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IN THE CRIMINAL DISTRICT COURT NO. 3
DALLAS COUNTY, TEXAS

THE STATE OF TEXAS } NO. F-96-39973-J
VS: } & A-96-253
DARLIE LYNN ROUTIER } Kerr Co. Number

REPORTERS RECORD
JURY TRIAL
VOL. 29 OF 53 VOLS.
January 7, 1997
Tuesday

Reporter Sandra M. Halsey, CSR, Official Court

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C A P T I O N

BE IT REMEMBERED THAT, on Tuesday, the 7th day of January, 1997, in the Kerr County Courthouse, of Kerr County, Texas, the above-styled cause came on for a hearing before the Hon. Mark Tolle, Judge of the Criminal District Court No. 3, of Dallas County, Texas, without a jury, and the proceedings were held, in open court, in the City of Kerrville, Kerr County Courthouse, Kerr County, Texas, and the proceedings were had as follows:

19

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24

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Sandra M. Halsey, CSR,
Official Court Reporter

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1

A P P E A R

A N C E S

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HON. JOHN VANCE

5

Criminal District Attorney

6

Dallas County, Texas

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8

BY: HON. GREG DAVIS

9

Assistant

District Attorney

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Dallas County,

Texas

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12

AND:

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HON. JOHN GRAU

14

Assistant

District Attorney

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Dallas County,

Texas

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17

AND:

18

HON. SHERRI

WALLACE

19

Assistant

District Attorney

20

Dallas County,

Texas

21

22

APPEARING FOR THE STATE OF TEXAS

23

24

25

Sandra M. Halsey, CSR,
Official Court Reporter

1 ADDITIONAL APPEARANCES:

2

3 HON. DOUGLAS D.

MULDER

4 Attorney at Law

5 2650 Maxus Energy

Tower

6 717 N. Harwood

7 Dallas, TX 75201

8

9 AND: HON. CURTIS GLOVER

10 Attorney at Law

11 2650 Maxus Energy

Tower

12 717 N. Harwood

13 Dallas, TX

75201

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15 AND: HON. RICHARD

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16 Attorney at

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22 Attorney at

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1

2 AND: HON. JOHN

HAGLER

3 Attorney at

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4 901 Main Street, Suite 3601

5 Dallas, TX 75202

6 ALL ATTORNEYS REPRESENTING

THE

7 DEFENDANT: DARLIE ROUTIER

8 MR. HAGLER HANDLING THE

APPEAL

9 AND:

10 HON. ALBERT D. PATILLO, III

11 Attorney at Law

12 820 Main Street, Suite 211

13 Kerrville, TX 78028

14 APPEARING FOR: Witness-

15 Detective Jimmy

Patterson

16 only on one date in

trial

17 AND:

18 HON. STEVEN J. PICKELL

19 Attorney at Law

20 620 Earl Garrett Street

21

Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

25

Reporter Sandra M. Halsey, CSR, Official Court

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P R O C E E D I N

January 7th, 1997
Tuesday
8:30 a.m.

(Whereupon, the
proceedings were held
open court, in the
and hearing of the
defendant, being
represented by her
and the representatives
the State of Texas, but
outside the presence of
jury, as follows:)
THE COURT: All

right. Are both sides

20 ready to bring the jury in?

21 MR. GREG DAVIS:

Yes, sir, the State

22 is ready.

23 MR. DOUGLAS

MULDER: Yes, sir, the

24 defense is ready.

25 THE COURT: All
right. Bring the jury

Sandra M. Halsey, CSR,
Official Court Reporter

1 in, please.

2

3 (Whereupon, the
jury

4 Was returned to
the

5 Courtroom, and
the

6 Proceedings
were

7 Resumed on the
record,

8 In open court, in
the

9 Presence and
hearing

10 Of the defendant,

11 As follows:)

12

13 THE COURT: All right. Good
morning,

14 ladies and gentlemen. We're back on the record in
the

15 Darlie Routier matter.

16 Let the record reflect that all

17 parties in the trial are present and the jury is
seated.

18 And this witness was sworn yesterday.

19 And so go ahead, Mr. Davis.

20 MR. GREG DAVIS: Thank you,
Judge.

21

22

23

24

25

1 Whereupon,

2

3

OFFICER DAVID WADDELL,

4

5 was called as a witness, for the State of Texas,
having

6 been first duly sworn by the Court to speak the
truth,

7 the whole truth, and nothing but the truth,
testified in

8 open court, as follows:

9

10

11

DIRECT EXAMINATION

12

13 BY MR. GREG DAVIS:

14

full

15

name.

16

A. David Wayne Waddell.

17

18

Q. And, Mr. Waddell, how are you
employed, at this time?

19

City of

20

Plano.

21

Q. All right. And where exactly is

22 Plano?

23 A. It's just north of Dallas.

24 Q. How long have you been with the

Plano

25 Police Department?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. About five months.

2 Q. Before coming to work for Plano,
how

3 were you employed?

4 A. For the City of Rowlett, as a
police

5 officer.

6 Q. All right. How old are you?

7 A. 32.

8 Q. Have you got a family?

9 A. Yes, I do.

10 Q. Okay.

Kids?

11 A. Yes, I

do.

12 Q. What are their ages?

13 A. Seven and one.

14 Q. Now, how long had you been a

Rowlett

15 Police Officer?

16 A. Four and a half years.

17 Q. And before that had you been a

police

18 officer at some other city there in Dallas County?

19 A. Yes.

20 Q. And what city would that have
been?

21 A. Glenn Heights.

22 Q. Okay. How long were you with
Glenn

23 Heights?

24 A. Nine months.

25 Q. And prior to Glenn Heights, had
you

1 been in law enforcement in any capacity?

2 A. I was a reserve police officer.

3 Q. Where?

4 A. For the City of Heath.

5 Q. And is Heath in Rockwall County?

6 A. Yes, it is.

7 Q. Just -- basically, it is just

east of

8 Dallas County. Right?

9 A. Yes.

10 Q. Now, when you were with the

Rowlett

11 Police Department, what was your rank?

12 A. I was a patrol officer.

13 Q. And what were your duties?

14 A. I was assigned to a beat, to

answer

15 calls every day.

16 Q. Officer, I want to direct your

17 attention back to June the 5th, of 1996. Do you

recall

18 whether or not you were on duty that day?

19 A. I was.

20 Q. And, what were your hours to work?

21 A. 9:30 to 6:00 a.m.

22 Q. Okay. So it would be 9:30 p.m. to
23 6:00 a.m.; is that right?

24 A. Yes, sir.

25 Q. Were you in uniform that night?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, I was.

2 Q. Were you in a marked patrol car?

3 A. Yes, I was.

4 Q. Were you working by yourself or
with
5 another officer?

6 A. By myself.

7 Q. I want to now move forward to June
the
8 6th at approximately 2:30 a.m. Were you still on
patrol?

9 A. Yes, sir.

10 Q. Do you recall where you were at
about
11 2:30 in the morning?

12 A. I was in the parking lot of
Victory
13 Baptist Church.

14 Q. Victory Baptist Church?

15 A. Yes, sir.

16 Q. Is that in Rowlett?

17 A. Yes, it is.

18 Q. Where is that located in Rowlett?

19 A. It's right about in the middle of
the

20 city off of Highway 66, beside the lake.

21 Q. Okay.

22

23 MR. GREG DAVIS: Your Honor, may I

24 please approach?

25 THE COURT: You may.

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1

2 BY MR. GREG DAVIS:

3 Q. Officer Waddell, just looking here
at

4 this map of Rowlett, can you just point out where the
5 Victory Baptist Church would have been?

6 A. About right here.

7 Q. Okay. Do I have my finger there
where

8 that would have been?

9 A. Yes, sir.

10 Q. All right. It's just, I guess,
sort

11 of on that eastern portion, kind of the peninsula
portion

12 of Rowlett; is that right?

13 A. Yes, sir.

14 Q. Okay. And is it -- is that
unusual

15 for you to sit in the parking lot up there?

16 A. No, sir.

17 Q. Okay. Do you recall whether or
not

18 you were doing anything specific when you were up
there?

19 A. No, sir.

20 Q. Did anything unusual catch your
21 attention as you were sitting in your squad car at
2:30

22 in the morning out there at the Baptist church?

23 A. I heard the fire tones go
off.

24 Q. What do you mean, "fire
tones"?

25 A. Well, whenever a dispatcher
sends the

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1 fire department somewhere, they set off the tones
on the

2 police radio, as well as the fire channel.

3 Q. Okay. Your radio in your car,
does it

4 have the ability to monitor that radio channel
also?

5 A. Yes, it does.

6 Q. All right. And, following the
7 emergency tones, what's the next thing that you
heard

8 come over your radio?

9 A. I switched over to the fire
channel

10 and heard them dispatch the fire department to 5801
Eagle

11 on a stabbing.

12 Q. On a stabbing?

13 A. Yes, sir.

14 Q. And, did you do anything in
response

15 to hearing that over your radio?

16 A. I headed that way.

17 Q. Okay. Headed toward 5801 Eagle
Drive?

18 A. Yes, sir.

19 Q. Do you recall whether or not you
20 switched on your emergency lights?

21 A. I did.

22 Q. Now, Officer Waddell, do you
know how

23 far it is from the Victory Baptist Church where you
were

24 to 5801 Eagle Drive?

25 A. 1.9 miles.

1 Q. And do you know how long it took
you

2 that morning to get from your location to 5801
Eagle

3 Drive?

4 A. Two to three minutes.

5 Q. Now, on the way to that
location,

6 Officer, did you see any vehicles speeding away
from the

7 neighborhood where 5801 Eagle Drive is located?

8 A. No, sir.

9 Q. Did you see anyone out that
morning on

10 foot as you were going toward 5801 Eagle Drive?

11 A. No, sir.

12 Q. Did you see anything at all
unusual or

13 suspicious as you went toward that location, sir?

14 A. No, sir.

15 Q. Did you finally arrive at 5801
Eagle

16 Drive?

17 A. Yes, I did.

18 Q. Were you the first police

officer on

19 the scene?

20 A. Yes, sir.

21 Q. As you entered the neighborhood
there,

22 did you see any vehicles on the roadway?

23 A. No.

24 Q. Did you see any persons on foot
in the
25 neighborhood as you approached the house?

1 A. Just Darin Routier.

2 Q. All right. And when you say
"Darin

3 Routier," do you know him now to be Darin Routier?

4 A. Yes, I do.

5 Q. Had you ever seen him before
that

6 morning?

7 A. No, sir.

8 Q. Let me back up for a moment.
5801

9 Eagle Drive. Is that a location in the County of
Dallas?

10 A. Yes, it is.

11 Q. And the State of Texas?

12 A. Yes.

13 Q. Do you recall where you parked
your

14 car that morning?

15 A. I parked on the north side of
the

16 house.

17 Q. Okay. And do you recognize this
18 aerial photograph as 5801 Eagle Drive?

19 A. Yes, sir.

20 Q. And north is toward the top side
of

21 this photograph; is that correct?

22 A. Yes, it is.

23 Q. Okay.

24

25 MR. GREG DAVIS: And can the
witness

1 please step down?

2 THE COURT: Yeah. Please step
down,

3 Officer. Watch your step.

4

5 (Whereupon, the witness

6 stepped down from

the

7 witness stand, and

8 approached the jury

rail

9 and the proceedings

were

10 resumed as follows:)

11

12 BY MR. GREG DAVIS:

13 Q. And if would, Officer, if you

will

14 step to the side so that all the jurors can see

where

15 you're pointing.

16 Can you just point for us where

you

17 parked your vehicle that morning?

