]
[2] was the last time?
[3] **A.** I don't recall.
[4] **Q.** The Academy, 11 years ago?
[5] **A.** No, after that, but I don't recall.
[6] **Q.** Okay. She was polite?
[7] **A.** She was polite.
[8] **Q.** You understood all of her verbiage, everything
[9] she said to you about fish in the back, coming from a
[10] place; right?
[11] **A.** Correct.
[12] **Q.** But that's not in any paperwork, is it?
[13] **A.** No.
[14] **Q.** How long was your interaction with Ms. Parker
[15] before you arrested her?
[16] **A.** About five minutes.
[17] **Q.** About five minutes. So, back to the paperwork,
[18] you told me it's all accurate; right? You said it's 12:18
[19] when you first interact with her?
[20] **A.** Right.
[21] **Q.** The paper says occurrence, you said 12:18
[22] arrest, 12:35. That's 17 minutes you said five, which one
[23] is wrong?
[24] **A.** I had -- I was with her for five minutes. Now,
[25] you're talking about from 12:18 to 12:34, that's all from

[1]
[2] when we arrested her, we put her in the car, waited for
[3] the wagon and the wagon took her. The wagon took her at
[4] 12:34, then we went to the District.
[5] **Q.** Well, this is your paperwork that I'm asking you
[6] about?
[7] **A.** Right.
[8] **Q.** You told me it was all accurate?
[9] **A.** Right, that's the time we put on there. The job
[10] was finished and then we go to the district and that's
[11] when we do the PARS and it asks for the time and that's
[12] what we put on there. And the --
[13] **Q.** And --
[14] **A.** Excuse me -- I didn't mean to interrupt you.
[15] And the wagon wasn't too far from where we were at, so the
[16] wagon came pretty fast.
[17] **Q.** So why did you order her out of the vehicle?
[18] **A.** Because I smelled a strong odor of alcohol on
[19] her breath.
[20] **Q.** Okay. That's legal; right?
[21] **A.** No.
[22] **Q.** No?
[23] **MR. FLANNERY:** Objection, Judge, again,
[24] argumentative.
[25] **THE COURT:** I'll sustain that objection.

[1]
[2] **BY MR. KELLY:**
[3] **Q.** So you order her out of the vehicle?
[4] **A.** Ah-hah.
[5] **Q.** You do an investigation of what?
[6] **A.** Her driving under the influence because she was
[7] drinking. A few reasons, she couldn't stand up, I was
[8] sure she was under the influence of alcohol. We had to
[9] take her out --
[10] **Q.** You order her out of the vehicle?
[11] **MR. FLANNERY:** Objection. Can he
[12] finish his answer?
[13] **MR. KELLY:** Can he be instructed to
[14] answer the question only.
[15] **THE COURT:** Here's where we are, I'm
[16] understanding what your witness is saying, and if
[17] you feel the need to object, I'm going to allow
[18] you to object. I think witnesses have their own
[19] rhythm. Each witness has his own rhythm. And he
[20] has his and I think this is kind of how it's
[21] going to go.
[22] **MR. FLANNERY:** Okay, Your Honor. Thank
[23] you.
[24] **THE COURT:** Okay. Mr. Kelly?
[25] **BY MR. KELLY:**

[1]
[2] **Q.** We agree she was in a car and she was looking
[3] for her license -- your testimony is she never gave you
[4] her license while she was in the car; correct?
[5] **A.** That's correct.
[6] **Q.** At no point did she ever give you her license?
[7] **A.** Nope.
[8] **Q.** As a matter of fact on the citation, which is
[9] C-3, is there a box on there that says where you got the
[10] ID from? You see the second box there? Did you do the
[11] citation?
[12] **A.** No, my partner did.
[13] **Q.** Your partner did?
[14] **A.** Yes.
[15] **Q.** Okay. So how long in your interaction with Ms.
[16] Parker until you handcuff her?
[17] **A.** Five minutes. After my partner patted her down
[18] and after the pat down we asked her what her name and date
[19] of birth, and we handcuffed her.
[20] **Q.** So, at this time she's in the southbound lane on
[21] Baynton, you're saying heading the wrong direction?
[22] **A.** Yes.
[23] **Q.** And you're behind her.
[24] **A.** We pulled right behind her.
[25] **Q.** Still no cars out?

[1]
[2] **A.** No cars.
[3] **Q.** So you're saying it was about five minutes
[4] before you arrested her, handcuffed her?
[5] **A.** I interacted with her for about five minutes.
[6] **Q.** Okay.
[7] **A.** I asked her for her ID, she looked in her
[8] pocketbook, then she stopped and she was telling me about
[9] the fish. Then I said, did you have anything to drink
[10] tonight, she said, yes, officer, I had two beers. I said
[11] okay, and I looked at her and I said are you sure and she
[12] goes, and I also had a couple of chocolate martinis, and I
[13] said. Okay. And I politely asked her, I said, please
[14] step out of the car, ma'am. I didn't know her name at the
[15] time either. She stepped out of the car and, as she
[16] stepped out of the car, she stumbled. I held her, walked
[17] her to the back of my patrol car, my partner patted her
[18] down, my partner asked her her name and date of birth, at
[19] that time she was handcuffed.
[20] **Q.** By your partner or you?
[21] **A.** I dont recall who did it.
[22] **Q.** Still no cars out?
[23] **A.** Excuse me?
[24] **Q.** Still no cars out on the street?
[25] **A.** No cars.

[1]
[2] **Q.** Now, did she turn the car off or was it still
[3] running?
[4] **A.** It was still running.
[5] **Q.** Still running?
[6] **A.** Yeah.
[7] **Q.** And it took five minutes for you to interact
[8] with her about --
[9] **A.** Probably, say five minutes.
[10] **Q.** Was it five minutes or was it a minute?
[11] **MR. FLANNERY:** Objection. It's been
[12] asked and answered about a hundred times. He said
[13] five minutes.
[14] **THE COURT:** I'm going to overrule the
[15] objection. Go ahead.
[16] **BY MR. KELLY:**
[17] **Q.** I'll move on. So, you saw my client come up
[18] Haines street the wrong way; correct?
[19] **A.** Correct.
[20] **Q.** You said she swerved?
[21] **A.** Swerved to the left.
[22] **Q.** Did she hit any cars?
[23] **A.** No.
[24] **Q.** She was going about 30; right?
[25] **A.** About 30.

[1]
 [2] **Q.** And she makes a left -- does she put her turn
 [3] signal on?
 [4] **A.** No.
 [5] **Q.** Still no cars out?
 [6] **A.** Nope.
 [7] **Q.** Do you know what day of the week this was?
 [8] **A.** Saturday.
 [9] **Q.** Friday night, Saturday morning?
 [10] **A.** Friday night, yes.
 [11] **Q.** You're in the 14th District?
 [12] **A.** Yes.
 [13] **Q.** Pretty busy District?
 [14] **A.** It varies.
 [15] **Q.** It varies?
 [16] **A.** Yeah, it varies. Some days --
 [17] **MR. FLANNERY:** Your Honor,
 [18] respectfully, objection. How is this relevant?
 [19] **THE COURT:** I will sustain the
 [20] objection.
 [21] **BY MR. KELLY:**
 [22] **Q.** And you didn't ask for a supervisor to give a
 [23] field sobriety test?
 [24] **A.** No, we used to do that, we don't do that
 [25] anymore.

[1]
 [2] **MR. KELLY:** One second, Judge, if I
 [3] may.
 [4] **BY MR. KELLY:**
 [5] **Q.** And we agree in the '48 you put nothing about
 [6] her being in the southbound lane on Baynton?
 [7] **A.** Right.
 [8] **Q.** And the '48A you don't put anything about being
 [9] in the southbound lane on Baynton; correct?
 [10] **A.** Correct.
 [11] **Q.** Why didn't you read her any warnings that her
 [12] statements could be used against her?
 [13] **MR. FLANNERY:** Objection.
 [14] **THE COURT:** What's the basis for the
 [15] objection?
 [16] **MR. FLANNERY:** The only warnings
 [17] required under the Bruden case, Judge. And it
 [18] calls for a legal conclusion as well.
 [19] **THE COURT:** I will sustain the
 [20] objection.
 [21] **By MR. KELLY:**
 [22] **Q.** And we agree you asked her if she was drinking;
 [23] correct?
 [24] **A.** Correct.
 [25] **Q.** And she was not free to leave; correct?

[1]
 [2] **A.** We were doing a vehicle investigation.
 [3] **Q.** Vehicle investigation. That's all I have.
 [4] **THE COURT:** Any further questions for
 [5] this witness, Mr. Flannery?
 [6] **MR. FLANNERY:** Briefly, Your Honor, on
 [7] redirect.
 [8] ---
 [9] REDIRECT - OFFICER MIRANDA
 [10] ---
 [11] **BY MR. FLANNERY:**
 [12] **Q.** Officer, directing your attention to the PARS
 [13] report please. Do you have that?
 [14] **THE COURT:** That's C-2?
 [15] **MR. FLANNERY:** Yes, Your Honor.
 [16] **By MR. FLANNERY:**
 [17] **Q.** Directing your attention to Commonwealth
 [18] Exhibit-2, again, sir, under the section that I initially
 [19] examined you about, or started to examine you about DUI
 [20] information, the questions are -- the first question is
 [21] what attracted to your attention to the vehicle and/or the
 [22] operator, you see that question?
 [23] **A.** Yes.
 [24] **Q.** What's next to that?
 [25] **A.** Swerving.

[1]
 [2] **Q.** What attracted your attention to the vehicle
 [3] and/or operator again and --
 [4] **MR. KELLY:** Objection. That's not what
 [5] it says.
 [6] **THE COURT:** Your voice dropped and I
 [7] don't have the document, so I can't.
 [8] **MR. FLANNERY:** I have one for the Court.
 [9] **THE COURT:** Well, that's fine. Let me
 [10] see it either way. You have to keep your voice
 [11] up.
 [12] **MR. KELLY:** It has to be redacted.
 [13] **MR. FLANNERY:** For a motion?
 [14] **MR. KELLY:** It has to be redacted. If I
 [15] give that to the Court, it's a mistrial.
 [16] **MR. FLANNERY:** A mistrial, we're at a
 [17] motion to suppress.
 [18] **MR. KELLY:** It's still a mistrial.
 [19] **MR. FLANNERY:** No, it's not.
 [20] **MR. KELLY:** The reading from client is
 [21] on that paper.
 [22] **THE COURT:** Here is what we are going to
 [23] do, I won't take the copy. I will allow you to
 [24] dispute the fact that the document is -- if
 [25] someone will read it to me exactly as that

[1] section is, I would greatly appreciate it.
 [2] **MR. FLANNERY:** I will. It says what
 [3] attracted your attention to the vehicle and/or
 [4] operator? Swerving. Do we agree on that,
 [5] counsel?
 [6] **MR. KELLY:** We do.
 [7] **BY MR. FLANNERY:**
 [8] **Q.** The next question is, what attracted your
 [9] attention to the vehicle and/or operator and what's it
 [10] say, you see where I am?
 [11] **MR. FLANNERY:** With permission of the
 [12] Court, can I read this.
 [13] **THE COURT:** Officer Miranda, he's
 [14] talking to you, you can read it.
 [15] **THE WITNESS:** It says wrong way on one
 [16] way.
 [17] **MR. FLANNERY:** I have no further
 [18] questions, Judge.
 [19] **MR. KELLY:** I have no other questions.
 [20] Judge, at this time --
 [21] **THE COURT:** I was going to excuse
 [22] Officer Miranda. Officer Miranda, you are
 [23] excused.
 [24] **MR. KELLY:** At this time, I withdraw the

[1] 20 minutes and the calibration motions.
 [2] **THE COURT:** Okay.
 [3] **MR. KELLY:** Can we instruct the witness
 [4] not to discuss his testimony with his partner,
 [5] please.
 [6] **THE WITNESS:** No problem.
 [7] **THE COURT:** Okay. Commonwealth?
 [8] **MR. FLANNERY:** Officer Allen.
 [9] **MR. KELLY:** Can I ask --
 [10] **THE COURT:** I'm assuming that, you
 [11] raised issues such as the stop, the arrest, and
 [12] the statement and I think the Commonwealth has
 [13] the right to present evidence on that.
 [14] **MR. KELLY:** Okay. I thought the first
 [15] officer arrested her but --
 [16] **THE COURT:** I'm not going to tell anyone
 [17] how to try their case.
 [18] **MR. KELLY:** Fair enough.
 [19] **MR. FLANNERY:** Judge, I'm sorry, I have
 [20] bad hearing I was trying to hear what you said.
 [21] **THE COURT:** That's okay. I said you
 [22] raised three issues, and the Commonwealth has the
 [23] right to present evidence on those three issues.
 [24] **MR. FLANNERY:** Thank you.

[1] **THE COURT CRIER:** Please raise your
 [2] right hand. Please identify yourself, badge
 [3] number and assignment.
 [4] **THE WITNESS:** I am Police Officer
 [5] Stephanie Allen, Badge No. 4275, 14th District.
 [6] -----
 [7] POLICE OFFICER STEPHANIE ALLEN,
 [8] after having been duly sworn, was examined and
 [9] testified as follows:
 [10] **THE COURT:** All right. 4275 is your
 [11] badge number?
 [12] **THE WITNESS:** Yes, sir.
 [13] **THE COURT:** Your witness.
 [14] **MR. FLANNERY:** Thank you, Judge.
 [15] ---
 [16] DIRECT - OFFICER ALLEN
 [17] ---
 [18] **BY MR. FLANNERY:**
 [19] **Q.** Officer Allen, were you on duty on April the
 [20] 30th of 2011, in the City of Philadelphia?
 [21] **A.** Yes.
 [22] **Q.** And were you working as a Philadelphia police
 [23] officer on that date?
 [24] **A.** Yes.

[1] **Q.** Are you assigned to the 14th Police District?
 [2] **A.** Yes.
 [3] **Q.** Who was your partner on that date?
 [4] **A.** Officer Miranda, Badge No. 7944.
 [5] **Q.** What shift were you working?
 [6] **A.** We were working the night shift 8pm to 4am.
 [7] **Q.** And were you in a patrol car, sir -- I'm sorry,
 [8] bad habit, ma'am?
 [9] **THE COURT:** I was going to say I think
 [10] you need new glasses.
 [11] **MR. FLANNERY:** I do. In addition to
 [12] hearing aides.
 [13] **THE WITNESS:** Yes.
 [14] **BY MR. FLANNERY:**
 [15] **Q.** And your partner you said was Officer Miranda;
 [16] correct?
 [17] **A.** That's correct.
 [18] **Q.** And what car were you working?
 [19] **A.** RPC 1417.
 [20] **Q.** And on that particular night, did you come in
 [21] contact with anybody you see in court?
 [22] **A.** Yes.
 [23] **Q.** And would you point to that person?
 [24] **A.** This lady, here.

[1]
 [2] **MR. FLANNERY:** Indicating for the
 [3] record, the defendant.
 [4] **BY MR. FLANNERY:**
 [5] **Q.** Now, where did you come into contact with her?
 [6] **A.** We came into contact with her --
 [7] **MR. KELLY:** Objection to we.
 [8] **THE COURT:** I will sustain the
 [9] objection as to the we.
 [10] **BY MR. FLANNERY:**
 [11] **Q.** Singular, please.
 [12] **A.** I came into contact with her on Haines Street,
 [13] Haines and Baynton she was heading eastbound on Haines
 [14] Street and I was heading northbound on Haines Street.
 [15] **Q.** Now, when you first observed the defendant's
 [16] vehicle, do you remember what kind of vehicle it was?
 [17] **A.** It was a silver Jeep Cherokee.
 [18] **Q.** And about how far away were you from that car at
 [19] the time you saw it?
 [20] **A.** I would say, approximately 50 feet.
 [21] **Q.** Fifty Feet?
 [22] **A.** Yes.
 [23] **Q.** Now, what attracted your attention to that car?
 [24] **A.** The thing that attracted my attention to Ms.
 [25] Parker's car was the fact that she was traveling the wrong

[1]
 [2] way up Haines Street. She was traveling eastbound. And
 [3] the street goes westbound.
 [4] **Q.** So what happened next? First you see the
 [5] defendant driving the wrong way on Haines Street and then
 [6] what happened, tell the judge?
 [7] **A.** After she is proceeding up Haines Street
 [8] eastbound, she proceeds to make a left onto Baynton
 [9] Street. We activated our lights and sirens to pull her
 [10] over and instead of pulling to the right, Ms. Parker
 [11] pulled over to the left and she slow stopped.
 [12] **Q.** I'm sorry, she what?
 [13] **A.** She slow stopped.
 [14] **Q.** And what happened next? Did you activate the
 [15] lights by the way?
 [16] **A.** That's correct, lights and sirens were
 [17] activated.
 [18] **Q.** At what point in time did you do that?
 [19] **A.** As soon as we turned onto Baynton Street.
 [20] **Q.** And what, if anything, did the defendant do at
 [21] that point in time, after you activated your lights and
 [22] sirens?
 [23] **A.** After we activated lights and sirens, as I said,
 [24] she was slow to stop, but then she did pull over to the
 [25] left side of the street.

[1]
 [2] **Q.** Now, what did you and your fellow officer do at
 [3] that point in time?
 [4] **A.** Well, we ran her tag and we observed that her
 [5] tag came back to Department of General Services in
 [6] Harrisburg. We got out and we approached the vehicle and,
 [7] at that time, my partner proceeded to speak with Ms.
 [8] Parker.
 [9] **Q.** Now, what happened at this point in time?
 [10] **A.** Well, from what I observed, I couldn't hear
 [11] because the window on my side was rolled up, I was the
 [12] recorder. From what I observed, Ms. Parker appeared to be
 [13] looking for her information, her driver's license,
 [14] registration and insurance.
 [15] **Q.** Describe her actions within the car?
 [16] **A.** She was disoriented, she was moving rather slow,
 [17] she kept looking from the back to the front, she was
 [18] looking around the front. She had containers of food in
 [19] the car, platters, and she actually spilled a platter of
 [20] food into the passenger seat, the front passenger seat.
 [21] **MR. KELLY:** Objection, that's not in
 [22] the paperwork either, for the record.
 [23] **THE COURT:** Overruled.
 [24] **BY MR. FLANNERY:**
 [25] **Q.** Now, what happened next after making this

[1]
 [2] observation?
 [3] **A.** She was still looking for information, she was
 [4] speaking to my partner. Again, I don't know what she was
 [5] saying to my partner, because the window was rolled up.
 [6] **Q.** Right.
 [7] **A.** And, at that time, my partner makes a little
 [8] motion to me as to say that she seemed like she's been
 [9] drinking, he makes a little motion.
 [10] **Q.** What kind of motion, can you explain?
 [11] **A.** It's a motion like, she's intoxicated.
 [12] **Q.** Show the judge. I already saw it.
 [13] **A.** Like this. (Demonstrating.)
 [14] **THE COURT:** Drinking.
 [15] **THE WITNESS:** Yes, like she had been
 [16] drinking, yes.
 [17] **THE COURT:** Okay. Motion with her right
 [18] hand toward the mouth.
 [19] **BY MR. FLANNERY:**
 [20] **Q.** Go ahead, ma'am, what happened next?
 [21] **A.** Then at that time he pulled her -- he took her
 [22] out of the vehicle and I walked around to the driver's
 [23] side of the vehicle, and proceeded to pat her down. But
 [24] before I patted her down I let her know what I was going
 [25] to do, asked her did she have anything on her and

[1]
[2] proceeded from there.
[3] **Q.** Now, what happened next, do you recall?
[4] **A.** After I patted her down, I walked her to the
[5] police car, put her in the back seat and asked her did she
[6] have any identification on her. She said it was in her
[7] purse. I asked her where the purse was, the purse was in
[8] the car. I asked her could I look in the purse, she told
[9] me I could look in. I looked in, there was no
[10] identification in the purse, so I asked her for her name
[11] and date of birth.
[12] **Q.** Did she give it to you?
[13] **A.** That's correct.
[14] **Q.** And when she gave it to you what, if anything,
[15] did you do with that information?
[16] **A.** I ran her information in the system.
[17] **Q.** And what, if anything, did you find?
[18] **A.** I got her address and social security number and
[19] driver's license number.
[20] **Q.** Now, did she ever produce any proof of insurance
[21] for the vehicle?
[22] **A.** No, she didn't have any paperwork at all.
[23] **Q.** How did you determine that the vehicle was owned
[24] by the Department of General Services, as reflected in
[25] your report?

[1]
[2] window of the vehicle; is that correct?
[3] **A.** That is correct, I was the recorder, so I was on
[4] the passenger side.
[5] **Q.** And how far away were you from the defendant at
[6] that point in time?
[7] **A.** Maybe about five or six feet. I was looking
[8] right in the front passenger window at her.
[9] **Q.** Was the window tinted in any way?
[10] **A.** No, the window was not tinted.
[11] **Q.** What was the lighting like?
[12] **A.** She had the inside interior light on in the car,
[13] so you could see clearly.
[14] **Q.** Do you remember what she was wearing at that
[15] particular time?
[16] **A.** She had on a yellow shirt and blue jeans.
[17] **Q.** Now, you made those observations, you said you
[18] were looking through the window; is that right?
[19] **A.** That's correct.
[20] **Q.** Obviously when you walked her back to the patrol
[21] car with Officer Miranda, you were much closer; is that
[22] correct?
[23] **A.** That is correct.
[24] **Q.** Were you able to detect any odor?
[25] **A.** She had an odor of alcohol on her breath, yes.

[1]
[2] **A.** By running the vehicle when we proceeded to stop
[3] it.
[4] **Q.** Now, when you stopped -- I'm sorry, when you ran
[5] the car, it came back to the Department of General
[6] Services; correct?
[7] **A.** That's correct.
[8] **Q.** And when you ran her name and date of birth, it
[9] turned out that she did have a valid license; is that
[10] correct?
[11] **A.** That's correct.
[12] **Q.** Now, when she spoke to you, can you describe her
[13] speech to the judge?
[14] **A.** Her speech was a little slow, she just appeared
[15] to be a little slow, I mean, she was polite, cooperative.
[16] **Q.** Can you describe her eyes please?
[17] **A.** She had glassy eyes. And like I said, her
[18] speech was slow and she was moving slow.
[19] **Q.** How did she walk?
[20] **A.** She had a little trouble walking.
[21] **Q.** Was she able to stand when she got out of the
[22] car; do you remember?
[23] **A.** She had a little trouble standing.
[24] **Q.** Now, when -- how close were you, by the way,
[25] when you first observed her, you said you were up by the

[1]
[2] **Q.** Now, have you been around people who drink
[3] alcohol?
[4] **A.** That is correct, yes.
[5] **Q.** Have you ever consumed alcohol?
[6] **A.** Yes.
[7] **Q.** Are you familiar with the smell of alcohol?
[8] **A.** Yes, I am.
[9] **Q.** Now, let me ask you this, ma'am, you issued a
[10] traffic ticket; is that correct?
[11] **A.** Yes.
[12] **Q.** All right. Can you look at C-1 through 4 which
[13] are in front of you?
[14] **MR. FLANNERY:** Can I approach, Judge,
[15] for the sake of economy here?
[16] **THE COURT:** Yes.
[17] **BY MR. FLANNERY:**
[18] **Q.** C-2 --
[19] **THE COURT:** PARS.
[20] **BY MR. FLANNERY:**
[21] **Q.** -- is the PARS, can you look at that.
[22] **A.** Yes.
[23] **Q.** Do you recognize that from the case?
[24] **A.** Yes.
[25] **Q.** And you filled out a '48; is that correct?