18 A. Right here on this curve.

19

20 MR. DOUGLAS MULDER: Judge,
could we

21 see it?

22 THE COURT: By all means, come
on

23 around. By all means, come on around.

24 MR. GREG DAVIS: We will move it
25 around here a little bit further over here.

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1

2 BY MR. GREG DAVIS:

3 Q. I'll tell you what, let's roll it
out

4 a little bit further out here.

5 Would you again point for us
where you

6 parked your squad car that morning.

7 A. Right here along this curve.

8 Q. All right. And as you came up
here to

9 this location, Officer, is that when you saw the
10 individual that you now know to be Darin Routier?

11 A. Yes, sir.

12 Q. Can you please point where he was
when

13 you first saw him?

14 A. He was coming out of the front
door,

15 across the yard.

16 Q. All right. Do you recall how he
was

17 dressed that morning?

18 A. He was wearing blue jeans, no
shirt,

19 no shoes.

20 Q. Okay. Do you remember whether or
not

21 he was saying anything as he came out?

22 A. He was saying something, but at
that

23 time I didn't know what it was.

24 Q. All right. Did you have your gun
25 drawn as you came up to that location?

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1 A. Yes, I did.

2 Q. All right. And, why did you have
your

3 gun drawn?

4 A. I didn't know if he was a
suspect,

5 or -- I didn't know who he was.

6 Q. All right. You know you had a
7 stabbing call; right?

8 A. Right.

9 Q. What did you do then as you came
up
10 here and you saw this individual running out of the
11 house?

12 A. I hollered at him to stop, and
then I
13 walked over and met him, in front of the fountain
there.

14 Q. Okay. What happened when you met
him
15 over there?

16 A. He told me that his kids had been
17 stabbed, and that they were dying.

18 Q. What did you do then?

19 A. After he told me that, he started

20 going back into the house, and I followed him inside
the

21 house.

22 Q. All right. Now, Officer, had you
had

23 any experience in dealing with crimes involving
violence

24 before?

25 A. Yes.

1 Q. Okay. What kind of offenses had
you
2 been involved with prior to June the 6th, 1996?

3 A. I worked on a homicide about two
4 months before this one.

5 Q. And, you had been a police
officer how
6 long with Rowlett?

7 A. About four and a half years.

8 Q. Okay. I guess you had answered a
lot
9 of other calls during that time period?

10 A. Yes, sir.

11 Q. Had you received any other
specialized
12 training as a member of the Rowlett Police
Department?

13 A. Yes, I had.

14 Q. And, what kind of training had
you
15 received?

16 A. In April of 1993 I went to a 24-
hour
17 Crime Scene School. I was also on the special
response

18 team for the Police Department.

19 Q. What is the special response
team?

20 A. It's a team that we -- we served
a lot

21 of high-risk search warrants and arrest warrants.

22 Q. Okay. Did you receive any
specialized

23 training to become a member of the specialized
response

24 team?

25 A. We trained 16 hours a month, and
we

1 went to a 60 hour school in Austin, a SWAT school.

2 Q. Okay. So, as I understood it,
you

3 said Darin Routier entered the residence; is that
right?

4 A. Yes, sir.

5 Q. And you followed him into the
6 residence?

7 A. Yes.

8
9 (Whereupon, the following
10 mentioned item was
11 marked for
12 identification only
13 as State's Exb.
14
15 after which time
16 the
17 proceedings were
18 resumed on the
19 record
20 in open court, as
21 follows:)

20 BY MR. GREG DAVIS:

21 Q. Mr. Waddell, let me show you what

has

22 been marked as State's Exhibit No. 10. Do you
recognize

23 this to be a layout of the floorplan of 5801 Eagle
Drive?

24 A. Yes.

25 Q. Does it accurately reflect the
rooms

Sandra M. Halsey, CSR, Official Court Reporter

1 as they appeared there in June of 1996?

2 A. Yes.

3

4 MR. GREG DAVIS: Your Honor, at
this

5 time we will offer State's Exhibit No. 10.

6 MR. DOUGLAS MULDER: No
objection.

7 THE COURT: State's Exhibit No.
10 is
8 admitted.

9

10 (Whereupon, the item
11 heretofore mentioned
12 Was received in
evidence

13 As State's Exhibit
No. 10

14 For all purposes,
15 After which time, the
16 Proceedings were
resumed

17 As follows:)

18

19 BY MR. GREG DAVIS:

20 Q. If you could, Officer, if we
could

21 just go through the general layout there of the
house.

22 Is this the front door that I'm pointing to right
here?

23 A. Yes.

24 Q. As you come in, we've got labeled
the
25 living room, is that the more formal area?

1 A. Yes.

2 Q. And we have a family room.
Correct?

3 A. Yes, sir.

4 Q. Okay. The entryway?

5 A. Yes, sir.

6 Q. This is a two-story home, is it
not?

7 A. Yes, it is.

8 Q. All right. Is this the stairway
that

9 leads up to the second floor?

10 A. Yes, it is.

11 Q. Okay. The kitchen, utility room,
12 breakfast nook and dining room. Correct?

13 A. Yes, sir.

14 Q. And the garage in this residence,
is

15 it attached to the house itself?

16 A. Yes.

17 Q. And, is it toward the rear of that
18 house?

19 A. Yes, it is.

20 Q. If you will, please tell the
members

21 of the jury, where you came, once you came into the

front

22 door of that residence, where did you first go to?

23 A. I could see a person standing

here. I

24 could see the defendant right here. I walked up this

25 little hallway and stopped right here for a second.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. Did you notice anything
unusual

2 here in the entryway?

3 A. I noticed some blood on the floor.

4 Q. All right. What did you do in
5 response to that?

6 A. I saw the blood. I attempted not
to

7 step in it and disturb any of it.

8 Q. All right. You said that you saw
9 someone back here. Did you actually go through the
10 entryway then?

11 A. Yes.

12 Q. And where did you go to then?

13 A. I went straight to the defendant,
who

14 was standing right here.

15 Q. All right. If you could, let me
give

16 you a red pen. And, Officer, I would like for you,
if

17 you would, to just place an "X" where you saw the
18 defendant. And, let me just ask you first, do you
see

19 the defendant in the courtroom this morning?

20 A. Yes.

21 Q. Could you please point her out?

22 A. She is right over here.

23 Q. Okay. She's the female sitting
at the

24 counsel table over here in the gray jacket; is that
25 correct?

Sandra M. Halsey, CSR, Official Court Reporter

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the

19 ground right here.

20 Q. All right. Would you put another
"X"

21 and label that as "small child," please, where you
saw

22 him.

23 A. Okay.

24 Q. Did you see anybody else when you
came
25 in there?

1 A. Darin Routier had gone across the
2 living room, and there was another child on the
floor on
3 the other side.

4 Q. And if you could, if you'll put
an
5 "X," and then put -- label that as "second child,"
6 please.

7 A. Okay.

8 Q. All right. And as I understand
then,
9 when you came in -- let me first ask you: Did I
10 understand you to say that Darin Routier had gone
over
11 here to the second child?

12 A. Yes.

13 Q. Had you asked him to do that?

14 A. At that point I had not.

15 Q. All right. When you saw the
defendant

16 here standing, please describe for us what she was
doing

17 at that time.

18 A. She was holding a towel over her
neck

19 with one hand and talking on the telephone with the
20 other.

21 Q. All right. Was that a cordless
22 telephone, or is that a telephone that was connected
23 to
24 an outlet?

24 A. It was a cordless phone.

25 Q. Can you describe how she was
dressed

1 that morning?

2 A. A light colored T-shirt.

3 Q. Okay. Anything else?

4 A. Nothing else.

5 Q. Was she wearing any shoes that
you

6 could see?

7 A. No, sir.

8 Q. Okay. Was she barefoot?

9 A. Yes.

10 Q. How would you describe her
demeanor

11 when you first saw her? What was she doing, or what
was

12 her demeanor?

13 A. She appeared to be upset and
14 hysterical.

15 Q. And when you say "upset or
16 hysterical," what do you mean by that?

17 A. She was screaming and yelling.

18 Q. All right. Was she doing that to
you

19 or someone else, or to anyone in particular?

20 A. I thought she was talking on the
21 telephone still.

22 Q. All right. Tell us what's the
next

23 thing that you recall happening when you came in
here and

24 saw her.

25 A. I could see this child's feet
right

1 here, and I walked around his feet. I approached
the
2 defendant and I asked her who had done it, and
where were
3 they at. She couldn't give me a description of who
had
4 done it, but she told me that whoever it was was
still in
5 the garage.

6 Q. All right. And, did you know at
the
7 time that the garage was back here?

8 A. No.

9 Q. Okay. Did she indicate in any
way
10 where the garage was?

11 A. She pointed to it and told me,
"that
12 direction."

13 Q. Okay. So, did she point over
toward
14 this portion of the house then?

15 A. Yes.

16 Q. Okay. What did you do then, or
what's

17 the next thing that happened at that point?

18 A. I instructed Darin Routier to
try to

19 help the second child over there with some type of
first

20 aid. I told him to apply pressure to some of the
wounds

21 to try to stop the bleeding.

22 Q. And the second child, being this
child

23 over in this portion of the room?

24 A. Yes.

25 Q. All right. Did Darin follow
your

1 instructions?

2 A. Yes.

3 Q. All right. What did you see him
do?

4 A. I saw him on his hands and knees
5 beside the child. I couldn't tell exactly what he
was

6 doing. It looked to me like he was trying to give
him

7 CPR or putting pressure on his wounds.

8 Q. Okay. Did he say anything to you
when

9 he went over here and started to do whatever he was
10 doing?

11 A. He told me that it was no use,
that he

12 was blowing air through his chest.

13 Q. Okay. What about this child over
14 here. Let's go back to this child. Do you recall
how

15 this smaller child was dressed that morning?

16 A. He had on long pants and a shirt.

17 Q. All right. Let me ask you: Was
there

18 anything on his back, such as a towel, a rag,

anything

19 else, besides the clothing that he was wearing,
Officer?

20 A. No.

21 Q. After Darin Routier tells you that
22 he's blowing into this child's mouth here, or his
chest,

23 what's the next thing that you recall happening?

24 A. I told the defendant to get some
25 towels and put on the first child's back to try to
stop

1 his bleeding.

2 Q. Now when you said that to her --
first

3 of all, let me back up. At the time that Darin
Routier

4 is over here, doing whatever he's doing with this
second

5 child, where is the defendant?

6 A. She's in the same position.

7 Q. She's still over here across the
room?

8 A. Yes, sir.

9 Q. Where are you?

10 A. I'm right beside her.

11 Q. Okay. So you've moved over here
to

12 this area; is that correct?

13 A. Yes, sir.

14 Q. Is there a counter top or bar
here

15 that separates the family room and the kitchen
room?

16 A. Yes.

17 Q. And, can you actually see through
the

18 family room into the kitchen room?

19 A. Yes.

20 Q. Let me ask you, Officer, at the
time

21 that Darin Routier was making whatever efforts he
was

22 with the second child, did any blood get on you?

23 A. No.

24 Q. Okay. Did you see any blood fly
25 across this room over here on to this defendant?

1 A. No, sir.

2 Q. All right. Let's move forward
here

3 again. When you told the defendant to go over here
and

4 find something and apply pressure to this child,
what, if

5 anything, did she do?

6 A. She stayed in the same place she
was

7 and told me that the suspect was still in the
garage.

8 Q. All right. And, what did you do
in

9 response to that?

10 A. I went into the kitchen and
tried to

11 look into the garage.

12 Q. All right. Well, let me back
you up

13 here. This child is obviously injured. Correct?

14 A. Yes.

15 Q. You've asked her to go over and
assist

16 him. Correct?