[1]
[2] **A.** I filled out a '48A.
[3] **Q.** '48A is this one?
[4] **A.** Yes.
[5] **Q.** And can you describe that for the Court, what
[6] you recorded on that please?
[7] **A.** Basically what I recorded --
[8] **THE COURT:** No, I'm sorry, for the
[9] record she has C-2 and she has C-4, which one is
[10] she referring to?
[11] **MR. FLANNERY:** C-4, Judge, I'm sorry.
[12] Forgive me, that's my fault.
[13] **THE COURT:** C-4.
[14] **MR. KELLY:** The 48A?
[15] **MR. FLANNERY:** The 48A.
[16] **MR. KELLY:** Okay. And she's saying she
[17] prepared it?
[18] **MR. FLANNERY:** Yes.
[19] **MR. KELLY:** Okay.
[20] **THE WITNESS:** Basically, what is on the
[21] '48A is the location of the car stop, and Ms.
[22] Parker's demographic information. Information on
[23] the vehicle and the information for the violation
[24] that is written.
[25] **BY MR. FLANNERY:**

[1]
[2] **Q.** Now, with regard to, you said you walked her
[3] back to the patrol car; is that right?
[4] **A.** That is correct.
[5] **Q.** Did you put her in the back of the patrol car?
[6] **A.** Yes, I did.
[7] **Q.** And when you put her in the back of the patrol
[8] car, what did you do then?
[9] **A.** As I said before, when I put her in the back of
[10] the patrol car, I asked her for her name and her date of
[11] birth and she gave that to me.
[12] **Q.** And at some point in time did you transfer her
[13] to PDU?
[14] **A.** She was transported by EPW 1402.
[15] **Q.** And when you initially observed the defendant,
[16] she was located where in her vehicle?
[17] **A.** She was located in the driver's seat.
[18] **Q.** Now, in addition to what you described as her
[19] speech and odor and her eyes, did you notice anything else
[20] about the defendant unusual?
[21] **A.** No.
[22] **Q.** Now, ma'am, during the course of your career,
[23] well -- Strike that. Did you ask her whether she had been
[24] drinking that night?
[25] **A.** No, I did not ask her whether or not she had

[1]
[2] **Q.** You also issued a traffic ticket; is that right?
[3] **A.** That is correct.
[4] **Q.** And that is in front of you also; am I correct?
[5] **A.** Yes.
[6] **Q.** And that has been marked, I think as C-3.
[7] **THE COURT:** C-3.
[8] **BY MR. FLANNERY:**
[9] **Q.** Do you recognize that?
[10] **A.** Yes.
[11] **Q.** And did you prepare that?
[12] **A.** Yes, I did.
[13] **Q.** And what did you -- what section of the Motor
[14] Vehicle Code did you cite her with?
[15] **A.** 3736A, reckless driving.
[16] **Q.** And, on the report, what did you -- or on your
[17] '48, going back to your '48, I'm sorry, that's already
[18] been read into the record, but what time did you note on
[19] your 48?
[20] **A.** 12:18.
[21] **Q.** And that's what time that you stopped the
[22] defendant; is that correct?
[23] **A.** That is correct.
[24] **Q.** That would be 12:18 am; correct?
[25] **A.** That's correct, 12:18, yes.

[1]
[2] been drinking.
[3] **Q.** So any conversation with regard to that occurred
[4] with your partner; is that correct?
[5] **A.** That is correct.
[6] **Q.** Now, do you have any training with regard to
[7] detection of impaired drivers?
[8] **A.** Yes.
[9] **Q.** And can you describe that training please?
[10] **A.** The training that I received in the Police
[11] Academy.
[12] **Q.** And about how many times have you stopped a
[13] driver that you believe was impaired during the course of
[14] your career?
[15] **A.** I'd say about 10.
[16] **Q.** And how long have you been on the job?
[17] **A.** Three years.
[18] **Q.** And have you had occasion to see intoxicated
[19] persons during the course of your professional career, as
[20] well as your personal life?
[21] **A.** Yes, I have.
[22] **Q.** And about how many times have you done that?
[23] **A.** I'd say over 100 times.
[24] **Q.** And based on your professional and personal
[25] experience and training, did you form an opinion as to

[1]
[2] whether or not the defendant was capable of safely
[3] operating a motor vehicle at the time that she was
[4] arrested by yourself and Officer Miranda?
[5] **A.** Yes.
[6] **Q.** And what was that opinion?
[7] **A.** That she was not capable of operating a motor
[8] vehicle.
[9] **Q.** And that opinion is based upon what, ma'am?
[10] **A.** It's based upon her mobility, she had a strong
[11] odor of alcohol on her breath, and the glassiness of her
[12] eyes, and just her being disoriented when trying to find
[13] her information in the vehicle, as well and dumping the
[14] food out on the passenger seat.
[15] **MR. FLANNERY:** Your Honor, I have no
[16] further questions of this witness at this time.
[17] **MR. KELLY:** May I, Your Honor?
[18] **THE COURT:** Yes.
[19] ---
[20] CROSS - OFFICER ALLEN
[21] ---
[22] **BY MR. KELLY:**
[23] **Q.** Officer, good afternoon.
[24] **A.** Good afternoon.
[25] **Q.** Before testifying did you review all the

[1]
[2] **Q.** Well, who prepared the '48A?
[3] **A.** I prepared the '48A.
[4] **Q.** Well why does it say he did?
[5] **A.** Whenever '48As are prepared the driver is always
[6] put in the first and the recorder is always put in the
[7] second.
[8] **Q.** So it says report prepared by Miranda, that's
[9] wrong?
[10] **A.** It's not wrong.
[11] **Q.** Well, that's what is says though, doesn't it?
[12] **MR. FLANNERY:** Objection. Argumentive.
[13] **THE COURT:** Well I understand her
[14] explanation, but I think he has the right to ask
[15] the question as he asked, I will allow him to ask
[16] it.
[17] **BY MR. KELLY:**
[18] **Q.** If you can read that box for me because I don't
[19] want to be argumentative. Read that box under
[20] miscellaneous there. Read the box above Officer Miranda's
[21] name. What does it say?
[22] **A.** It says report prepared by.
[23] **Q.** It says Miranda's name; right?
[24] **A.** Yes, it says Miranda.
[25] **Q.** And if he testified that he prepared it, he's

[1]
[2] paperwork?
[3] **A.** Yes, sir.
[4] **Q.** And it's all accurate; right?
[5] **A.** Yes, sir.
[6] **Q.** Okay. You're the driver of the police car;
[7] correct?
[8] **A.** That's correct, I'm the recorder.
[9] **Q.** You're the driver it says?
[10] **A.** No, the recorder.
[11] **Q.** Oh, you're the recorder?
[12] **A.** Yes, my partner was the driver.
[13] **Q.** Okay. And the only paperwork that you did is
[14] what?
[15] **A.** The paperwork that I did is the '48A and the
[16] traffic ticket.
[17] **Q.** Look at C-4 which is the 48, is it still up
[18] there?
[19] **A.** Yes the '48A.
[20] **Q.** C-4, that's the 48A and it says, and correct me
[21] if I'm wrong, on the bottom it says report prepared by
[22] Miranda, that's not you; is it?
[23] **A.** No, that's not me.
[24] **Q.** So, that's wrong?
[25] **A.** No, it's not wrong.

[1]
[2] wrong?
[3] **A.** I prepared the '48A.
[4] **Q.** The question is, so he's wrong if he says he
[5] prepared it?
[6] **A.** That's correct. I prepared the '48A.
[7] **Q.** Okay. So you approach the passenger side of my
[8] client's vehicle; correct?
[9] **A.** That's correct.
[10] **Q.** And you prepared -- well did you do the PARS?
[11] **A.** No, I did not do the PARS.
[12] **Q.** But yet you're the recorder?
[13] **A.** That's correct.
[14] **Q.** So you prepared the '48A; correct?
[15] **A.** Yes.
[16] **Q.** The '48?
[17] **A.** The '48A and the traffic ticket.
[18] **Q.** So did you do the '48?
[19] **A.** No, I did not do the '48.
[20] **Q.** In the '48A you're supposed to put somewhat of a
[21] narrative of what happens; correct?
[22] **A.** That's correct.
[23] **Q.** Now, you testified that my client pulled into a
[24] southbound lane of traffic on Baynton; correct?
[25] **A.** Baynton Street, goes north and south, that is

[1]
[2] correct, and she pulled to the left.
[3] **Q.** That's important; right?
[4] **A.** Yes.
[5] **Q.** But yet it's not in the paperwork, why?
[6] **A.** I had put that Ms. Parker was heading eastbound
[7] Haines Street, which is a one way, the street runs west.
[8] **Q.** That's not the question. I will ask it again.
[9] Why is it that you said that my client was in the
[10] southbound lane on Baynton when she pulled over, why is
[11] that not in the paperwork if you believe it was important?
[12] **A.** In the '48A it's just a short summary of the
[13] events that happen.
[14] **Q.** So short that you put a 19 digit VIN number
[15] there; right?
[16] **A.** The VIN is required on the '48A. That's why
[17] it's listed.
[18] **Q.** So it's pretty detailed when you want to be
[19] detailed and not detailed when you don't want to be
[20] detailed; right?
[21] **MR. FLANNERY:** Objection.
[22] **THE COURT:** Overruled.
[23] **BY MR. KELLY:**
[24] **Q.** Correct?
[25] **THE COURT:** I understand that it's

[1]
[2] **Q.** Well, what did he pull to get her out of the
[3] vehicle?
[4] **A.** She was taken out of the vehicle by Officer
[5] Miranda.
[6] **Q.** Well what body part did he touch?
[7] **A.** Mrs. Parker was taken out of the vehicle by
[8] Officer Miranda.
[9] **Q.** What body part, did he grab her heel, a shoe?
[10] **A.** As I stated before, Mrs. Parker was taken out of
[11] the vehicle by Officer Miranda. She was not grabbed at
[12] all.
[13] **Q.** Did he touch her?
[14] **A.** She was not touched until I touched her.
[15] **Q.** Okay. So she gets out of the vehicle, did you
[16] notice what kind of shoes she was wearing?
[17] **A.** She had on heels.
[18] **Q.** Three inch heels, are they high heels?
[19] **A.** It was a heel, I'm not quite sure how high they
[20] were.
[21] **Q.** Well, I'm asking you, is a three inch heel high?
[22] **MR. FLANNERY:** Objection.
[23] **THE COURT:** Overruled. I'm going to
[24] allow it.
[25] **BY MR. KELLY:**

[1]
[2] somewhat of a -- I don't think that the question
[3] is necessarily the best worded question, but I
[4] think he has a right to ask given the nature of
[5] the question. Go ahead. I will allow it.
[6] **MR. KELLY:** I'll proceed.
[7] **BY MR. KELLY:**
[8] **Q.** Now, you testified on direct that my client came
[9] out of the vehicle; correct?
[10] **A.** Yes, she was taken out of the vehicle by Officer
[11] Miranda.
[12] **Q.** Taken. As a matter of fact you first said she
[13] was pulled out of the vehicle, that's what you said?
[14] **A.** I did say pulled, yes.
[15] **Q.** Now, you're retracting it, she was pulled out of
[16] the vehicle by Officer Miranda, wasn't she?
[17] **A.** She was taken out of the vehicle by Officer
[18] Miranda.
[19] **Q.** As a matter of fact, if I can stand, Officer
[20] Miranda grabbed her left arm; correct? And pulled her out
[21] of the vehicle; correct?
[22] **A.** No, he did not grab her and pull her out of the
[23] vehicle.
[24] **Q.** What did he grab her upper body to get her out?
[25] **A.** He didn't grab anything.

[1]
[2] **Q.** Is that a high heel?
[3] **A.** It's not that high in my opinion.
[4] **Q.** In your opinion. Does that look like the heel
[5] she was wearing?
[6] **A.** I can't remember. She had on heels.
[7] **MR. KELLY:** May I approach, Judge?
[8] **THE COURT:** Yes.
[9] **THE WITNESS:** I don't remember the
[10] color, I know she had on heels though.
[11] **BY MR. KELLY:**
[12] **Q.** Is that a high heel?
[13] **A.** In my opinion, it's not that high.
[14] **Q.** So what's high to you five or six inches?
[15] **A.** Five or six, that's correct.
[16] **Q.** Okay. So, now, you testified on direct that my
[17] client was taken to the back of the vehicle by Officer
[18] Miranda; correct?
[19] **A.** That's correct.
[20] **Q.** You said you asked her her name, date of birth
[21] -- I'm sorry, you put her in your vehicle first?
[22] **A.** I searched her first.
[23] **Q.** You searched her and put her in your vehicle?
[24] **A.** That's correct, I searched her, walked her to
[25] the vehicle and placed her in the vehicle.

[1]
 [2] **Q.** And she's not free to leave at that time?
 [3] **A.** No, she is not.
 [4] **Q.** So now after she's in the back of the vehicle,
 [5] you asked her for her name, did she give you that?
 [6] **A.** Yes.
 [7] **Q.** You asked her for her date of birth, did she
 [8] give you that?
 [9] **A.** Yes.
 [10] **Q.** You asked her, you said on direct, you said her
 [11] social security number, that's what you said?
 [12] **A.** I didn't ask her for her social security number,
 [13] I asked her for her name and her date of birth.
 [14] **Q.** Well, that's what you said on direct though, to
 [15] the Commonwealth's attorney?
 [16] **A.** I asked her for her name and her date of birth.
 [17] **Q.** Well, we can read it back, but didn't you
 [18] testify a couple minutes ago that you asked her for her
 [19] social security number?
 [20] **A.** I stated that her social security number was
 [21] listed in the information once I ran her name and date of
 [22] birth.
 [23] **Q.** That's what you said?
 [24] **A.** That is correct.
 [25] **Q.** Okay. But yet that's not on any paperwork?

[1]
 [2] **A.** Her social security number is clearly listed on
 [3] the '48A.
 [4] **Q.** The 48A, here we are. Now, when she's in the
 [5] back of the vehicle, she's not free to leave; correct?
 [6] **A.** That's correct.
 [7] **Q.** At that time you had not smelled any alcohol?
 [8] **MR. FLANNERY:** Objection, that's not
 [9] her testimony. It's a mischaracterization.
 [10] **THE COURT:** She can answer the question?
 [11] **THE WITNESS:** She had an odor of alcohol
 [12] on her breath.
 [13] **BY MR. KELLY:**
 [14] **Q.** You don't know if it was faint, moderate or
 [15] strong at that point, do you?
 [16] **A.** I would say moderate.
 [17] **Q.** Moderate?
 [18] **A.** Yes.
 [19] **Q.** Okay. And you would agree that people can drink
 [20] alcohol and operate a vehicle?
 [21] **A.** Yes.
 [22] **Q.** You do; right? As a matter of fact the
 [23] Commonwealth asked you if you consumed alcohol; correct?
 [24] **A.** Yes.
 [25] **Q.** Did you ever drink and drive before?

[1]
 [2] **MR. FLANNERY:** Objection.
 [3] **MR. KELLY:** He opened the door.
 [4] **THE COURT:** I'm going to sustain the
 [5] objection.
 [6] **BY MR. KELLY:**
 [7] **Q.** You ever get behind the wheel after having two
 [8] beers?
 [9] **MR. FLANNERY:** Objection.
 [10] **THE COURT:** I'm going to sustain the
 [11] objection.
 [12] **MR. KELLY:** Judge, he opened the door.
 [13] **THE COURT:** I understand. I'm going to
 [14] sustain the objection.
 [15] **BY MR. KELLY:**
 [16] **Q.** How long was your interaction with my client
 [17] before she was handcuffed?
 [18] **A.** My interaction with Ms. Parker was about maybe
 [19] six minutes.
 [20] **Q.** Did you handcuff her?
 [21] **A.** That's correct, I handcuffed her.
 [22] **Q.** You handcuffed her?
 [23] **A.** Yes.
 [24] **Q.** And when you handcuffed her, where was she
 [25] located?

[1]
 [2] **A.** She was still standing at the tail end of her
 [3] vehicle.
 [4] **Q.** Tail end of her vehicle. So she gets out of the
 [5] vehicle with Officer Miranda, you get to the back of the
 [6] vehicle, you pat her down; correct?
 [7] **A.** Correct, yes.
 [8] **Q.** To arrest her; right?
 [9] **A.** That's correct, yes.
 [10] **Q.** And then you stand there for six minutes?
 [11] **A.** It took six minutes to get her handcuffed,
 [12] patting her down and letting her know what I was doing,
 [13] that took six minutes.
 [14] **Q.** So she's in the back of your vehicle for six
 [15] minutes?
 [16] **A.** She's in the back of her vehicle.
 [17] **MR. FLANNERY:** Objection --
 [18] **MR. KELLY:** Well, I'm trying to --
 [19] **THE COURT:** Overruled, go ahead.
 [20] **BY MR. KELLY:**
 [21] **Q.** So she's in the back of her vehicle for six
 [22] whole minutes; correct?
 [23] **A.** Me patting her down and letting her know what I
 [24] was doing --
 [25] **Q.** Okay.

[1]
 [2] **A.** -- took about six minutes, then she was
 [3] handcuffed and walked to the police vehicle.
 [4] **Q.** Now, that's your District; right?
 [5] **A.** Yes, the 14th District.
 [6] **Q.** Busy District?
 [7] **MR. FLANNERY:** Objection.
 [8] **THE WITNESS:** Fairly busy.
 [9] **MR. FLANNERY:** Unless it pertains to
 [10] April the 30th, 2011 at about 12:18 am --
 [11] **MR. KELLY:** I'll get to the point.
 [12] **THE COURT:** Overruled. Go ahead.
 [13] **BY MR. KELLY:**
 [14] **Q.** Busy District?
 [15] **A.** Fairly busy.
 [16] **Q.** Fairly busy. This is a Friday night at midnight,
 [17] going into Saturday morning; correct?
 [18] **A.** It's Saturday morning.
 [19] **Q.** Okay. It's Saturday morning at 12:18; right?
 [20] **A.** That's correct.
 [21] **Q.** No cars on the street; correct?
 [22] **A.** It's not busy at that time.
 [23] **Q.** Is there any cars on the street?
 [24] **A.** It's not busy at that time.
 [25] **Q.** My question is, is there any cars on the street,

[1]
 [2] yes or no?
 [3] **A.** No.
 [4] **Q.** No cars at Germantown and between -- on Baynton
 [5] and Haines at 12 midnight on a Saturday night, Saturday
 [6] morning?
 [7] **A.** No.
 [8] **Q.** None?
 [9] **A.** No.
 [10] **Q.** As a matter of fact, none pass you when you're
 [11] in the southbound lane with Ms. Parker, did they?
 [12] **A.** No.
 [13] **Q.** None?
 [14] **A.** No.
 [15] **Q.** And you have no training in DUIs; correct?
 [16] **MR. FLANNERY:** Objection, again,
 [17] mischaracterizes the witness's testimony.
 [18] **MR. KELLY:** On cross examination.
 [19] **THE COURT:** Well, she testified as to
 [20] what her training was. I will sustain the
 [21] objection.
 [22] **BY MR. KELLY:**
 [23] **Q.** You have no specialized training in DUIs, do
 [24] you?
 [25] **A.** No specialized training.

[1]
 [2] **MR. FLANNERY:** Objection, again.
 [3] **THE COURT:** Overruled. I'll allow it.
 [4] **BY MR. KELLY:**
 [5] **Q.** You didn't give a feild sobriety test?
 [6] **A.** No.
 [7] **Q.** I'm going to direct your attention to the PARS,
 [8] which is C-2; correct? You see that, you see the document?
 [9] **A.** Yes, I see the document.
 [10] **Q.** And it's accurate?
 [11] **A.** To the best of my knowledge, it appears
 [12] accurate.
 [13] **Q.** Okay. So it says occurrence 12am, that's
 [14] accurate?
 [15] **A.** The time is 12:18.
 [16] **Q.** Well, you just told me the documents are
 [17] accurate?
 [18] **A.** To the best of my knowledge the time is 12:18.
 [19] **Q.** Well, how do you know it's 12:18?
 [20] **A.** That is the time that we stopped Ms. Parker.
 [21] **Q.** How do you know it was 12:18?
 [22] **A.** The time is on my phone.
 [23] **Q.** On your phone?
 [24] **A.** Yes, sir.
 [25] **Q.** On your phone. Okay. And I guess the arrest

[1]
 [2] time was you put 12:35, that's on your phone also?
 [3] **A.** 12:35 is the arrest time.
 [4] **Q.** Now, look at Page 2 of the PARS, it says
 [5] descriptive data, do you see that?
 [6] **A.** Yes, I see that.
 [7] **Q.** Eye characteristics, normal?
 [8] **A.** I see that.
 [9] **Q.** That's accurate too?
 [10] **A.** I did not do the PARS.
 [11] **Q.** But you just told me a minute and a half ago
 [12] that the paper was accurate?
 [13] **A.** I stated to the best of my knowledge that the
 [14] paper was accurate, I did not do it.
 [15] **Q.** So that's wrong too, eyes, normal, that's wrong?
 [16] Is that what you're telling me?
 [17] **A.** To the best of my knowledge the PARS is
 [18] accurate, I did not --
 [19] **Q.** So we can agree her eyes were normal?
 [20] **MR. FLANNERY:** Objection.
 [21] **THE COURT:** I understand, it's cross
 [22] examination, I will allow it.
 [23] **BY MR. KELLY:**
 [24] **Q.** Now, you did the TVR; correct?
 [25] **A.** Yes, I did.

[1]
[2] **Q.** And you cited her for reckless driving?
[3] **A.** That's correct.
[4] **Q.** You ever read that section of the Motor Vehicle
[5] Code?
[6] **A.** Yes.
[7] **Q.** You did, when was the last time you read it?
[8] **A.** A while ago, not recently.
[9] **Q.** Not recently. So, when you're traveling down
[10] Haines, my client is, you say going the wrong way on
[11] Haines; is that correct?
[12] **A.** That is correct, she was traveling eastbound on
[13] Haines.
[14] **Q.** Now, where were you when you first observed Ms.
[15] Parker?
[16] **A.** I am behind another vehicle.
[17] **Q.** Oh, there's a vehicle in front of you?
[18] **A.** That's correct.
[19] **Q.** And your partner said he was looking right at
[20] her, which one is wrong?
[21] **A.** We were behind a vehicle.
[22] **Q.** Vehicle, car, truck, SUV?
[23] **A.** It was a car.
[24] **Q.** What color car?
[25] **A.** I do not recall.

[1]
[2] **Q.** As a matter of fact, I thought there was no cars
[3] on the street?
[4] **A.** No, cars on the street, when we stopped Ms.
[5] Parker on Baynton Street.
[6] **Q.** So, if your partner testified there was no cars
[7] at all, not even in front of him, he's wrong; correct?
[8] **A.** There was no cars --
[9] **Q.** So he's wrong then?
[10] **A.** There was a car in front of us on the street.
[11] **Q.** So a car is in front of you, and you're behind
[12] that car. So if my client makes a left, does she make a
[13] left on a red light?
[14] **A.** I do not recall if it was a red light.
[15] **Q.** You're stopped; correct?
[16] **A.** We were behind the car traveling westbound on
[17] the street.
[18] **Q.** You're about 500 feet I guess before Baynton on
[19] Haines?
[20] **A.** We're pretty close to Baynton Street, we're
[21] approaching the corner.
[22] **Q.** And there's a car in front of you?
[23] **A.** There's a car in front of us, yes.
[24] **Q.** So how far would you say you are from Baynton,
[25] between Baynton and on Haines?