17 A. Yes.

18 Q. She doesn't do that; is that
right?

19 A. That's right.

20 Q. Okay. Why didn't you then drop
21 down -- you're trained in CPR?

22 A. Yes.

23 Q. Why didn't you then go down here
and

24 start applying the pressure that this child needed
at
25 that point yourself?

1 A. Because the suspect was still in
the
2 house, as far as I knew.

3 Q. Okay. Are there certain
procedures

4 that you've been trained to follow when you go out
to a
5 scene such as this?

6 A. Yes, sir.

7 Q. Are there certain priorities?

8 A. Yes, sir.

9 Q. Okay. Could you tell the
members of

10 the jury, what are the priorities? What are the
things

11 that you're supposed to do when you confront a scene
like
12 this?

13 A. First of all, we try to find out
if

14 the suspect is still in the house or not, if they
are

15 still at the location. Secondly, would be to get
medical

16 attention where needed. And then the third thing,

would

17 be to preserve the crime scene.

18 Q. Okay. And Officer Waddell, at
the

19 time that you asked the defendant to care for this
child,

20 had you located a suspect?

21 A. No.

22 Q. Had you gotten the information
from

23 the defendant concerning the suspect?

24 A. Not at that time.

25 Q. All right. Did you believe one
to

1 still be in the house?

2 A. Yes, I did.

3 Q. Okay. And where did you believe
him

4 to be?

5 A. She told me he was in the garage,
and

6 I assumed that's where he was.

7 Q. All right. And I believe you
said

8 that you, in fact, started to go to the garage; is
that

9 correct?

10 A. Yes.

11 Q. All right. And if you could,
just

12 with this pen, not writing, but if you would, just

13 indicate for the members of the jury, you know,
where you

14 went to, as you first went toward that garage area.

15 A. I was over here by her, I came
around

16 the bar. And I walked into the kitchen, to about
right

17 here, enough to where I could look through the

utility

18 room. There's a door here. I was trying to look
through

19 the door into the garage.

20 Q. You know, when you're doing that,
are

21 there any lights on inside the house?

22 A. Yes.

23 Q. Okay. What light is on in this
family

24 room, if you recall?

25 A. I remember the TV being on.

1 Q. Okay. This black object here, is
that
2 a big-screen television that's in there?

3 A. Yes, sir.

4 Q. Was that television on when you
first
5 entered that family room?

6 A. Yes.

7 Q. How about in the kitchen area,
what
8 lighting is there available for you there?

9 A. There was an overhead light on
when I
10 went in there.

11 Q. How about the utility room back
here?
12 Was there a light on in there?

13 A. I don't recall if that light was
on or
14 not.

15 Q. So, as I understand, you then
went
16 about halfway into the kitchen here?

17 A. Right.

18 Q. Did you go any further?

19 A. No. No.

20 Q. When you were at this position,

21 Officer, did you see anyone back there?

22 A. No, sir.

23 Q. Did you hear anyone back there?

24 A. No.

25 Q. Why didn't you go any further
than

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1 halfway through this kitchen at that point, Officer
2 Waddell?

3 A. I couldn't see into the garage,
and I

4 wasn't positive that that's where the suspect was.
I

5 knew he was still in the house at the time, is what
we

6 thought, and I didn't want to leave all of them
back in

7 the living room with the suspect loose in the house
8 somewhere.

9 Q. Do you know how long you were
gone
10 from the time that you left here, to go back here to
the
11 kitchen to the time that you came back? About how
much

12 time has elapsed at that point?

13 A. Maybe 30, or 40 seconds.

14 Q. And, when you come back, is the
15 smaller child still in the same position here?

16 A. Yes.

17 Q. How about the second child, is he
18 still in the same position over here?

19 A. Yes.

20 Q. How about the defendant? Where is
the

21 defendant when you come back from the kitchen area?

22 A. In the same position.

23 Q. Basically the same position as we
have

24 marked here with the "X"?

25 A. Yes, sir.

1 Q. She's not over here with the small
2 child?

3 A. No.

4 Q. What's she doing?

5 A. She was still yelling. I don't
know

6 if she was still on the telephone or not, but she was
7 still yelling to get help.

8 Q. Okay. How about Darin? Do you
recall

9 where he was when you came back from the kitchen?

10 A. I think he was still over at the
11 second child.

12 Q. Was there anything at all to
indicate

13 to you that the defendant had moved from her
original

14 position, in the time period that you had gone to the
15 kitchen and come back? Anything at all to indicate
that?

16 A. No.

17 Q. You come back into this area
again.

18 Now what do you do?

19 A. I asked her again for a

description of

20 the suspect. And, she told me she didn't know if it
was

21 a white or a black guy, but that he was wearing a
black

22 shirt, dark pants and a ball cap.

23 Q. Again, a black ball cap and a dark
24 shirt?

25 A. Yes, sir.

with

19 him.

20 Q. All right. Are you sure it was
this

21 area that she was indicating to?

22 A. Yes, sir.

23 Q. How was she indicating that area
24 between the family room and the kitchen as being the
25 place of the struggle?

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1 A. As she was telling me, she was
walking
2 in this direction, and then she pointed right to that
3 area.

4 Q. All right. If you could, Officer,
5 please take the red pen again, just put an "X" at
the
6 place where she says the struggle occurred, and
just
7 label that as "struggle."

8 A. Okay.

9 Q. All right. Now, if we can, if we
can
10 pick this up from the point where she is now giving
the
11 description, she has told you what's happened, she's
now
12 pointed out the place where this struggle occurred.
13 What's the next thing that you recall happening?

14 A. We both -- we walked back over to
this
15 area here, and I could see that this child here was
16 laying on the floor on his stomach, on his left side
of
17 his face and he was looking up at both of us making

some

18 noises, like he was trying to breathe.

19 Q. All right. If you could -- if we
20 could position him, in general, can you describe how
this

21 child was laying, you know, where his feet were, and
22 where his head was?

23 A. His feet were right here and his
head

24 was on this end.

25 Q. Okay. So you've got his head
here,

1 basically, and his feet are closer to the hallway;
is

2 that correct?

3 A. Yes.

4 Q. He's on his stomach?

5 A. Yes, sir.

6 Q. And you say that he had his head
7 turned where he's looking up at you. Does he have
his

8 head turned in this fashion then?

9 A. Yes, sir.

10 Q. And when he does that, can you
just

11 point with the pointer where you and the defendant
are at

12 this point.

13 A. Right in this area here.

14 Q. Are you able to see his face?

15 A. Yes.

16 Q. Are you able to see what he's
doing?

17 A. Yes.

18 Q. Okay. And the defendant is right
next

19 to you; is that right?

20 A. Yes, sir.

21 Q. This child here, this small
child,

22 could you see whether or not his eyes were open at
that

23 point?

24 A. They were open.

25 Q. And, was he looking in your
direction?

1 A. Yes.

2 Q. Was he making any sort of noise?

3 A. Yes, he was.

4 Q. And what sort of noise was he
making?

5 A. Like a gasping-type noise.

6 Q. Okay. So, this child -- this
child
7 was not dead at this point, was he?

8 A. No.

9 Q. What did you do then?

10 A. I instructed her to get some
towels
11 and put them on his back to try to stop the
bleeding.

12 Q. And, what did she do?

13 A. Nothing. She kept telling me
that
14 when she chased the suspect across the kitchen,
that he
15 had dropped the knife by the utility -- somewhere
over
16 here in this area, and that she had picked up the
knife
17 and brought it back and set it on the counter. And

she

18 told me that she thought she had messed up the
19 fingerprints.

20 Q. Well, at the time, Officer
Waddell,

21 that you asked her again to care for this child
over

22 here, this child with his eyes open? Did you feel
that

23 she was capable of rendering assistance to this
child?

24 A. Yes, sir.

25 Q. Okay. Why do you think that she
was

1 capable of assisting this child?

2 A. Well, she appeared to know
everything

3 that was going on inside the house. She was real
alert

4 and able to tell me what had happened. I thought if
she

5 was worried about fingerprints on a knife, she could
6 certainly take care of her kids.

7 Q. Okay. She didn't go over there?

8 A. No.

9 Q. And, again, let me just ask you
again,

10 this second time when you requested that she assist
this

11 child, and she didn't, why didn't you, yourself, now
go

12 over here and do that?

13 A. At that point, I didn't know where
the

14 suspect was. I thought he was still in the house. I
15 positioned myself between - - between them and the
rest

16 of the house. This was the only way to get into
this

17 room. I positioned myself right here, until I could
get

18 another backup officer to help me clear the house.

19 Q. Okay. What happens if you go
over

20 here and start tending to him and you have a suspect
come

21 in the room?

22 A. Then he stabs me too.

23 Q. Okay. You positioned yourself in
this

24 area; is that correct?

25 A. Yes, sir.

1 Q. Okay. What's the next thing that
2 happened?

3 A. I waited there until Sergeant
Walling
4 arrived, which was -- it wasn't too long after that.

5 Q. What was the purpose of waiting
for a
6 second officer before you did anything else?

7 A. It's procedure to wait on another
8 officer. And this was certainly a life-threatening
9 situation, and I didn't want to walk out in the
garage,
10 not knowing what was in there by myself.

11 Q. Okay. You said the second
officer's
12 name is Matt Walling; is that correct?

13 A. Yes, sir.

14 Q. Also a member of the Rowlett
Police
15 Department?

16 A. Yes, sir.

17 Q. At the time was he a sergeant?

18 A. Yes, he was.

19 Q. Is he one of the shift
supervisors?

20 A. Yes.

21 Q. And did he, in fact, enter the
22 residence and meet up with you then?

23 A. Yes, he did.

24 Q. And when, I think at the time he
was a
25 sergeant. Correct?

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1 A. Yes.

2 Q. Now he's a lieutenant?

3 A. Yes, sir.

4 Q. When Lieutenant Walling came in,
can

5 you tell the members of the jury what you and
Lieutenant

6 Walling did then?

7 A. He came in and met me right where
I

8 was standing. I briefed him on what happened, and
that

9 the suspect was probably still in the house
somewhere,

10 most likely in the garage. And then we walked
through

11 the kitchen and went into the garage to check and
see if

12 anybody was in there.

13 Q. This rectangular object here in
the

14 kitchen area, what is that?

15 A. That's a small island in the
kitchen.

16 Q. All right. And, do you recall how

you

17 and Lieutenant Walling actually went from this area
back

18 through the utility room?

19 A. Yes, sir. We came this way around
the

20 island and around this way.

21 Q. All right. And just so we can
orient,

22 these green rectangles, are those rugs?

23 A. Yes.

24 Q. All right. This circular object,

what

25 is that circular object there in the kitchen?

1 A. I believe it was a wine rack.

2 Q. So, you then went past the wine
rack,

3 and then you went to the right of the island; is that
4 right?

5 A. Yes.

6 Q. Could you see anything on the
floor of

7 the kitchen as you went that direction?

8 A. There was blood on the floor and a
9 broken wine glass. I remember seeing the wine glass
and
10 the blood.

11 Q. Okay. What did you do in response
to
12 that?

13 A. I stepped over it.

14 Q. Okay. Did you, in fact, get back
to
15 the utility room?

16 A. Yes.

17 Q. Is there a door that separates the
18 kitchen and the utility room?

19 A. Yes.

20 Q. That morning, do you recall

whether or

21 not the door was open or not?

22 A. It was open.

23 Q. Did both you and Lieutenant

Walling go

24 into the utility room then?

25 A. Yes.

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1 Q. Is there a door here that
separates

2 the utility room from the garage?

3 A. Yes.

4 Q. All right. That morning when you
went

5 into the utility room, was that door opened or was it
6 closed?