[1]
[2] **A.** I would say from Haines to Baynton, maybe we
[3] were about 20 feet.
[4] **Q.** Twenty feet with a car in front of you?
[5] **A.** Yes.
[6] **Q.** And then you just -- did you ever lose sight of
[7] my client?
[8] **A.** No.
[9] **Q.** What did the car in front of you do, turn left
[10] or turn right?
[11] **A.** The car in front of us was still traveling.
[12] **Q.** It goes east?
[13] **A.** It's going eastbound, that's correct.
[14] **Q.** It goes east on --
[15] **A.** I'm sorry -- it's going westbound and Mrs.
[16] Parker is coming eastbound.
[17] **Q.** So, I know this sounds a little goofy, it's
[18] going westbound on East Haines; correct?
[19] **A.** That's correct.
[20] **Q.** So that vehicle continues, does that vehicle
[21] almost collide with Ms. Parker?
[22] **A.** No, because Ms. Parker makes a left on Baynton
[23] Street.
[24] **Q.** On Baynton Street?
[25] **A.** That's correct.

[1]
[2] **Q.** And then she gets -- where do you physically
[3] stop her vehicle, what street?
[4] **A.** We physically stop her vehicle on the 1500 Block
[5] of Baynton, so she's like in the center of the block on
[6] Baynton.
[7] **Q.** So how far is that from Haines and Baynton?
[8] **A.** It might be about 20 feet from the corner.
[9] **Q.** So your testimony is she makes the left-hand
[10] turn and travels 20 feet and she pulls in the southbound
[11] lane?
[12] **A.** That's correct, yes.
[13] **Q.** And you didn't Live Stop her vehicle; correct?
[14] **A.** No, we did not Live Stop the vehicle.
[15] **Q.** Did you move the vehicle after it was Live
[16] Stopped -- I mean, after she was stopped?
[17] **A.** I did not move the vehicle.
[18] **Q.** Did anybody move the vehicle?
[19] **A.** I honestly don't recall.
[20] **Q.** So you don't know if your partner moved it?
[21] **A.** I do not recall.
[22] **MR. KELLY:** That's all I have.
[23] **THE COURT:** Anything further, Mr.
[24] Flannery?
[25] **MR. FLANNERY:** Yes, Your Honor.

[1]
[2] ---
[3] REDIRECT - OFFICER ALLEN
[4] ---
[5] **BY MR. FLANNERY:**
[6] **Q.** Directing your attention to Page 1 of the PARS
[7] report?
[8] **A.** Yes.
[9] **Q.** You see the section where it says facts of the
[10] case?
[11] **MR. KELLY:** Objection, she didn't
[12] prepare it.
[13] **MR. FLANNERY:** She didn't prepare the
[14] back part either and you asked her about it.
[15] **MR. KELLY:** It's called cross
[16] examination.
[17] **MR. FLANNERY:** Yea, and it's called
[18] redirect.
[19] **THE COURT:** Overruled. I will allow it.
[20] Go ahead.
[21] **BY MR. FLANNERY:**
[22] **Q.** You see the part where it says, facts of the
[23] case?
[24] **A.** Yes, I see it.
[25] **Q.** Can you read that please?

[1]
[2] **MR. KELLY:** Objection.
[3] **THE COURT:** Overruled. I'll allow it.
[4] Go ahead.
[5] **THE WITNESS:** On approximately 4/30/11
[6] at approximately 12:15 am, while on patrol at
[7] 1417, I, PO Miranda Badge 7144, and PO Allen,
[8] Badge No. 4375, were traveling westbound on
[9] Haines Street toward Germantown Avenue when we
[10] observed the defendant, Ms. Cherelle Parker
[11] driving eastbound on a one way street, the wrong
[12] way. We activated our emergency lights and
[13] sirens and stopped the defendant on the 5800
[14] block of Baynton. As, I, PO Miranda approached
[15] the defendant, she had a strong odor of alcohol
[16] coming from her breath and glassy eyes. Defendant
[17] also appeared disoriented and wasn't able to
[18] stand. Defendant was then placed under arrest
[19] for DUI and transported to PDU by EPW 40 for
[20] processing.
[21] **BY MR. FLANNERY:**
[22] **Q.** Is that consistent with your testimony today?
[23] **MR. KELLY:** Objection, calls for a
[24] conclusion.
[25] **THE COURT:** I will sustain that

[1]
[2] objection.
[3] **BY MR. FLANNERY:**
[4] **Q.** Now, where Mr. Kelly asked you about descriptive
[5] data on the back part, page 2?
[6] **A.** I see it.
[7] **Q.** Where it says characteristics, he zeroed in on
[8] eye characteristics, normal. That's prepared at the PDU
[9] --
[10] **MR. KELLY:** Objection, that's leading.
[11] **THE COURT:** I'll sustain the objection.
[12] **BY MR. FLANNERY:**
[13] **Q.** Did you prepare that? Did you prepare that
[14] part?
[15] **A.** Again, as I stated earlier, I did not prepare
[16] the PARS.
[17] **Q.** Do you know who prepared that?
[18] **A.** No, I do not.
[19] **Q.** Does the PDU prepare that part?
[20] **MR. KELLY:** Objection, calls for a
[21] conclusion.
[22] **THE COURT:** Sustained.
[23] **BY MR. FLANNERY:**
[24] **Q.** Now, with regard to the question area up above,
[25] where it says DUI information.

[1]
[2] **MR. KELLY:** What page?
[3] **BY MR. FLANNERY:**
[4] **Q.** Page 1, I'm sorry, Page 1.
[5] **A.** Okay.
[6] **Q.** Do you see the first question, what attracted
[7] your attention to the vehicle and/or operator?
[8] **A.** Yes, I see that.
[9] **Q.** What's the answer there?
[10] **A.** Swerving.
[11] **Q.** And what attracted to your attention to the
[12] vehicle and or operator, what does it say?
[13] **A.** Wrong way on one way.
[14] **Q.** And the next question says, did you observe
[15] what?
[16] **A.** Did you observed the position of the defendant
[17] inside the vehicle?
[18] **Q.** Okay. What does it say?
[19] **A.** It says yes, behind the steering wheel.
[20] **Q.** And up above it, you missed one it says did you
[21] observe the -- the question above?
[22] **A.** Oh, did you observe the defendant actually
[23] operating the vehicle? Yes.
[24] **Q.** And you prepared the '48 and the '48A; correct?
[25] **A.** I prepared the '48A and the traffic ticket.

[1]
 [2] **Q.** Okay. And your partner prepared the '48; is
 [3] that correct?
 [4] **A.** That's correct.
 [5] **Q.** And the time of your arrest was what in that
 [6] report?
 [7] **A.** In which report?
 [8] **Q.** In the '48A and '48?
 [9] **A.** The time is 12:18.
 [10] **MR. FLANNERY:** I have nothing further
 [11] of this witness at this time, Judge.
 [12] **MR. KELLY:** I do, based on that, Judge.
 [13] ---
 [14] RE CROSS - OFFICER ALLEN
 [15] ---
 [16] **BY MR. KELLY:**
 [17] **Q.** So, Officer Allen?
 [18] **A.** Yes.
 [19] **Q.** C-4 is the '48A that you prepared?
 [20] **A.** C-4 is the '48A that I prepared.
 [21] **Q.** It says time out, 12:15.
 [22] **A.** It's 12:18, sir.
 [23] **Q.** 12:18? Well, what time did you arrest her?
 [24] **A.** 12:18 is the time.
 [25] **Q.** 12:18 you arrested her. So if your partner said

[1]
 [2] he interacted with her at 12:15, I'm not a mathematician,
 [3] but that's three minutes.
 [4] **A.** It's an approximate time, so it's about three
 [5] minutes.
 [6] **Q.** She was arrested in three minutes; correct?
 [7] **A.** The time is 12:18.
 [8] **Q.** My question is, she was arrested within three
 [9] minutes; correct?
 [10] **A.** Yes.
 [11] **MR. KELLY:** Thank you.
 [12] **THE COURT:** All right. You can step
 [13] down.
 [14] **THE WITNESS:** Thank you, Your Honor.
 [15] **MR. KELLY:** Judge, can you instruct the
 [16] witness not to discuss her testimony.
 [17] **THE COURT:** Yes, Officer Allen, don't
 [18] discuss your testimony.
 [19] **THE WITNESS:** Okay.
 [20] **THE COURT:** Mr. Flannery?
 [21] **MR. FLANNERY:** Judge, am I correct and
 [22] this is just house keeping matter, we are doing
 [23] statements, we're doing probable cause to stop
 [24] and arrest and we're not doing the others; right?
 [25] **MR. KELLY:** Withdrawn.

[1]
 [2] **MR. FLANNERY:** So I don't think we need
 [3] any other witnesses other than -- well, let me
 [4] see what we have because the others go to the 20
 [5] minutes. The other witnesses would go to 20
 [6] minutes and calibration, so if we're just arguing
 [7] the stop.
 [8] **MR. KELLY:** Stop, arrest, statements.
 [9] **THE COURT:** So the Commonwealth has
 [10] rested?
 [11] **MR. FLANNERY:** Yes, we move for the
 [12] admission of our exhibits, yes.
 [13] **THE COURT:** C-1 through C-4, any
 [14] objection to C-1 through C-4, Mr. Kelly?
 [15] **MR. KELLY:** Yes, I would need a
 [16] redaction on C-2.
 [17] **THE COURT:** Counsel, with respect to
 [18] C-2, what is your position?
 [19] **MR. FLANNERY:** Judge, I don't know why
 [20] we need a redaction on a motion to suppress,
 [21] we're not in front of a jury.
 [22] **THE COURT:** I'm going to overrule the
 [23] objection. I will accept C-1 through C-4 into
 [24] evidence and, with that, the Commonwealth rests?
 [25] **MR. FLANNERY:** Yes.

[1]
 [2] **THE COURT:** Mr. Kelly?
 [3] **MR. KELLY:** I call Ms. Parker.
 [4] **THE COURT CRIER:** Please raise your
 [5] right hand. State your full name for the record.
 [6] **THE WITNESS:** Cherelle Parker.
 [7] -----
 [8] CHERELLE PARKER, after having been
 [9] duly sworn, was examined and testified as
 [10] follows:
 [11] ---
 [12] DIRECT - MS. PARKER
 [13] ---
 [14] **BY MR. KELLY:**
 [15] **Q.** Good afternoon, Ms. Parker --
 [16] **MR. KELLY:** May I, Your Honor?
 [17] **THE COURT:** Yes, your witness.
 [18] **BY MR. KELLY:**
 [19] **Q.** Ms. Parker, you remember the night you were
 [20] arrested; correct?
 [21] **A.** Yes, sir.
 [22] **Q.** Tell us what happened where you were going, and
 [23] what happened during the arrest, tell us in your own
 [24] words.
 [25] **A.** I was leaving a restaurant on Chelton Avenue

[1]
[2] after hosting an annual event that I have there in my
[3] community. I left there at approximately 11:30, I can be
[4] very specific about the time I left out of the door
[5] because I had to wait 15 minutes for the food to be
[6] prepared when I was leaving from another event that was
[7] taking place on Germantown Avenue. So I want to make sure
[8] I'm clear in putting it in perspective. I start the
[9] evening with --

[10] **Q.** You can lower your voice because the microphone
[11] is real loud.

[12] **A.** Okay.

[13] **Q.** Okay.