7 A. This door here was closed.

8 Q. All right. And that would be the
door

9 that separates the house from the garage. Correct?

10 A. Yes, sir.

11 Q. Could you see any sort of damage
to

12 that door, wood broken off, chips, anything to
indicate

13 that there had been a forced entry made on that
door?

14 A. No, sir.

15 Q. What's the next thing that
happened

16 when you and Lieutenant Walling went back to the
utility

17 room?

18 A. Lieutenant Walling opened the
door,
19 and then it was dark inside, so he scanned across
this
20 way with his flashlight. And, he stepped in and
went to
21 the left and I went in the doorway and looked to the
22 right.

23 Q. Okay. Do you know how far into
the
24 garage Lieutenant Walling went?

25 A. I'm not for sure exactly how far
it

1 was. It wasn't real far.

2 Q. You say that he scanned with
his

3 flashlight. Were the lights on in this garage
here?

4 A. No.

5 Q. Okay. Did you have your
flashlight

6 out also?

7 A. Yes, I did.

8 Q. Okay. And, he scanned toward the
9 left; is that right?

10 A. Right.

11 Q. Did you actually step into the
garage

12 yourself?

13 A. I was right in the doorway.

14 Q. All right. And, you scanned
toward

15 the right portion of the garage; is that correct?

16 A. Yes, sir.

17 Q. Did you see anyone when you went
out

18 there into the garage?

19 A. No.

20 Q. Did you hear anyone out in the
garage?

21 A. No.

22 Q. Did Lieutenant Walling stay in the
23 garage, or did he come back in?

24 A. He came right back in.

25 Q. And, when y'all -- when both of
you

1 are now in the utility room, what's the next thing
that
2 happens?

3 A. Lieutenant Walling told me that he
saw
4 the cut screen on the window.

5 Q. All right. If you could, just to
kind
6 of orient the jury. We've got some areas up here.

Does
7 this garage have several windows on this wall of the
8 garage?

9 A. Yes.

10 Q. And this area here, just the white
11 area, is that basically -- that's the backyard, is
it
12 not?

13 A. Yes, sir.

14 Q. Okay. Would you label that as
15 backyard.

16 A. Yes, sir.

17 Q. And the windows then would look
out

18 into backyard from the garage; is that right?

19 A. Yes.

20 Q. All right. And he told you that
he

21 saw a screen that had been cut on one of these
windows?

22 A. Yes, sir.

23 Q. All right. Did you step out to
look

24 at it at that time?

25 A. No.

1 Q. Okay. What did you do?

2 A. I turned around and went back to
the
3 kitchen where they were.

4 Q. And if you could, with a pointer,
just
5 indicate the route that you took when you went back
into

6 the utility room, through the kitchen, back to the
family

7 room, what route did you take, a different route, or
the

8 same route?

9 A. It was the same route right
through

10 here, around the island and back right over to this
area.

11 Q. Okay. How about Lieutenant
Walling,

12 did he follow you back into the family room?

13 A. No.

14 Q. Okay. Did you see where he went?

15 A. I didn't see where he went, no,
sir.

16 Q. Okay. Did he tell you that he was
17 going to go some place else though?

18 A. Yes, sir.

19 Q. Okay. Where did he say he was
going

20 to go to?

21 A. He told me he was going to go
around

22 to the backyard.

23 Q. All right. Why didn't you go to
the

24 backyard with him?

25 A. I was going back over here,
because

1 the house still wasn't secured at that time. I went
back

2 over here with them. I believe there was another
officer

3 coming to meet Lieutenant Walling.

4 Q. Okay. Well, at the time that
y'all

5 are coming back, had you had an opportunity to make a
6 full search of this formal living room?

7 A. No, sir.

8 Q. How about the breakfast -- in this
9 area? Did you have a chance to make a complete
search of

10 it also?

11 A. No, sir.

12 Q. How about the formal dining room,
have

13 you had a chance to make a full search of it also?

14 A. No.

15 Q. Bathroom in here?

16 A. No, sir.

17 Q. Had anybody at that point gone to
any

18 of the upstairs rooms to check them out?

19 A. No, sir.

20 Q. So, you come back in here, and

21 Lieutenant Walling leaves the house to go to
the

22 backyard; is that right?

23 A. Right.

24 Q. As you come back in here, Officer,
is
25 there anybody still in this family room?

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1 A. Yes, sir.

2 Q. Okay. Could you just tell us who
is
3 still in the family room when you come back?

4 A. The defendant's still in the
family
5 room.

6 Q. And where is she?

7 A. Still right -- she's over in this
area
8 right here.

9 Q. Do you remember what she's doing
when
10 you come back?

11 A. I don't remember exactly what she
was
12 doing, just standing there.

13 Q. Did you look over to see whether
or
14 not a rag or towel or anything had been placed on
the
15 back of this smaller child?

16 A. Yes, sir.

17 Q. And what was the result?

18 A. There was none.

19 Q. So the defendant is still
over in this
20 area near the kitchen bar. Do you remember
whether or
21 not her husband, Darin, was still in the room
at that
22 time.

23 A. I think he was. I'm not
for sure. He
24 came -- he was in there shortly after I got
back in
25 there.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Okay. The second child
still in the
2 same position?

3 A. Yes.

4 Q. At any point, did any
other persons
5 come into this family room?

6 A. Yes.

7 Q. Okay. Who else came into
the family
8 room?

9 A. The paramedics.

10 Q. From the Rowlett Fire
Department?

11 A. Yes, sir.

12 Q. Can you just describe
briefly, how
13 they came in and where they went to?

14 A. When they came in I was
standing right

15 here beside the defendant. At that time her
husband was

16 in there, Darin. I told both of them to come
back over

17 here and sit down up against the sliding

glass doors, and

18 kind of stay out of the way.

19 Q. Okay. Is there a sliding
glass door

20 that's on this portion of the room that leads
from the

21 family room back out into the garage?

22 A. It leads into the
backyard.

23 Q. Yeah, into the backyard.
Okay. From

24 the family room into the backyard. Also some
windows

25 across this portion of the room; is that
right?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. Yes, sir.

2 Q. And then we've indicated
some

3 furniture. There's two couches; is that
correct?

4 A. Yes, sir.

5 Q. They've got a coffee
table?

6 A. Yes.

7 Q. And a chair over in this
location.

8 Right?

9 A. Yes, sir.

10 Q. And is the fireplace over in
this

11 portion of the room?

12 A. Yes.

13 Q. We've got a rectangular space
here.

14 What is that over there? Do you recall?

15 A. I don't recall what it was.

16 Q. You indicated that you had them
come

17 over to this area of the family room close to the
sliding

18 glass door; is that right?

19 A. Yes, sir.

20 Q. Did they go over there?

21 A. Yes, sir.

22 Q. Okay. How many paramedics came
in?

23 A. Two initially.

24 Q. All right. And where did they

go to?

25 A. The first paramedic went to this

1 child, and the second one came right over here to
this

2 child.

3 Q. Okay. Over here. On this
diagram,

4 we've indicated this couch to be up closer to the
window.

5 In fact, is there a little bit more space between
this

6 couch and the windows back here?

7

8 MR. DOUGLAS MULDER: Object to
9 leading.

10 THE COURT: Overruled. Go
ahead.

11 THE WITNESS: Yes, sir, there
is.

12

13 BY MR. GREG DAVIS:

14 Q. Okay. And again, with the
pointer, if

15 you will, just indicate how the paramedic traveled
to

16 reach the second child if you recall.

17 A. He came around this way. I

don't know

18 which route he took. I know he walked past me and
around

19 this way.

20 Q. Do you know the name of the
paramedic

21 that went over here to care for this second child?

22 A. I think his first name is Brian.

I'm

23 not sure.

24 Q. Do you recall the name of the
25 paramedic that went to the smaller child?

1 A. No.

2 Q. What's the next thing that you
saw
3 happen?

4 A. Well, this paramedic moved over
here
5 to pick this child up and took him outside.

6 Q. Now, during the time period that
the
7 paramedic is working on this first child over here,
is
8 the defendant still over here?

9 A. Yes.

10 Q. While the first child is still
in the
11 house, did you ever hear the defendant ask anyone
in that
12 room about the condition of this first child?

13 A. No.

14 Q. Did you ever hear her say
anything at
15 all, concerning this first child that's laying
over here?

16 A. No.

17 Q. While the paramedic was working

on

18 this second child over here, did you ever hear the
19 defendant make any inquiries about the condition
of this
20 second child?

21 A. No.

22 Q. Did you ever ask her -- did you
ever

23 hear her say anything regarding this second child
that

24 was being worked on by this paramedic?

25 A. No.

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Reporter

1 Q. When the paramedic took this
child

2 out, how did he take him out of the house? What
route

3 did he take?

4 A. He picked him up and just carried
him

5 straight out the front door.

6 Q. All right. And, Officer Waddell,
as

7 this first child was being taken out, did you hear
the

8 defendant make any inquiry about where her child was
9 being taken to?

10 A. No.

11 Q. Did you hear her say anything at
all,

12 concerning this first child, as the paramedic is
taking

13 him out the front door?

14 A. No.

15 Q. Did she make any attempt
whatsoever to

16 follow the paramedic out, as he took this first child
out

17 of the house?

18 A. No.

19 Q. What's the next thing that
happened

20 after the first child was taken out of the house
then?

21 A. Well, this paramedic came around
and

22 told me that there was nothing he could do for that
child

23 over there. At that time, Lieutenant Walling came
back

24 inside the house and we went and checked upstairs.

25 Q. Okay. Did you go up these stairs

1 here?

2 A. Yes, sir.

3 Q. Okay. Are there a number of rooms
4 upstairs in this house?

5 A. Yes, sir.

6 Q. Do you recall the rooms that y'all
7 went into that morning?

8 A. I believe there were four rooms,
at
9 least four rooms.

10 Q. Did you check each of the rooms?

11 A. Yes.

12 Q. Did you find any other victims
13 upstairs?

14 A. No.

15 Q. Did you find any other persons
16 upstairs?

17 A. Yes.

18 Q. Okay. And, who did you find
upstairs?

19 A. An 8-month old baby.

20 Q. And do you recall where you found
him?

21 A. In a baby bed in the master
bedroom.

22 Q. All right. Now, when you went
23 upstairs, Officer, had -- did you know that a baby
was
24 upstairs?
25 A. No.

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1 Q. Had the defendant said anything to
2 you, or anyone else in your presence, about a baby
being

3 upstairs before you and Lieutenant Walling went up
there

4 to find him?

5 A. No.

6 Q. How was the baby when you went up
7 there?

8 A. He was fine, standing up in the
bed

9 just looking over the rail.

10 Q. Appear to be in good shape?

11 A. Yes, sir.

12 Q. Okay. Appear to be in any sort of
13 danger?

14 A. No.

15 Q. When you and Lieutenant Walling
got to

16 that baby, had you checked all the other rooms
upstairs

17 yet?

18 A. No, sir.

19 Q. Did you take the baby with you
then?

20

A. No.

21

baby

Q. Okay. Why didn't you take the

22 out of the bassinet and take him with you?

23

suspect

A. We still hadn't located the

24 and didn't know if he was in one of the upstairs

rooms.

25

then

Q. All right. So, did you, in fact,

1 complete your check of the upstairs rooms?

2 A. Yes.

3 Q. Did you find anything unusual
upstairs

4 then besides the baby being in the bassinet?

5 A. No.

6 Q. Okay. What did you and Lieutenant
7 Walling do after you finished upstairs?

8 A. We went back downstairs and
Lieutenant

9 Walling went outside.

10 Q. He went outside. Where did you go
to?

11 A. I went to the entrance way right
in
12 this hallway here.

13 Q. All right. Let me just ask you
14 whether or not you saw anyone, as you're coming down
the
15 stairs, just tell the members of the jury whether or
not
16 you saw anyone as you were coming down the stairs
that
17 morning.

18 A. Yes, I did.

19 Q. And who was that?

20 A. It was one of the
neighbors.

21 Q. Okay. Where did you see
her?

22 A. She was in the entryway
here, right in
23 this area.

24 Q. Okay. If you would, if you
would just
25 put an "X" where you saw the person. Just
label it as

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Reporter

1 "neighbor." Was it a male or female?

2 A. It was a female.

3 Q. Okay. Was she running? Was
she
4 moving? What was she doing?

5 A. She was just standing there.

6 Q. And did you go down and have
a
7 conversation with her?

8 A. Yes.

9 Q. Did she say anything to you about
why
10 she was in the house?

11 A. No. At one point Darin Routier
told
12 me that there was a nurse that lived across the
street.

13 And, I told him that if she was a nurse, that she
could
14 come over, that we did need some help.

15 Q. All right. At that time, had the
16 paramedics got there yet?

17 A. At the time I found her?

18 Q. No. At the time that you had that
19 conversation with Darin?

20 A. Oh, no, sir. No.

21 Q. At the time that you saw -- saw
this

22 woman in the entryway, the paramedics were already
there

23 though. Right?

24 A. Right.

25 Q. Did you have a conversation with
her?

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1 A. Yes.

2 Q. And what was the conversation that
you

3 had with this woman?

4 A. I told her that the paramedics had
5 already taken care of the -- one child was already
out in

6 the ambulance. And the defendant was sitting on the
7 front porch, and they were attending to her wounds.

8 Q. Okay. So, did this woman remain
in

9 the house, did she go anywhere else in the house
with

10 you, or what did she do?

11 A. No. I instructed her that we
didn't

12 need her at that time, and that she needed to leave
the

13 house.

14 Q. Did she leave the house?

15 A. Yes.

16 Q. Okay. About how long did that
17 conversation take before she left the house, if you
18 recall?

19 A. Less than a minute.

20 Q. Did you actually see her leave the
21 house then?

22 A. Yes.

23 Q. Okay. And, did I understand you
24 to

25 say that the defendant was already out on the front
porch?

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1 A. Yes.

2 Q. At the time that the neighbor left
the

3 house, Officer Waddell, then besides yourself and

4 Lieutenant Walling, who else was still inside that
house?

5 A. I believe there were a couple more
6 paramedics inside.

7 Q. Okay. And, the first child had
8 already been taken out. Correct?

9 A. Yes.

10 Q. How about the second child, had he
11 been taken out yet?

12 A. No.

13 Q. So, he's in there with a couple of
14 paramedics perhaps?

15 A. Right.

16 Q. You're in there still?

17 A. I'm still in the house.

18 Q. All right. And did you say that
19 Lieutenant Walling stayed in the house, or did he
leave

20 and go outside?

21 A. He went outside.

22 Q. What did you do then? Once this

23 neighbor left, what did you do?

24 A. I went to the front door and

waited

25 for the paramedics to come out, and they told me
that

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1 there was nothing they could do for the second child.

2 And they told me they were going to get their stuff.

And

3 I noticed one of them was carrying the baby
downstairs

4 and they were all going outside.

5 Q. Okay. What was the purpose of you
6 then staying at this front door?

7 A. To secure the crime scene.

8 Q. Can you give us an approximate
time

9 when the paramedics left? And you were posted here
at

10 the front door, just an approximation, if you
recall?

11 A. About 2:40 or 2:45.

12 Q. Are you looking at your watch
during

13 that period of time?

14 A. No.

15 Q. So that would just be an
16 approximation?

17 A. Yes, sir.

18 Q. And, once you were posted here at
this

19 door, how long did you remain here at the front
door?

20 A. Until probably a little after
3:00

21 a.m.

22 Q. Officer Waddell, did anyone enter
that

23 house after you -- between the 2:00 or 2:45 that you
were

24 posted at this front door, until you left the door
25 sometime after 3:00 a.m. Did anyone at all enter
that

1 residence, sir?

2 A. No.

3 Q. When you were at this door, could
you

4 still see Lieutenant Walling?

5 A. Yes.

6 Q. Could you see what he was doing?

7 A. Yes.

8 Q. And what did you see Lieutenant
9 Walling doing?

10 A. He was stringing up crime scene
tape

11 across the street.

12 Q. And, is that the yellow tape that
13 y'all used?

14 A. Yes, sir.

15 Q. Did you actually watch him do
that?

16 A. Yes, sir.

17 Q. Officer Waddell, if you would
just

18 step right here for a moment.

19

20 (Whereupon, the witness

21 stepped down from

the

22 witness stand, and
23 approached the jury
rail
24 and the proceedings
were
25 resumed as follows:)

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Court Reporter

1
2 (Whereupon, the
following
3 mentioned items were
4 marked for
5 identification only
6 as State's Exhibit
11,
7 11-A, B, C, D, E
& F,
8 after which time
the
9 proceedings were
10 resumed on the
record
11 in open court, as
12 follows:)
13
14
15 BY MR. GREG DAVIS:
16 Q. I believe you've -- you've
previously
17 looked at photographs marked State's Exhibits 11,
11-A,
18 11-B, 11-C, D, E and F, have you not?

19 A. Yes, sir.

20 Q. First of all, State's Exhibit No.

11,

21 is that an accurate portrayal of the floorplan of
the

22 family room as it appeared on June the 6th of 1996?

23 A. Yes, it is.

24 Q. Does it accurately locate the two

boys

25 that you saw that evening?

1 A. Yes.

2 Q. State's Exhibits 11-A, 11-B, 11-C,
3 11-D, 11-E and 11-F. Do they truly and accurately
depict

4 the family room of 5801 Eagle Drive as it appeared on
5 June the 6th, 1996?

6

7 MR. DOUGLAS MULDER: Judge, we
would

8 like the record to reflect, that he's showing the
9 photograph to the jury while he's apparently
attempting

10 to identify it.

11 MR. GREG DAVIS: Well, I would
like

12 for the record to reflect, that I have just two
hands.

13 I'm making my best efforts not to have the jury see
the

14 photographs.

15 THE COURT: Gentlemen.

Gentlemen, I

16 will make the rulings. Overruled. Continue.

17 MR. GREG DAVIS: Thank you.

18

19 BY MR. GREG DAVIS:

20 Q. Do they truly and accurately
depict

21 the family room as it appeared that morning?

22 A. Yes, sir.

23

24 MR. GREG DAVIS: Your Honor, at

this

25 time we'll offer State's Exhibits 11, 11-A, 11-B,
11-C,

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1 11-D, 11-E, and 11-F.

2 THE COURT: Any objection?

3 MR. DOUGLAS MULDER: We'd like to
see

4 it, Judge. We weren't in the jury box and weren't
able

5 to see them.

6 MR. GREG DAVIS: These -- all
exhibits

7 have previously been inspected by the defense prior
to

8 trial, your Honor.

9 THE COURT: The Court is aware of
10 that.

11 MR. DOUGLAS MULDER: I don't know
the

12 numbers on them.

13 THE COURT: Well, take a look.

14 MR. DOUGLAS MULDER: We have no
15 objection.

16 THE COURT: State's Exhibits 11-
A, B,

17 C, D, E and F are admitted.

18

19 (Whereupon, the items

20 heretofore mentioned

21 were received in evidence
22 as State's Exhibit No. 11, 11-
A
23 through 11-F for all purposes,
24 after which time, the
25 proceedings were resumed

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Reporter

1 as follows:)

2

3 BY MR. GREG DAVIS:

4 Q. All right. Officer Waddell, is
5 State's Exhibit 11, is that a floorplan of this
family

6 room again?

7 A. Yes.

8 Q. And we've got two pictures.
The first

9 picture up here, toward the top portion of that
10 floorplan, is that the second child?

11 A. Yes.

12 Q. The other child, would that be
the

13 smaller child that you have referred to?

14 A. Yes.

15 Q. Can you tell the members of the
jury

16 what we see here in State's Exhibit 11-A?

17 A. That's the entrance into the
family

18 room. That would be looking from this hallway
here.

19 Q. And what's this object I'm
pointing to

20 here at the top right-hand portion of the
photograph?

21 A. The telephone that she was
talking on.

22 Q. The red area on the carpet,
what is

23 that?

24 A. Blood.

25 Q. Okay. Do you see another
object, a

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Reporter

1 rectangular object close to the phone. What is
that?

2 A. I believe that's the plastic
runner

3 that was over the carpet.

4 Q. Now, if we could, if we could --
can

5 everyone see that?

6 If we could, could we look at
State's

7 Exhibit 11-B. And just take us through that
photograph,

8 if you would, and show the members of the jury what
we

9 see in that photograph.

10 A. Okay. This is --

11 Q. What are we looking at? What
12 direction are we looking?

13 A. This is the family room. You'd
be

14 looking from the entrance -- the entrance to the
family

15 room is over here. This is where the second child
was.

16 The first one would have been over here in this area

17 somewhere.

18 Q. All right. Do we see the couches
19 in
20 that photograph?

21 A. Yes, sir.

22 Q. Do we see the telephone again?

23 A. I don't see it, no.

24 Q. Okay. If you would, if you'll
25 look at

the right portion of that photograph.

25 A. Oh, over here?

1 Q. Yes, sir.

2 A. Yes, sir, that's the telephone.

3 Q. All right. And what is the object
4 next to that telephone on the floor, if you know?

5 A. A rag.

6 Q. Okay. Do you recall that morning,
7 what type of rag that the defendant had around her
neck

8 when you saw her?

9 A. It was green, it was a greenish
10 colored rag.

11 Q. The color of the rag in the
12 photograph, can you tell the color there?

13 A. Green.

14 Q. All right. Toward the right
portion

15 of the -- let me just step around here so I can ask
you a

16 question here. This white area here, what is that?

17 A. That's the end of the
counter.

18 Q. To the right. Would that be
the

19 kitchen then?

20 A. Yes, sir.

21 Q. Okay. There's an object up
here,

22 Officer, a white object. What is that?

23 A. I would have to look, I can't see
from

24 here.

25 Q. Okay.

1 A. That's the knife.

2 Q. Okay. Did you see that knife that
3 morning?

4 A. Yes, I did.

5 Q. Was it in that same position when
you
6 first saw it?

7 A. Yes, sir.

8 Q. If you -- now, if we'll look at
9 State's Exhibits 11-C, 11-D, 11-E and 11-F. Who do
those
10 photographs show?

11 A. That's the second child.

12 Q. That would be located over here in
13 this portion of the room; is that right?

14 A. Yes, sir.

15 Q. When you first saw the child that
16 morning, was he covered with this object?

17 A. No.

18 Q. Do you know how that got on him?

19 A. I believe one of the paramedics
put it
20 over him.

21 Q. Okay. When you first saw the
child,

22 do you recall whether or not, was he laying down?

23 A. Yes, he was.

24 Q. Was he on his back or was he on

his

25 stomach?

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1 A. On his back.

2 Q. Okay. Would it be more in the
3 position that we see here in State's Exhibit No. 11-D
and
4 11-E then, as far as being on his back?

5 A. Yes, sir.

6 Q. Looking at State's Exhibit 11-F,
can
7 you tell whether or not the child's eyes are open in
this
8 photograph or not?

9 A. Yes. They look open to me.

10 Q. These other objects, there appears
to
11 be a pillow over there near him; is that correct?

12 A. Yes.

13 Q. Do we also see that same pillow up
14 here in this photograph 11-B?

15 A. Yes, sir.

16 Q. Do you know what these items are
over
17 here we see in State's Exhibit 11-C. Do you know
what
18 those items were up here towards the top portion of
the

19 photograph?