[14] **A.** I start the evening at an event that I'm hosting
[15] at this location on Chelten Avenue, I leave because the
[16] woman's organization that I am a part of is hosting
[17] another event on Germantown Avenue, not far from where I
[18] hosted mine at. I left that event. While I'm on my way
[19] actually to my car, to actually go home, after supporting
[20] the second event, one of the host from my event called me
[21] and said you need to go back to that location because we
[22] had --

[23] **MR. FLANNERY:** Objection, hearsay.

[24] **THE WITNESS:** I had to go to the
[25] location --

[1]
[2]
[3]
[4]
[5]
[6]
[7]
[8]
[9]

THE COURT: I'm going to allow it. It's
a motion to suppress, I'll allow it.

THE WITNESS: I had to go back to the
location where my event was hosted in order to
pick up food and that was about 11:15, about
11:10 maybe when we were on the phone. And they
already knew that I was on my way to pick up the
food. So, by the time I got there --

[10] **MR. FLANNERY:** Objection to what they
[11] already knew, Your Honor -

[12] **MR. KELLY:** You can't tell us what
[13] anybody else knew.

[14] **THE COURT:** I will sustain the
[15] objection.

[16] **MR. KELLY:** Keep your voice down, it's
[17] echoing.

[18] **THE COURT:** Go ahead.

[19] **THE WITNESS:** So I had to go back to the
[20] location to pick up food that was left there from
[21] the event I held earlier. I did just that. When
[22] I left the location it was 11:30. I had about 9
[23] to 10 platters, I had platters that I put on the
[24] back of my seat and platters, two platters that I
[25] put on the side, on the passenger side because I

[1]
[2] was the only person in my vehicle during that
[3] time. My vehicle was parked about three cars
[4] from the front door of the location that I was at
[5] on Chelten Avenue, so I really didn't have far to
[6] walk. I was wearing the shoes that you
[7] referenced earlier --

[8] **MR. FLANNERY:** Objection, Judge,
[9] unresponsive to the question.

[10] **THE COURT:** I'll sustain that.

[11] **BY MR. KELLY:**

[12] **Q.** Tell us, you leave the place, you're traveling,
[13] go ahead.

[14] **A.** I get into my car, the food has now been loaded,
[15] it's about 11:35 to 11:40, I go up Chelten Avenue, I'm a
[16] few feet away from Germantown Avenue. I make a right onto
[17] Germantown Avenue, I make a right onto Rittenhouse. When
[18] I make a right onto Rittenhouse, I go straight up
[19] Rittenhouse and, you know, there is one stop sign, after
[20] that stop sign you get to the next stop sign. I made a
[21] left which was Baynton Street. Baynton Street is a
[22] two-way street, sir. I made the left, I continued to go
[23] straight up Baynton Street.

[24] **Q.** Let me stop you there -- why did you make a
[25] right onto Rittenhouse?

[1]

[2] **A.** First and foremost, sir, I'm familiar with that
[3] community, it's the northwest section of Philadelphia, and
[4] I happen to know it pretty well. And if you're familiar
[5] with the area on a Friday night or Saturday night or even
[6] if you just have to travel for work in the morning,
[7] commuting to and from, if you don't have to ride
[8] Germantown Avenue with the traffic lights, if you know
[9] another route that you can get around in that area, you go
[10] that way. And, for me, the best route wasn't to go
[11] straight up Germantown Avenue, it was best for me if I
[12] wanted to avoid lights, to make a right onto Rittenhouse,
[13] to make a left onto Baynton. I continued to go straight
[14] and, as a matter of fact, while I'm driving up Baynton
[15] Street the light is green when I get to Baynton and
[16] Haines.

[17] **MR. FLANNERY:** Again, Judge, it's not
[18] responsive.

[19] **THE COURT:** Overruled. As I said with
[20] your witness earlier, counsel, Mr. Flannery, some
[21] witnesses, this is how they are going to testify.
[22] I'm going to allow it.

[23] **BY MR. KELLY:**

[24] **Q.** What's the traffic condition at that time,
[25] midnight?

[1]
 [2] **A.** Well, I really needed to get off of Germantown
 [3] Avenue, which is why I'm going to turn at Rittenhouse
 [4] Street because I see the traffic backed up and it's not
 [5] just backed up one way, it's backed up both ways. So I
 [6] want to avoid the lights, which is why I make the right
 [7] onto Rittenhouse Street. And I make the left on Baynton
 [8] Street. I go straight up Baynton Street, when I get to
 [9] Haines Street I don't have to wait because there is a
 [10] green light, when I cross Haines Street and I get almost
 [11] three quarters to the corner, that's when I saw the
 [12] sirens, the lights going on. I immediately pulled over, I
 [13] didn't continue driving, I immediately pulled over to the
 [14] side. And where I pulled over, the location is Baynton
 [15] and High --
 [16] **Q.** Let me stop you there for a second. You heard
 [17] the officer say you pulled over into the southbound lane,
 [18] the left, which direction did you pull over?
 [19] **A.** I pulled over to my right, sir.
 [20] **Q.** Into a parking spot or where did you --
 [21] **A.** Well yea, to the right, it's a residential
 [22] block, so when you pull over into a parking space, you're,
 [23] in essence, pulling over on the side of the street where
 [24] people live. So it's on the right side where people park.
 [25] **Q.** Now, you heard the officer say that you were

[1]
 [2] traveling up Haines Street the wrong way?
 [3] **A.** Haines Street is a one way street, I took Haines
 [4] Street for 17 years when commuting to and from my home to
 [5] work, it has a bike lane in it --
 [6] **MR. FLANNERY:** Objection.
 [7] **THE COURT:** Overruled. I'm going to
 [8] allow it. Go ahead.
 [9] **THE WITNESS:** It has a bike lane. In
 [10] addition, to that, if you wanted to go up a
 [11] street that was wrong, Haines street wouldn't be
 [12] it because Haines Street, like Germantown Avenue,
 [13] if you're familiar with it, there is always a
 [14] high volume of traffic on Haines Street so --
 [15] **MR. FLANNERY:** Objection to that, that's
 [16] a conclusion.
 [17] **THE COURT:** I'll sustain that.
 [18] **BY MR. KELLY:**
 [19] **Q.** How was traffic that night?
 [20] **A.** It was substantial traffic, we're talking about
 [21] ten of twelve, quarter of twelve, so that is not the time
 [22] when people are automatically simply inside the locations.
 [23] People are traveling to and from locations. And if anyone
 [24] is familiar with that area of the city --
 [25] **MR. FLANNERY:** Objection.

[1]
 [2] **THE COURT:** Overruled. I'll allow it.
 [3] Go ahead.
 [4] **BY MR. KELLY:**
 [5] **Q.** So you pull over at Baynton and High Street?
 [6] **A.** Yes, Baynton and High.
 [7] **Q.** Explain your interaction with whatever officer
 [8] you interacted with?
 [9] **A.** The first officer who immediately came to the
 [10] car was the gentleman who spoke first, I think his name
 [11] was Officer Miranda. The first question that Officer
 [12] Miranda asked me is, ma'am, have you been drinking. I
 [13] said, yes, I have. I never told the officer I hadn't been
 [14] drinking. He asked me what had I been drinking, I said I
 [15] had a chocolate martini, a chocolate martini. The officer
 [16] obviously immediately wanted my license and registration,
 [17] I immediately went into my pocketbook, which, by the way,
 [18] as I note for the record, was on the floor and on the
 [19] passenger side, just like the shoes that I had on.
 [20] Immediately when I got in the car to leave the
 [21] location that I was hosting the event at, the first thing
 [22] I did was took off my shoes. Now, they may not be high to
 [23] someone else but they are high enough to me when you've
 [24] been walking and wearing them.
 [25] **Q.** Let me stop you there. So when you're driving

[1]
 [2] the vehicle, do you have your shoes on?
 [3] **A.** I don't. The shoes, along with my big black
 [4] pocketbook that was mentioned earlier, they are on the
 [5] passenger side and they are on the floor and there are
 [6] food platters on the passenger seat. And there are also
 [7] food platters along the back seat in the back, from
 [8] loading the car.
 [9] **Q.** Okay. Did you ever give your license to Officer
 [10] Miranda?
 [11] **A.** Yes, I did. I took my license out of my
 [12] pocketbook, it was on the floor. I had to push, I had to
 [13] push the lights on. I pushed the lights on because I had
 [14] to lean over, I had to go into my pocketbook and my shoes
 [15] were right there, so if I wanted to get my shoes or
 [16] anything out of my pocketbook, I had to turn on the light
 [17] to lean over to see.
 [18] **Q.** So you gave Officer Miranda your license?
 [19] **A.** My driver's license. Now, I just want to state
 [20] for the record --
 [21] **MR. FLANNERY:** Objection, Judge, there
 [22] is no question before her.
 [23] **THE COURT:** I will sustain that
 [24] objection.
 [25] **BY MR. KELLY:**

[1]
 [2] **Q.** What happens next?
 [3] **A.** Once I give him my driver's license, he takes my
 [4] driver's license, he walks away for just a minute and
 [5] immediately comes back and says, ma'am, can you step out
 [6] of the car.
 [7] **Q.** And what do you do next?
 [8] **A.** Once I step out of the car, uhmm, the tall lady
 [9] whom the second officer, she was exactly right, I walked
 [10] up to the end of my car.
 [11] **Q.** Let me stop you, when you get out of the car, do
 [12] you have your shoes on?
 [13] **A.** I had to put my shoes on, finish -- I'm sliding
 [14] my shoes on, sir, while I'm in the car, in the driver's
 [15] seat. I had to lean over from the passenger side and put
 [16] them on. When my feet touched the ground, when I'm
 [17] getting out of the car, I had to bend down to finish
 [18] putting my shoes on.
 [19] **Q.** You don't need the microphone, you're like me,
 [20] you don't need a microphone. Okay. So you put your shoes
 [21] on; correct?
 [22] **A.** Yes.
 [23] **Q.** Now, tell us your interaction with Officer
 [24] Miranda, how long until he orders you out of the vehicle?
 [25] **A.** It was at least -- it wasn't a minute, if it was

[1]
 [2] a minute, immediately from the time when he asked me had I
 [3] been drinking he wanted my driver's license, he walked
 [4] away for a hot second, he came right back, and said,
 [5] ma'am, you need to step out of the car. When I stepped
 [6] out of the car, I had grabbed my shoes, put my shoes on,
 [7] get down, finish putting the shoes on and I walked and
 [8] Officer Miranda did have -- when I opened up the door, it
 [9] wasn't that I just opened up the door and got out freely,
 [10] when I opened up the door, it's my left arm and he did
 [11] have my left arm. When we started walking, we walked to
 [12] the rear of my vehicle and, at that time, the lady officer
 [13] said, ma'am -- she told me what she was doing, ma'am, I'm
 [14] getting ready to pat you down right now. And she did
 [15] exactly just that. And I was handcuffed and I was put
 [16] into the car.
 [17] **Q.** So how long would you say your interaction with
 [18] Miranda was before she came up to you?
 [19] **A.** A minute and a half.
 [20] **Q.** Now, so you're put in the back of the car and
 [21] then you're taken to the roundhouse; correct?
 [22] **A.** Yes, I am, sir.
 [23] **Q.** The -- how long were you at the scene before the
 [24] wagon comes I guess, how long were you at the scene until
 [25] the wagon comes?