20 A. No, sir, I don't.

21 Q. Did you ever examine them
yourself?

22 A. No, sir.

23 Q. Look through those in any way?

24 A. No, sir.

25 Q. Okay. Thank you. You may retake
your

1 seat.

2

3

(Whereupon, the witness

4

Resumed the witness

5

Stand, and the

6

Proceedings were resumed

7

On the record, as

8

Follows:)

9

10 BY MR. GREG DAVIS:

11

Q. Officer Waddell, let me pick it up

12

again, where you're at the front door. You stayed

there

13

until sometime after 3:00 p.m. (sic). When did you

leave

14

the front door?

15

A. When Officer Wade relieved me from

the

16

front door.

17

Q. Okay. What's his full name, if

you

18

know?

19

A. Steve Wade.

20

Q. All right. And do you recall

about

21

what time he got to the front door?

22 A. It was right around 3:00 a.m.

23 Q. And he was there to relieve you;

is

24 that correct?

25 A. Yes, sir.

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1 Q. Did you then leave the front door?

2 A. Yes, sir.

3 Q. All right. Did you go with
anyone, or

4 did you leave by yourself?

5 A. I left the front door by myself,
but I

6 met someone else.

7 Q. All right. Who did you meet?

8 A. A Garland K-9 officer.

9 Q. Do you remember what his name was?

10 A. Griffith, or Griffin.

11 Q. Okay. Did he have a dog with him?

12 A. Yes.

13 Q. And did you stay at the residence
with

14 the officer and his dog, or did you go some place?

15 A. We went somewhere.

16 Q. And, as best you recall, can you
tell

17 the members of the jury, where you went with Officer
18 Griffith and the dog?

19 A. We walked around the neighborhood.

We

20 walked up and down the alleys, across front yards.

We

21 went two, about two or three streets behind 5801
Eagle.

22 Q. How long did you go with Officer
23 Griffith through the neighborhood?

24 A. We were out there for about 50
25 minutes.

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1 Q. During the time that you were with
the
2 officer and his dog, did you ever locate any
suspects?

3 A. No.

4 Q. Did you arrest anybody?

5 A. No, sir.

6 Q. Find anything that you took back
to
7 the residence?

8 A. No, sir.

9 Q. Did you actually go back to 5801
Eagle

10 Drive?

11 A. Yes, sir.

12 Q. And, when you got back, were you
13 instructed to do anything?

14 A. Yes.

15 Q. And, what did you do in response
to
16 your instructions?

17 A. I followed my instructions and I
went
18 to the back of the house.

19 Q. All right. And is there an alley

that

20 runs behind that house?

21 A. Yes, sir.

22 Q. What did you do once you got back
23 there?

24 A. I was assigned to stay in the

alley

25 and stop anybody who came down the alley and identify

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1 them, and ask them if they had heard anything that
was
2 out of the ordinary for that night.

3 Q. That morning, do you recall how
long
4 that you stayed in the alley?

5 A. Probably till about 7:00 or 8:00
in
6 the morning.

7 Q. How many cars did you stop while
you
8 were in that alley?

9 A. One.

10 Q. About what time did you stop the
11 vehicle?

12 A. It was right before the sun came
up.

13 Q. And, how many people were inside
the
14 car?

15 A. One.

16 Q. Can you describe the person that
was
17 inside the car?

18 A. It was a white female.

19 Q. And, did you determine where she
was

20 going?

21 A. Yes, sir.

22 Q. And where was that?

23 A. She said she was going to work.

24 Q. Did you detain her back there or
did
25 you let her go to work?

1 A. I let her go to work.

2 Q. Anybody else -- did you come in
3 contact with anybody else back there in that alley
before

4 you left it?

5 A. No, sir, other than the police
6 officers, no.

7 Q. How long did you remain there at
the
8 location that morning?

9 A. I was there till about 7:00 or
8:00 in
10 the morning.

11 Q. About 7:00 or 8:00 in the morning?

12 A. Yes, sir.

13 Q. And, once you left, where did you
14 go
to?

15 A. I went back to the police station.

16 Q. And when you got back to the
police

17 station, what did you do?

18 A. I started writing a report.

19 Q. Is that standard procedure?

20 A. Yes.

21 Q. All right. And, what's the
purpose of
22 you sitting down and making a report at that time?
23 A. To document facts so that I can
24 remember what happened, and to supply the
investigators
25 with information to start an investigation.

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1 Q. When you make a report, do you
attempt

2 to put down every single thing that you heard or
said or

3 saw?

4 A. Well, I try to.

5 Q. As best as you can?

6 A. Yes, sir.

7 Q. Do you recall about what time
that you

8 left the station that morning, when you finished
your

9 report?

10 A. Maybe around 10:00 or 11:00 a.m.

11 Q. By that time you -- by the time
you

12 finished your report, how long had you been on
duty?

13 A. Thirteen, 14 hours.

14 Q. Did you go home after that?

15 A. Yes.

16 Q. Were you scheduled to work the
next

17 morning -- I mean, that next evening?

18 A. Yes.

19 Q. All right. So, you're scheduled
to

20 work. You worked the evening of the 5th. Correct?

21 A. Right.

22 Q. We're now into about 10:00 or
11:00 in

23 the morning on the 6th, and you were scheduled to
work

24 the evening of the 6th; is that right?

25 A. Yes.

1 Q. What time did you go on duty
that

2 night?

3 A. 9:30.

4 Q. And, did you actually go out on
patrol

5 again?

6 A. Yes.

7 Q. Again by yourself?

8 A. Yes.

9 Q. Was there ever a time when you
came

10 back to the police station, before completing your
patrol

11 duties?

12 A. Yes.

13 Q. And about what time was that?

14 A. About 1:00 a.m.

15 Q. What was the purpose of you
going

16 back, why did you do that?

17 A. I had remembered some more
information

18 that I thought was important, and I thought I would
do a

19 supplement.

20 Q. Okay. Do a supplemental report?

21 A. Yes, sir.

22 Q. And did you, in fact, go back to
the

23 police station and do that?

24 A. Yes, I did.

25 Q. Is it unusual to do a
supplemental

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1 report?

2 A. No.

3 Q. Do you have a form that the
Rowlett

4 Police Department uses that, in fact, says
"supplemental

5 offense report"?

6 A. Yes, sir.

7 Q. And, did you then complete a
8 supplemental report that morning?

9 A. Yes, I did.

10

11 MR. GREG DAVIS: Okay. May I
approach

12 the witness, your Honor?

13 THE COURT: You may.

14

15 BY MR. GREG DAVIS:

16 Q. Officer Waddell, I'm going to
just ask

17 you, just for identification purposes, have I
showed you

18 these pieces of paper, I believe there are actually
six

19 pieces of paper prior to your testimony; is that

correct?

20 A. Yes, sir.

21 Q. Just to verify that these are,

in

22 fact, the reports that you prepared, both the

offense

23 report and the supplemental offense report in this

case;

24 is that right?

25 A. Yes, sir.

1

2

MR. GREG DAVIS: Your Honor, at
this

3 time we will tender the reports to Mr. Mulder, and
we

4 will pass the witness for cross-examination.

5

THE COURT: All right. Ladies
and

6 gentlemen, let's take a 10 minute break, please.

Thank

7

you. Be back about 10:20.

8

9

(Whereupon, a short
10 Recess was taken,
11 After which time,
12 The proceedings

were

13

Resumed on the
record,

14

In the presence
and

15

Hearing of the
defendant

16

And the jury, as
follows:)

17

18 THE COURT: All right. We are
ready

19 to bring the jury in.

20

21 (Whereupon, the jury

22 Was returned to

the

23 Courtroom, and

the

24 Proceedings

were

25 Resumed on the

record,

Sandra M. Halsey, CSR, Official
Court Reporter

1 In open court, in
the

2 Presence and
hearing

3 Of the defendant,

4 As follows:)

5

6 THE COURT: All right. Be
seated,

7 please. Let the record reflect that all parties in
the

8 trial are present and the jury is seated.

9 Who will do the cross-
examination?

10 MR. DOUGLAS MULDER: I will.

11 THE COURT: All right. Mr.
Mulder.

12 Thank you. Go ahead.

13

14

15 CROSS EXAMINATION

16

17 BY MR. DOUGLAS MULDER:

18 Q. Officer Waddell, just a thing or
two.

19 I believe you said that prior to this occasion, you

had

20 participated in one homicide; is that right?

21 A. Yes, sir.

22 Q. All right. And that's in your

four

23 and a half years, or four years and some change as a

24 police officer?

25 A. Yes, sir.

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1 Q. All right. Now, you told us that
you

2 were in the church parking lot?

3 A. Yes, sir.

4 Q. And that was on Highway 66?

5 A. Yes, sir.

6 Q. A mile and nine-tenths from this
7 location; is that right?

8 A. Yes, sir.

9 Q. Okay. And what was your unit
number

10 at that time?

11 A. 82.

12 Q. 82. And Sergeant Walling then
would

13 have been 84 is that fair to say?

14 A. No, sir.

15 Q. Who was 84?

16 A. I believe that was Officer Moore.

I'm

17 not for sure.

18 Q. All right. Was -- Sergeant
Walling

19 was your sergeant at that time, was he not?

20 A. Yes, sir.

21 Q. All right. And he was on duty at

that

22 time?

23 A. Yes.

24 Q. And, was -- responded to the same

call

25 that you did, did he not?

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1 A. Yes.

2 Q. Okay. And, do you know where he
was

3 at the time that he responded?

4 A. No.

5 Q. Okay. Could you tell us, tell
the

6 jury, please, sir, where the 5000 block of Highway
66 is.

7 A. The 5000 block, I believe it's at
8 Liberty Grove and Highway 66, which was across the
lake

9 from where I was.

10 Q. All right. Approximately how far
11 would that be in miles, if you know?

12 A. From the 5000 block to the house?

13 Q. Well, you said the church was on
14 Highway 66?

15 A. Yes, sir.

16 Q. Can you see 66 on this exhibit?

17 A. Yes.

18 Q. It's the red road right here,
isn't

19 it?

20 A. Yes, sir.

21 Q. And where were you, could you
tell us

22 just approximately?

23 A. Right in here on that -- just on
that

24 side of the lake.

25 Q. Okay. And, about -- what is your
best

1 estimate as to how long you were there at the
residence,

2 the Routier's residence before your sergeant got
there?

3 A. Maybe five or six minutes.

4 Q. Okay. You -- just so that you
and I

5 are on the same wave length here, you have testified
6 under oath, in a hearing prior to today, have you
not?

7 A. Yes, sir.

8 Q. Okay. And is it not fair to say
that

9 at that hearing you estimated the time as little as
two
10 minutes?

11 A. Not that I recall, no.

12 Q. Okay. And would you like to have
me

13 show that to you so that -- would that refresh your
14 memory, do you think?

15 A. Yes, sir.

16 Q. Now, if my memory serves me, I
believe

17 you testified two, three or four minutes, but never

five

18 or six; is that right?

19 A. I don't have -- I don't know what
it

20 was. I would have to see it.

21 Q. Did you review that for your
testimony

22 here today?

23 A. No, sir.

24 Q. You did not?

25 A. No, sir.

1 Q. Why is that?

2 A. I just didn't read it.

3 Q. Your purpose in being here is to
4 testify as accurately as you can, isn't it?

5 A. Yes, sir.

6 Q. Okay. And be as truthful as you
can?

7 A. Yes, sir.

8 Q. Okay. Do you recall being asked:
9 "You were there first. Walling
10 arrived in about three or four minutes; is that
correct?"

11 To which you answered, "I guess.

I'm

12 not sure how long it took him. I assumed it was two,
13 three or four minutes."

14 Does that sound about right?

15 A. Yes, sir.

16 Q. I don't want to split hairs with
you,

17 but I want to -- but I have got to -- I have this for
a

18 purpose. Okay?

19 A. Yes, sir.

20 Q. Do you recall how long it took you

to

21 respond?

22 A. Two to three minutes.

23 Q. Okay. And, you were some 1.9
miles

24 away; is that right?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. And, of course, you drove
2 quickly, I assume, in response to that emergency, did
you
3 not?

4 A. Yes, sir.

5 Q. And I believe you said that you
used
6 your emergency lights -- your emergency lights, did
you
7 not?

8 A. Yes, sir.

9 Q. Okay. I wrote down -- you were
asked
10 by the prosecutor how long you were there, and you
11 answered that, and you told him that you were
posted, I
12 assume by Sergeant Walling, at the door to secure
the
13 premises. Do you recall
that?

14 A. Yes,
sir.

15 Q. All right. And do you recall -
- I
16 wrote it down when you -- the time that you said.

You

17 said it was at 2:40 to 2:45 that you were posted?

18 A. That was an estimate, yes, sir.

19 Q. Yes, sir. Do you recall

whether the

20 ambulance got there before Sergeant Walling got

there or

21 after Sergeant Walling got there or at the same

time that

22 Sergeant Walling got there?

23 A. I think it was the same time.

24 Q. Okay. So Walling arrived at

the same

25 time as the ambulance?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. Yes, sir.

2 Q. Okay. And, Waddell's response
time

3 was two to three minutes. Right?

4 A. Yes, sir.

5 Q. Okay. You have listened to the
911

6 tape in preparation for your testimony, have you
not?

7 A. I have.

8 Q. Okay. And have you listened to
it

9 more than once?

10 A. No.

11 Q. Just listened to it one time?

12 A. I believe just one time.

13 Q. Okay. And you've talked to the
14 prosecutors -- nothing wrong with that, but you've
talked

15 to the prosecutors on a number of occasions, have
you

16 not?

17 A. Yes, I have.

18 Q. Do you have any estimate as to
how

19 many times you've gone over your testimony with

them?

20 A. Maybe two.

21 Q. Maybe two times?

22 A. Two or three.

23 Q. Did you ever participate in a

mock

24 trial with them?

25 A. We had a meeting, yes.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. You call that a meeting?

2 A. Yes, sir.

3 Q. Where you got up on the witness
stand

4 and everybody told their story?

5 A. Yes, sir.

6 Q. You did that?

7 A. Yes.

8 Q. How long ago was that?

9 A. Maybe three weeks ago, I'm not
really

10 for sure.

11 Q. Okay. Did they critique you
after

12 that? I mean, tell you how you did, and tell you
where

13 you can improve, and things of that nature?

14 A. They told me I did all right.

15 Q. Okay. Nothing wrong with that.

16 At that time did you hear the

911

17 tape?

18 A. No.

19 Q. Okay. Did you hear other
officers

20 testify?

21 A. I heard some, yes.

22 Q. Okay. So, you did your part in
it,

23 and you did it in a -- did you do it in a
courtroom or

24 up in the DA's office, or where did you do it?

25 A. It was up in the courtroom.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. In a courtroom?

2 A. Yes, sir.

3 Q. Okay. It wasn't in the District
4 Attorney's office?

5 A. No.

6 Q. Okay. But you got on the
witness

7 stand just like you are there?

8 A. Yes.

9 Q. And went through the same thing
that

10 you've gone through for the folks here?

11 A. Yes.

12 Q. Kind of a dress rehearsal, I
guess?

13 A. Yes.

14 Q. Okay. And, now, when you -- did
you

15 talk to the prosecutor last night?

16 A. No.

17 Q. Did you talk to him this
morning?

18 A. Yes, I did.

19 Q. Did you go over these
photographs with

20 him this morning?

21

A. No.

22

Q. You didn't?

23

A. No.

24

Q. When did you go over these

photographs

25 with the prosecutor?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. The last time I met with him,
which I
2 don't remember what time that was, but it was
within the
3 last week.

4 Q. All right. Waddell, I'll call
this,
5 "secured residence at 2:40 to 2:45". Right?

6 A. That's probably pretty close.

7 Q. All right. And, part of your
business
8 is knowing what time it is, and what time things
are
9 going on; isn't that right?

10 A. At certain times it is. But
it's not
11 my business to look at my watch all the time, no.

12 Q. But you wear a watch. That's
one of
13 your requirements, isn't it?

14 A. No, sir, it's not a requirement.

15 Q. Then they say "Don't wear a
watch"?

16 A. They don't tell me I have to
wear a

17 watch.

18 Q. Okay. Do you know a police
officer

19 that doesn't wear a watch?

20 A. I don't wear mine sometimes.

21 Q. Okay. Were you wearing it that
night?

22 A. Yes.

23 Q. Okay. So, we can assume that
these

24 times are reasonably accurate; is that right?

25 A. I didn't look at my watch to get
these

1 times, no.

2 Q. Okay. I guess when you got
there to

3 the scene, Officer Waddell, it was something --
like, I

4 mean something like you had never seen before, and
you

5 were understandably overcome by it, I would guess.

6 A. I wouldn't say I was overcome by
it,

7 but it's not something that I had seen before
though.

8 Q. All right. And, you've just
seen one

9 single homicide prior to that, I guess?

10 A. Well, I've seen more, I've
worked one.

11 Q. Okay. You walk in, and you --
12 incidentally, on the 911 tape, do you hear your
voice?

13 A. I didn't hear it.

14 Q. Did you see where your -- did
you see

15 a transcript of the 911 tape?

16 A. I saw portions of one, yes.

17 Q. Why is it you just saw portions?

18 A. I just saw portions of it.

19 Q. Any reason that you just saw a

part of

20 it, as opposed to the whole thing?

21 A. No.

22 Q. Was the whole 911 tape available

to

23 you?

24 A. I don't know how long the 911

tape is.

25 I listened to portions of it. I don't know if
there was

1 more to it or not.

2 Q. What were -- where were you when
you

3 listened to portions of it?

4 A. In
here.

5 Q. In
where?

6 A. In this
room.

7 Q. In this
room?

8 A. Yes, sir.

9 Q. When was
that?

10 A. Sunday.

11 Q. Okay. So you had a dress
rehearsal up

12 in Dallas and another one down here?

13 A. No, sir.

14 Q. But you came in here and listened
to

15 the 911 tape?

16 A. Yes, sir.

17 Q. Okay. Was -- who else was

present at

18 that time?

19 A. Myself and Sergeant Walling and a
20 couple more police officers, and people with the
Dallas
21 County DA's office.

22 Q. Okay. Who were the other police
23 officers who were there?

24 A. Sergeant Ward, Sergeant Walling,
Steve
25 Ferrie, Steve Wade, and there's probably a couple
more I

1 don't remember.

2 Q. Everybody that you were sworn in
with

3 the other day, were they all here?

4 A. I believe so, yeah.

5 Q. Okay. And did you discuss your
6 testimony at that time?

7 A. We went over it, yes.

8 Q. Well, I mean, that's the whole
purpose

9 in getting together, to kind of go over everybody's
10 testimony.

11 A. Yes.

12 Q. So you understood what Walling
was

13 going to say, and Walling understood what you were
going

14 to say, and Ward understood what Walling and Waddell
were

15 going to say, and everybody just --

16 A. No, sir, that was not the reason.

17 Q. But that was all done in -- you
were

18 present when --

19 A. I was in the same room, yes.

20 Q. Yes.

21 A. The reason for me to do it, was
to go

22 over my testimony.

23 Q. You -- all right. Now, just so
I'm

24 clear, you had gone over with it a number of times
up in

25 Dallas, had you not?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. A couple.

2 Q. Well, and you had a hearing where
you

3 were under oath just like you are now. You
appreciate

4 that, don't you?

5 A. Yes, sir.

6 Q. Okay. And then you had the dress
7 rehearsal up in Dallas. Right?

8 A. Yes, sir.

9 Q. And then you met down here. And
did

10 you go over the entire 911 tape?

11 A. I don't know if I went over the
whole

12 tape or not. We went over part of it. I don't know

--

13 Q. Do you know about how long it was
on?

14 A. No, sir.

15 Q. All right. Is it fair to say
that

16 this -- and I'm going to get into this in a minute -

-

17 but, is it fair to say that the conversations that

you

18 told us about in this room here with Darlie Routier,
all

19 of those conversations occurred prior to Sergeant
20 Walling's arrival?

21 A. Yes.

22 Q. No question about that, is there?

23 A. Well, as far as I can recall

24 everything that me and her talked about was before

he got

25 there.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Okay. No question about that,
at
2 least where we stand right now, is that fair?

3 A. Yes, sir.

4 Q. Okay. Is that right, "all
5 conversations with Darlie prior to Walling's
arrival"?

6 A. Yes, sir.

7 Q. Okay.

8

9 MR. DOUGLAS MULDER: When the
time
10 comes, I'll offer that into evidence, Judge.

11 THE COURT: I understand.

12 Can all of the members of the jury
see
13 that?

14 THE JUROR: Not really.

15 THE COURT: I don't think the last
two
16 can see it.

17 MR. DOUGLAS MULDER: Well, I don't
18 think that there is anything important at the time
on
19 that right now.

20

21 BY MR. DOUGLAS MULDER:

22 Q. Now, Officer Waddell, you said
that

23 you're trained -- and you had a gun that night,
didn't

24 you?

25 A. Yes, I did.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. And you're trained as a member of
the

2 SWAT team; is that right?

3 A. It's a special operation response
4 team.

5 Q. Okay. And you said they serve
search

6 warrants and things of that nature?

7 A. Yes, sir.

8 Q. Okay. And you've also had other
9 training that you've told us about?

10 A. Yes, sir.

11 Q. And you told us that the three
things

12 that a police officer does when he arrives at a
situation

13 like that, the first thing he does is secure the
scene?

14 A. You need to find out where the
suspect

15 is first.

16 Q. Okay. Well, you know, I would
17 think -- and all I know about this is what I see on
TV,

18 but what I would think --

19

20

MR. GREG DAVIS: I'm sorry, I'm

going

21 to object to the -- I don't know what that is,

sidebar.

22

MR. DOUGLAS MULDER: Well, it was

a

23 question.

24

THE COURT: Gentlemen. All

right.

25 Let's just ask straight questions and not discuss

1 personal antidotes. Thank you.

2

3 BY MR. DOUGLAS MULDER:

4 Q. Well, I would think that the
first

5 thing you would be concerned with would be to find
out if

6 the suspect was present; is that right?

7 A. Yes, sir.

8 Q. Did you do that?

9 A. Yes, sir.

10 Q. Okay. That's the very first
thing you

11 did when you walked in?

12 A. That's the first thing I asked,
yes.

13 Q. All right. And that's the first
thing

14 you asked of her?

15 A. Right.

16 Q. Okay. And, you said at the time,
that

17 she was on the telephone?

18 A. Yes, sir.

19 Q. All right. Do you know to whom

she

20 was speaking at that time?

21 A. Well, I assumed it was the 911
22 dispatchers.

23 Q. Well, now why would you assume
that it

24 was the 911 dispatcher?

25 A. Because I knew that she called
over

1 911 to report the stabbing.

2 Q. Okay. Matter of fact, 911 is
trained

3 to keep the caller on the phone until the police
arrive,

4 aren't they?