[1]
 [2] **A.** Sir, I actually just remembered the time being
 [3] about ten of twelve. And I know it's about 11:50, I know
 [4] I was handcuffed and I know that I was in the car because
 [5] I know what time I left the place. I know what time I
 [6] looked at my dash board, when I got out of the car. And I
 [7] don't remember how long it took the wagon to come, I can't
 [8] remember that.
 [9] **Q.** And you heard Officer Miranda say that you told
 [10] him you had two beers and I guess numerous chocolate
 [11] martinis; is that true?
 [12] **A.** That is absolutely not true. I was forthright
 [13] when the officer immediately asked his question, I never
 [14] denied having a drink. I told the officer, he said have
 [15] you been drinking ma'am, I said, yes, I have, I had a
 [16] chocolate martini and that is how I responded to the
 [17] gentleman. When they turned on the lights and pulled me
 [18] over, I immediately stopped. Everything they asked me to
 [19] do, I did it in accordance to the law, like any other
 [20] citizen is supposed to do.
 [21] **MR. KELLY:** That's all I have, Judge.
 [22] **THE COURT:** Cross examine, Mr. Flannery?
 [23] **MR. FLANNERY:** Thank you, Judge.
 [24] ---
 [25] CROSS - MS. PARKER

[1]
 [2] ---
 [3] **BY MR. FLANNERY:**
 [4] **Q.** Ma'am, you were at an event that night; correct?
 [5] **A.** Yes, sir.
 [6] **Q.** And you were, you admit that you were drinking
 [7] that night; isn't that correct? Alcoholic beverages?
 [8] **A.** I had a drink after -- if you will allow me,
 [9] sir --
 [10] **Q.** No, I'd like you to answer my question. My
 [11] question that I put to you, and I'm trying to be very
 [12] respectful --
 [13] **A.** Yes.
 [14] **Q.** The question that I put to you was, you admit
 [15] that you were drinking acholic beverages on April the
 [16] 30th, 2011?
 [17] **MR. KELLY:** Objection, not the
 [18] testimony.
 [19] **THE COURT:** Well, he did ask the
 [20] question, it's cross examination and he'll have
 [21] to accept her answer. Answer the questions, Mr.
 [22] Parker.
 [23] **THE WITNESS:** After an event that I
 [24] attended Friday night, I did have a drink, after
 [25] picking up food while waiting for food that I was

[1]
[2] picking up that evening at the same location
[3] where I held my event.
[4] **BY MR. FLANNERY:**
[5] **Q.** So I guess the short answer is then, yes, you
[6] had a drink; right?
[7] **A.** I had a drink.
[8] **MR. KELLY:** Objection, argumentive.
[9] **THE COURT:** Overruled.
[10] **BY MR. FLANNERY:**
[11] **Q.** Now, you said that this event was at, was it
[12] Charmane's or Charlene's, what was the name that Officer
[13] Miranda said, I'm not familiar with that establishment, is
[14] that where you were?
[15] **A.** It was an annual fish fry that I host, along
[16] with my community, at a restaurant called Champagnes.
[17] **Q.** Champagnes. So, when Officer Miranda indicated
[18] that you informed him that you were drinking at
[19] Champagnes, that part of Officer Miranda's testimony would
[20] be accurate; correct?
[21] **A.** No, it wouldn't, sir, because you said drinking,
[22] as if you're referring to the plural. When Officer
[23] Miranda came and approached my car and asked me had I been
[24] drinking I said yes, Officer Miranda, I had a chocolate
[25] martini, and he asked me where I was coming from and I

[1]
[2] said Champagnes.
[3] **Q.** So you had a drink at Champagnes according to
[4] your testimony; right?
[5] **A.** Yes.
[6] **Q.** So at least the part where Officer Miranda asked
[7] you did you have a drink and you answered yes and you said
[8] at Champagnes; is that correct?
[9] **A.** Yes, sir.
[10] **Q.** Now, after you had, according to you, you had a
[11] drink at Champagnes, you heard Officer Miranda's
[12] testimony; right?
[13] **A.** Yes, sir.
[14] **Q.** Officer Miranda testified you had a couple of
[15] beers and a couple of chocolate martinis; is that correct?
[16] **A.** Officer Miranda testified that he said that what
[17] I told him was that I had two beers and two martinis, but
[18] that's not what I said. So is that what he said when he
[19] testified, yes, it is, sir.
[20] **Q.** So you disagree with that testimony; is that
[21] correct?
[22] **A.** Yes, sir.
[23] **Q.** Now, you don't know Officer Miranda; right?
[24] **A.** No, sir.
[25] **Q.** You never meet him prior to April the 30th of

[1]
[2] 2011; is that correct?
[3] **A.** No, sir.
[4] **Q.** Never had any bad problems any fights, any
[5] arguments with Officer Miranda; is that correct?
[6] **A.** No, sir.
[7] **Q.** He's a Philadelphia police officer; isn't that
[8] correct?
[9] **A.** Yes, sir.
[10] **MR. KELLY:** Objection, I think we know
[11] that.
[12] **THE COURT:** Overruled. Go ahead.
[13] **BY MR. FLANNERY:**
[14] **Q.** And is it your testimony that Officer Miranda is
[15] making up this testimony about what you told him that
[16] night?
[17] **A.** Sir, I'm not going to make any assumptions about
[18] what anyone thinks about his testimony. You asked me a
[19] question and I'm giving you my answer. My answer is that I
[20] had a chocolate martini. Officer Miranda stated that I
[21] told him I had beers and two chocolate martinis, and I am
[22] telling you, I did not say to him what he communicated
[23] today.
[24] **Q.** Now, you agree that they pulled you over on
[25] Baynton Street; is that right?

[1]
[2] **A.** They pulled me over on Baynton Street, about a
[3] car or two, not far from the corner of High Street.
[4] Because I was heading straight down Baynton Street to
[5] Walnut Lane to make my right.
[6] **Q.** Yes, it would be the 5800 Block Baynton Street;
[7] isn't that correct?
[8] **A.** Sir, I don't know if it's 58 or 59, I'm not
[9] sure, but I know it's Baynton Street and about two to
[10] three cars from the corner is High.
[11] **Q.** Well, you had testified that you are familiar
[12] with the northwest section of the City, so I assumed that
[13] you would be familiar whether that was the 5800 Block of
[14] Baynton Street or not --
[15] **A.** You're close, sir.
[16] **Q.** What's that, ma'am?
[17] **A.** You're close.
[18] **Q.** So you were the only person in your vehicle;
[19] isn't that correct?
[20] **A.** Yes, sir.
[21] **Q.** And you do drive a silver Jeep Cherokee; isn't
[22] that correct?
[23] **A.** Yes, sir, I do.
[24] **Q.** And the Jeep Cherokee that you drive is, in
[25] fact, owned by the Department of General Services of the

[1]
[2] State of Pennsylvania; isn't that correct?
[3] **A.** Yes, sir, it is.
[4] **Q.** That's because you're a state representative;
[5] isn't that correct?
[6] **A.** Yes, sir, I am.
[7] **Q.** And that was a state car; isn't that right?
[8] **A.** Yes, sir, it is.
[9] **Q.** So at 12:18 in the morning, when they pulled you
[10] over, you were in your state vehicle riding around and you
[11] had a drink; is that correct?
[12] **MR. KELLY:** Objection.
[13] **THE COURT:** Overruled, go ahead.
[14] **BY MR. FLANNERY:**
[15] **Q.** Is that correct? Is that correct? I asked you a
[16] question, ma'am, you're looking at me. Can you answer my
[17] question?
[18] **A.** Yes.
[19] **Q.** Now, you are familiar with Haines Street; isn't
[20] that correct?
[21] **A.** Yes, sir.
[22] **Q.** Haines Street is one way out towards, westbound,
[23] towards Germantown Avenue; isn't that right?
[24] **A.** Yes, it is, sir.
[25] **Q.** And you heard Officer Miranda and Officer Allen

[1]
[2] both testify that they observed you in your state car,
[3] which you admit to driving --
[4] **MR. KELLY:** Objection. Move to strike
[5] state car, not relevant.
[6] **MR. FLANNERY:** It's very relevant.
[7] **MR. KELLY:** How is it relevant?
[8] **THE COURT:** Counsel, overruled. Go
[9] ahead.
[10] **BY MR. FLANNERY:**
[11] **Q.** You were driving in a silver Cherokee; correct?
[12] **A.** Yes.
[13] **Q.** Driving on the wrong way, and they testified
[14] that you were driving by yourself; isn't that correct?
[15] **MR. KELLY:** Objection, it's a confusing
[16] question, Judge.
[17] **MR. FLANNERY:** Let me rephrase.
[18] **THE COURT:** Overruled.
[19] **MR. FLANNERY:** Thank you, Judge.
[20] **BY MR. FLANNERY:**
[21] **Q.** They observe you -- they testified they observed
[22] you driving the wrong way on Haines Street; correct?
[23] **A.** That is what they testified to.
[24] **Q.** They also testified that you were driving a
[25] silver Jeep Cherokee, which you admit to driving that

[1]
[2] night; isn't that correct?
[3] **A.** Yes, sir.
[4] **Q.** And you admit to having a drink at Champagne's;
[5] isn't that correct?
[6] **A.** While waiting for my food, yes, sir.
[7] **Q.** And you admit that they pulled you over on
[8] Baynton Street; isn't that correct?
[9] **A.** I didn't say Haines Street, I said Baynton --
[10] **Q.** I'm sorry, I misspoke, Baynton Street?
[11] **A.** Baynton Street, but right at, near Baynton and
[12] High.
[13] **Q.** Now, they put on their emergency lights and
[14] sirens, isn't that correct, to pull you over?
[15] **A.** Yes, they did.
[16] **Q.** And you pulled over exactly where they testified
[17] you pulled over; right?
[18] **A.** No, sir, I pulled over on the residential side
[19] of the street on Baynton Street. The second place that I
[20] went to go and pick my car up from when I was released the
[21] next morning, is the same place that I pulled over, which
[22] was about two to three cars from the corner of Baynton and
[23] High Street, which is a residential block.
[24] **Q.** On the south side --
[25] **A.** Right, right.

[1]
[2] **Q.** Which is what they testified to, the south side
[3] of Baynton Street; isn't that correct?
[4] **A.** I can't recall whether they said it was the
[5] north or south, but I know it was on the right side of the
[6] street, the way I'm driving up Baynton Street traffic in
[7] my route, in my way, is on the right side of the street.
[8] When the officers drove up behind me on Baynton street,
[9] right before you get to High, I immediately pulled over to
[10] the right side of the street. Even when I went to pick my
[11] car up the next day, that's where I picked it up on the
[12] right side of the street, where they stopped me.
[13] **Q.** Now, when they stopped you, well -- incidently,
[14] what's in a chocolate martini?
[15] **A.** Actually, sir, unfortunately, sir, I'm not a bar
[16] tender, so I don't make them, so I can't answer that
[17] question.
[18] **Q.** Would you agree with me that a martini is a
[19] pretty strong drink?
[20] **A.** I would say that a chocolate martini is a drink
[21] that I had that night that I enjoy.
[22] **Q.** The question that I put to you, thank you for
[23] your answer, but would you mind answering my question,
[24] which was, would you agree with me that a martini is a
[25] strong drink?

[1]
[2] **A.** I don't --
[3] **MR. KELLY:** Objection, that calls for
[4] speculation.
[5] **THE COURT:** She can answer the question
[6] yes, no or maybe. I'm going to overrule it. Go
[7] ahead.
[8] **THE WITNESS:** I don't know, sir, whether
[9] to call it a strong or a weak drink. It's a
[10] chocolate martini, it's flavored with chocolate
[11] and it's a martini, so I guess it depends on who
[12] you are and depending on who you are, would
[13] determine whether or not you think it's a weak
[14] drink, a strong drink, I don't know.
[15] **BY MR. FLANNERY:**
[16] **Q.** Well, when you were tested at the police, the
[17] PDU by the AID officers, you were tested and you blew
[18] a .1 --
[19] **MR. KELLY:** Objection, that's a
[20] mistrial, that a mistrial. That's misconduct.
[21] **THE COURT:** I will sustain the
[22] objection.
[23] **MR. KELLY:** That's intentional
[24] misconduct.
[25] **THE COURT:** I wil sustain that

[1] objection.
[2] **MR. KELLY:** It's misconduct.
[3] **THE COURT:** Ask your next question.
[4] **BY MR. FLANNERY:**
[5] **Q.** When you -- you said that you got out freely of
[6] your car?
[7] **MR. KELLY:** Objection 104B of evidence,
[8] it says testimony of the accused, the accused
[9] does not by testifying upon their preliminary
[10] matter become subject to all examination as to
[11] other issues within the case. I think we have
[12] that objection. It's a rule of evidence.
[13] **MR. FLANNERY:** So you objected and you
[14] sustained it and asked me to ask a question.
[15] **THE COURT:** Sustained. Go ahead.
[16] **BY MR. FLANNERY:**
[17] **Q.** Now, you indicated that you got out freely of
[18] your car, is that correct, that was your testimony?
[19] **MR. KELLY:** Objection.
[20] **THE COURT:** You may answer.
[21] **BY MR. FLANNERY:**
[22] **Q.** I'm sorry, I didn't hear an answer.
[23] **A.** When Officer Miranda asked me, ma'am, can you
[24] please get out of the car, and I opened up my car door,
[25]

[1]
[2] his hand, Officer Miranda had my left hand, which is what
[3] I had used to open up the door. But, as soon as the
[4] officer gave me the instruction, ma'am, can you please get
[5] out of the car, I did exactly what he asked me to do, like
[6] any other citizen would be expected to do.
[7] **Q.** Well, you would agree with me that citizens are
[8] expected not to drive the wrong way on a one way street,
[9] would you agree with me on that?
[10] **A.** Yes, I would.
[11] **Q.** And you would agree with me that citizens are
[12] required to operate their motor vehicles safely; isn't
[13] that correct?
[14] **A.** Yes, I do.
[15] **Q.** And you would agree with me that citizens are
[16] also required to maintain driving their vehicle safely and
[17] not drive while under the influence of alcohol, would you
[18] agree with me on that?
[19] **A.** I agree, whole heartedly.
[20] **Q.** Now, you said that you had food platters in the
[21] car; is that correct?
[22] **A.** Yes.
[23] **Q.** And you heard the officer's testimony about the
[24] food platters in the car; is that correct?
[25] **A.** Yes.

[1]
[2] **Q.** And so their testimony as to that aspect was
[3] correct, isn't that right, there were food platters in the
[4] car?
[5] **A.** The only thing I didn't recall was whether or
[6] not he said that there were food platters in the back, he
[7] didn't make mention of the fact that there were two
[8] platters that were actually on the front seat because
[9] there was a total of about nine or 10, two on the front
[10] seat and they were spread evenly on the back seat. And,
[11] as a matter of fact, I did touch one when I had to kneel
[12] down on the passenger side on the floor to pick up my
[13] shoes and to pick up my pocketbook so that I could go into
[14] it to get the driver's license when he asked for it.
[15] **Q.** You heard the officer's testify that they walked
[16] you back to the patrol car because you were unsteady on
[17] your feet; do you remember that testimony?
[18] **A.** Yes, I do.
[19] **Q.** And the officer, a female officer according to
[20] you, escorted you back to that car; is that right?
[21] **A.** No, she patted me down, sir, she patted me down
[22] at the end of my vehicle, the silver vehicle. I was not
[23] on, leaning on, touching, or near her police car at that
[24] time. When the officer patted me down and she instructed
[25] me, Ms. Parker, this is what am about to do, I'm about to

[1]
[2] pat you down, I also need to look into your pocketbook.
[3] She did all of this while I was leaning over on the rear
[4] of my vehicle. Immediately after that, I was handcuffed
[5] and I was put in the rear of the patrol car.
[6] **Q.** Now, you would agree that you have a dome light
[7] on the inside of your Jeep Cherokee; isn't that correct?
[8] **A.** I'm not sure if they call it a dome light, sir,
[9] but it's a center light, that extra light, yes, sir, I do.
[10] **Q.** And when you opened the door the light came on;
[11] right?
[12] **A.** Well, actually, when I opened up the door the
[13] light did come back on because remember I had already had
[14] pressed the light on to lean over to pick up my shoes and
[15] to get my pocketbook. Once I had my pocketbook and I
[16] already had my shoes, I slide my shoes on. When I opened
[17] up the door on the passenger side, if you look at my shoes
[18] they had straps on the rear, I can't put my straps on in
[19] my car. When I get out of the car I had to put my straps
[20] on and the Officer Miranda had my left hand. I'm leaning
[21] over, putting the straps of my shoes on.
[22] **Q.** Now, when the light came on in your car, it was
[23] very well-lit; isn't that correct?
[24] **A.** I don't know if you would call it very well-lit,
[25] sir, but I usually put it on because it's when you want to

[1]
[2] license. So it wasn't on the entire time, sir. And I
[3] turned it off before I got out of the car.
[4] **Q.** How did you do that, ma'am, when the door was
[5] open?
[6] **A.** I said, before I got out of the car I grabbed my
[7] pocketbook, sir, I want you to just hear me --
[8] **Q.** I'm hearing you.
[9] **A.** You turn the lights on because you need extra
[10] light to see, my pocketbook and my shoes are on the
[11] passenger side, I grab my pocketbook and I grab my shoes.
[12] I slide my shoes on, I have my pocketbook now. Officer
[13] Miranda says, ma'am, you need to step out of the car. I'm
[14] getting my things, once I am getting ready to open up the
[15] door, I turn my lights off, because, if not, once I get
[16] out of the car, if I close the door, although those lights
[17] automatically come on, if I would have left them on first,
[18] the buttons pressed, the lights would have been on, remain
[19] on, even after you close the door. Maybe --
[20] **Q.** But my question to you is this, ma'am, and --
[21] let me rephrase my question. Officer Allen was on the
[22] passenger side by the window; isn't that correct?
[23] **A.** Yes.
[24] **Q.** Officer Miranda was over on the driver's side by
[25] the door; isn't that correct?

[1]
[2] see lighter, that's much brighter than the lights that are
[3] coming off of the dash board, so that's why I put it on.
[4] But, when I grabbed my shoes to slide them on and I
[5] grabbed my pocketbook, I turned those two lights off and
[6] because I turned those two lights off, when you open up
[7] the car door, then those lights will come back on. Other
[8] than that, they would just be steady on, constantly, but
[9] they didn't because I turned them back off.
[10] **Q.** So they were -- so the light was on and they
[11] were able to see you and see the food platter inside, see
[12] your purse inside, see you inside, see your eyes inside,
[13] see your face inside, describe what you were wearing, the
[14] yellow blouse and the blue jeans, they were all able to
[15] see that because you agree that the light was on in the
[16] interior of your car; isn't that correct?
[17] **A.** No, I didn't say that the interior light was on
[18] in my car throughout the entire time, sir, that's not what
[19] you just asked me about the light. I turned on -- when
[20] Officer Miranda told me, ma'am, can you please get out of
[21] the car, that's when I put my light on to lean over to
[22] pick up my shoes and to grab my pocketbook. I then had to
[23] put my shoes on and when I had to get out of the car, but
[24] he also asked me -- so he asked me -- right before he
[25] asked me to get out of the car, he also wanted my driver's

[1]
[2] **A.** Officer Miranda was on the driver side and
[3] Officer Allen I believe she walked up, walked up to the
[4] passenger side, yes.
[5] **Q.** And that's exactly what they testified to, you
[6] heard that; isn't that correct?
[7] **A.** Yes, sir.
[8] **Q.** And they testified that the light was on and
[9] they observed all the food and they observed your
[10] clothing, would you agree with that? The light came on
[11] inside your car and they were able to see the light on the
[12] inside of your car --
[13] **A.** But, excuse me --
[14] **Q.** Excuse me. Can I finish the question, you don't
[15] mind, do you?
[16] **MR. KELLY:** Argumentative, objection.
[17] **THE COURT:** Sustained. Go head.
[18] **BY MR. FLANNERY:**
[19] **Q.** The question that I put to you is this, ma'am:
[20] They testified that a light came on inside the car and
[21] they were able to see you, describe your clothing, see the
[22] food that was in your car, all I'm asking you is, you
[23] agree that that light was on inside of that car; isn't hat
[24] correct?
[25] **MR. KELLY:** Objection, asked and

[1] answered, five times.
 [2] **THE COURT:** Overruled. Go ahead.
 [3] **THE WITNESS:** Yes, sir, the light had
 [4] been on for a portion of the time in the car.
 [5] **BY MR. FLANNERY:**
 [6] **Q.** Now, you said that you were driving, you didn't
 [7] have shoes on when you were driving?
 [8] **A.** No, sir. Immediately after I loaded up my car,
 [9] on the back seat and the passenger side with food from the
 [10] venue that I left, the first thing I did, and it may seem
 [11] a tad bit abnormal, but the first thing I did, especially
 [12] after wearing heels all day, dancing in them, walking in
 [13] them, interacting with them for about seven or eight
 [14] hours, the first I did when I got in the car, was take off
 [15] my shoes.
 [16] **Q.** So you took off your shoes, you were driving in
 [17] your barefeet?
 [18] **A.** I actually had, they have something rolled up,
 [19] they are rolled up slippers that come in a knapsack that a
 [20] young lady had given me after my event that night, Dr.
 [21] Scholls makes them, they are little ballerina slippers
 [22] that women can wear when you go out and you want to be
 [23] comfortable, after you've been wearing heels you can put
 [24] them on. I did have them in my car, but I was not driving

[1] in them, I immediately took my shoes off and, yes, I was
 [2] driving with no shoes on. And, I mean, it may be abnormal
 [3] for the average person, but it's not abnormal for me.
 [4] **MR. FLANNERY:** Judge, I have nothing
 [5] further.
 [6] **THE COURT:** Mr. Kelly?
 [7] **MR. KELLY:** I have nothing, Judge.
 [8] **THE COURT:** Argument, counsel?
 [9] (Whereupon, argument was
 [10] stenographically taken, but not transcribed at
 [11] this time.)
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[1] (The following is an excerpt from the motion
 [2] hearing of Commonwealth Versus Cherelle Parker.)
 [3] ---
 [4] **THE COURT:** Okay. Here is where we
 [5] are, I have heard a lot from counsel. I have
 [6] heard a lot of testimony today and I have taken a
 [7] lot of notes on the case, and I am going to
 [8] render a decision on this, but I am not going to
 [9] render it today. I want the notes of testimony
 [10] so that I can review them. And, just for the
 [11] record, I want this to be clear for the record, I
 [12] don't know Ms. Parker. Other than I know she
 [13] happens to be one who is an elected official, she
 [14] and I have had no business or contact with each
 [15] other. And I want it to be clear on the record,
 [16] that with respect to the police officer who
 [17] testified, I want it to be clear because Officer
 [18] Miranda was before me earlier this week on a
 [19] case, and that was something that came out in Mr.
 [20] Kelly's statement, and so I want to be clear, on
 [21] the record, that I have had an association with
 [22] Police Officer Miranda in a case in this very
 [23] week. Okay.
 [24] So I want to review the notes and I want to

[1] look at them carefully. And if you would like
 [2] for me to give you a time and date certain for
 [3] when we will render my decision, I will be more
 [4] than happy to do that. What I will do is set a
 [5] date for this. Let's see, what date is
 [6] available? I can do it on a Monday or a Tuesday.
 [7] **CLERK:** Or a Thursday.
 [8] **THE COURT:** All right. I'm going to set
 [9] this down for a Tuesday, November the 1st. Okay.
 [10] And that will be in room 803.
 [11] **MR. KELLY:** Judge, I will order the
 [12] notes and I will provide them.
 [13] **THE COURT:** Do you have a problem with
 [14] that, Mr. Flannery?
 [15] **MR. KELLY:** Judge, if I get them, I have
 [16] to pay for them so.
 [17] **THE COURT:** Okay.
 [18]
 [19] (Whereupon, the hearing concluded.)
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CERTIFICATE

I HEREBY CERTIFY THAT THE
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OF THE ABOVE CAUSE, AND THIS COPY IS A CORRECT
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KATHY A. ROBINS
OFFICIAL COURT REPORTER

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