5 A. I don't know. I've not been
trained

6 to do that.

7 Q. Well, I understand you're not a
911

8 operator, but doesn't that make sense to you, and
hasn't

9 that been your experience, that 911 keeps the caller
on

10 the phone until the police arrive?

11 A. In most circumstances they do.

12 Q. Well, that's what they're trained
to

13 do, aren't they?

14 A. I don't know if they're trained
to do

15 that.

16 Q. Okay. All right. And another
thing

17 that 911 is trained to do, is to tell the caller not
to

18 touch the evidence, aren't they?

19 A. I don't know.

20 Q. Well, don't you, as a police
officer,

21 tell people when you go in, "don't touch anything"?

22 A. I've been trained to do that.

23 Q. And why is that?

24 A. Because you need to preserve the
crime
25 scene.

1 Q. And it's because people naturally
2 touch things, don't they?

3 A. Yes, sir.

4 Q. All right. There's nothing
difficult

5 about that. It's human nature. Cops do the same
thing.

6 You've seen them do it, haven't you? They walk in,
they

7 pick up the gun, or they pick up the knife, or they

8 pick up some of the evidence, don't they?

9 A. I've seen it.

10 Q. And that's why you even preserve
it --

11 police officers do that, don't they?

12 A. I've seen it done.

13 Q. You've seen them pick it up, and
then

14 they put it right back when they realize what
they've

15 done?

16 A. I've seen that, yes, sir.

17 Q. That's not unusual, is it?

18 A. I've seen it a couple of times.

19 Q. All right. Now, the first thing

you

20 asked her was, "where is the suspect"?

21 A. I tried to get a description of
him --

22 Q. Where's the guy that did this?

What

23 exactly did you say to her?

24 A. I asked her for a description of
him

25 and who had done it.

1 Q. All right. And she said, -- she
2 pointed and said, "He's in the garage"?

3 A. She said the guy was in the
garage.

4 Q. All right. And, what did that
mean to
5 you?

6 A. That meant he was in the garage.

7 Q. All right. Well, you had a gun
with
8 you, didn't you?

9 A. Yes, I did.

10 Q. And I would think that after you
find

11 out who he is and where he is, I would think that the
12 first thing you would do, once you found out where he
13 was -- and this is a relatively short space from
here, I

14 suspect to the utility room door. It's no more than
from

15 here to that door, is it?

16 A. It's probably pretty close.

17 Q. Okay. So we're not talking about
a

18 huge room, are we?

19 A. No.

20 Q. I would think that the first thing

21 that you would do, is draw your gun, if you thought

22 somebody was -- a dangerous person was in the garage

and

23 proceed to the garage to secure the area. I mean,

you

24 don't want him to come out with a gun.

25 First of all, you didn't know how
many

1 people were in there, did you?

2 A. That's right.

3 Q. You didn't know whether there was
one

4 assailant, or two assailants, or three assailants,
did

5 you?

6 A. Well, she told me there was one.

7 Q. She told you she saw one?

8 A. Right.

9 Q. Does that always mean that
there's

10 just one there?

11 A. No.

12 Q. All right. I would think you'd
take

13 your gun out and hot-foot it in here to take a look
and

14 make sure there isn't somebody there with a gun
who's

15 going to come out and kill you and everybody else.

16 A. My gun was out. I didn't go into
the

17 garage then.

18 Q. Why not?

19 A. I didn't need to. I didn't need
to go
20 in the garage at the time. The garage door was
closed
21 and I didn't know who was in there.

22 Q. Well, I mean, that's why you
would go
23 into the garage, to find out who was in there.

24 A. Right. And if I go in there and
he
25 kills me, then there's nobody to protect them.

1 Q. So you thought you could -- you
had
2 your gun out, and you were kind of covering the area
from
3 back here, some 20 feet away, is that it?

4 A. After I went into the kitchen and
5 looked into the garage -- tried to look into the
garage.

6 Q. Well, I mean, if the door -- the
door
7 to the garage was closed, or the door to the utility
room
8 was closed?

9 A. The utility room door was open,
and
10 the door going into the garage was closed.

11 Q. Okay. And, did you walk along
here,
12 along this island to get in there?

13 A. Yes.

14 Q. And there was some broken glass
along
15 there, wasn't there?

16 A. Yes.

17 Q. Did you step in the glass?

18

A. No.

19

in the

20 glass?

21

A. I saw the glass on the floor and

I

22 stepped over it.

23

Q. Okay. There were just a few

pieces of

24 broken glass?

25

that

A. I remember seeing one wine glass

1 was broken. That's what I remember seeing.

2 Q. Okay. I mean, the glasses that
I've

3 seen that break, don't just break into a couple of
4 pieces. Was there something unusual about this wine
5 glass?

6 A. No.

7 Q. I mean, did it break into many
pieces,

8 or just a couple of pieces?

9 A. I remember seeing a broken glass.

I
10 don't know how many pieces were on the floor.

11 Q. Okay. And you kind of tiptoed
through

12 the --

13 A. No.

14 Q. You just walked straight through
it?

15 A. I stepped over it.

16 Q. All right. Okay. And how far
did you

17 proceed to where you could look and you could see
that

18 the garage door was closed?

19 A. Probably to the end of that
island in

20 the kitchen.

21 Q. Okay. Now, when you walked into
the

22 room -- well, strike that. After you had looked and
you

23 saw that the garage door was closed, you came on
back,

24 did you?

25 A. Yes.

1 Q. That couldn't have taken a great
deal

2 of time, I suspect?

3 A. No.

4 Q. Okay. And, did you ever tell
Darlie

5 to sit down?

6 A. Yes.

7 Q. Okay. And where was that in the
8 sequence of events, was that early on?

9 A. That was early on.

10 Q. Okay. So you told her -- you
asked

11 her where the suspect was and then you told her to
sit

12 down?

13 A. Right.

14 Q. All right. Did she sit down?

15 A. She did.

16 Q. Okay. All right. And was it
from her

17 sitting down position that you questioned her?

18 A. Yes.

19 Q. Okay. And I take it that you -
- Now,

20 speed is important in this type of situation, is

it not?

21 A. Yes.

22 Q. So, you come in, and the first
thing

23 you say to her is "Where's the suspect? Where's
the guy

24 that did this?" Or words to that effect.

25 A. I asked her who had done it.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Okay. And she points to the
garage
2 and says that he's in the garage?
3 A. Yes.
4 Q. And, at that time did you tell
her,
5 "Well, tend to the kid"?
6 A. Yes.
7 Q. The child here?
8 A. Yes.
9 Q. You did?
10 A. Yes.
11 Q. All right. You had stepped over
him
12 on the way in, had you not?
13 A. His feet.
14 Q. You had stepped over him. You
hadn't
15 walked around him. You stepped over him, didn't
you?
16 A. His feet, yes, sir.
17 Q. Yes, sir. Okay. And so you
said,
18 "Tend to the child, and I'll look for the assailant"?
19 A. I told her to tend to the child,

yes.

20 Q. Okay. And then you went to this
area

21 right here. Right?

22 A. Right.

23 Q. And that couldn't have taken more
than

24 that long, could it? I mean, basically.

25 A. It was pretty -- it didn't take
very

1 long.

2 Q. I mean, 5 seconds, 10 seconds
outside?

3 A. Could have been.

4 Q. All right. And then you began to
5 question her about what happened?

6 A. I believe so.

7 Q. Did she stay in that seated
position?

8 A. No. She stood up before I went
into

9 the kitchen. She sat down for a second, then she
stood

10 back up.

11 Q. Oh, now she stood right back up
after

12 you -- you told her to sit down, and she sat down.

And

13 then she sat (sic) right back up?

14 A. Yes.

15 Q. I mean stood right back up?

16 A. Stood right up.

17 Q. Okay. Well, did you -- well, why
did

18 you tell her to sit down?

19 A. Because I saw the blood on the
front
20 of her T-shirt. I didn't know if it was coming from
her
21 or what. I know the more she moves around, the more
22 blood she loses.

23 Q. That's an absolute fact, isn't
it?

24 The more you move, the more you will bleed; isn't
that
25 right?

1 A. That's what I thought.

2 Q. And that's why a lot of times
they'll

3 tell someone who's been injured, who's been cut or
shot,

4 or whatever, to sit down, or lay down, and then it
slows

5 down the bleeding, doesn't it?

6 A. Yes.

7 Q. You are trained in first aid,
aren't

8 you?

9 A. Yes.

10 Q. Okay. You could have
administered

11 help to this child, couldn't you?

12 A. Not under those circumstances.

13 Q. Okay. Just out of curiosity,
what

14 would you have done for him, if you had been able to
make

15 it to the garage door, and say not just look at it -
- but

16 do you know whether this door was locked or not?

17 A. I didn't know at the time.

18 Q. Do you know whether it had a lock
on

19 it?

20 A. I believe it did.

21 Q. Anything to prevent you, from
going in

22 there, if in fact you're going to take this tact,
that

23 you're going to retreat behind the lines until help

24 arrives. Anything to prevent you from locking that
door?

25 A. Me, from locking it?

1 Q. Yeah.

2 A. I don't know. I didn't attempt
to do
3 that.

4 Q. Well, I mean, any reason you
didn't?

5 I mean, you just didn't think of it.

6 A. Well, no, I didn't want to do
that.

7 Q. Oh, you thought of it and didn't
want
8 to -- decided not to.

9 A. No, I didn't think of it. That's
just
10 not something that went through my mind, to go lock
the
11 door.

12 Q. Well, you didn't want to stick
your
13 nose out in the garage because you thought somebody
with
14 a knife or gun might be there. Right?

15 A. I didn't want to go barging in
the
16 garage. Right.

17 Q. Okay. But you didn't think the
lock
18 would secure the -- if your point was, I guess,
maybe I'm
19 missing the point. But if the idea is to secure the
20 scene, and you don't want to go into the garage
until
21 help arrives, why not just lock the garage door?

22 A. I just didn't want to go that far
away
23 from them.

24 Q. Oh, you didn't want to leave
them.
25 What were you doing for them?

1 A. Well, I didn't know if the guy
was in
2 the garage for sure or not. I knew he was still in
the
3 house. She thought he was in the garage.

4 Q. Well, you thought you might have
to
5 cover the living room, the entry and the dining room
and
6 the nook. Is that what you're saying?

7 A. He could have been anywhere.

8 Q. I know. But these places were, I
9 mean, you could just turn around, turn your head and
10 search this area, couldn't you?

11 A. I could see the kitchen, yeah.

12 Q. You could see there wasn't
anybody in

13 the kitchen except you, couldn't you?

14 A. Right.

15 Q. But, I mean, like I said, if your
16 point was to secure the garage, or secure yourself
from

17 the garage, why not just lock the door and go back
and

18 start helping everybody?

19 A. I just didn't do it.

20 Q. Okay. All right. But -- so it's
your

21 story, Officer Waddell, that the first thing -- you
saw

22 Darlie and asked where the assailant was, and you
checked

23 to see if the garage door was closed, and then you
went

24 back and began questioning her?

25 A. I didn't go back and question her.
I

1 told her to help her boy.

2 Q. You told her to help her boy, and
your

3 story is she didn't?

4 A. Right.

5 Q. And you didn't?

6 A. Right.

7 Q. And, Darin had his hands full with
the

8 other child?

9 A. Right.

10 Q. Is that right?

11 A. Yes, sir.

12 Q. Okay. So what did you do then?

13 A. She began to tell me how she got
into

14 a fight with him at the end of the bar.

15 Q. Okay. And, is she still on the
phone?

16 A. I'm not sure at what point when
she

17 put the phone down. I don't know if she was or
not.

18 Q. Okay. But is this fair to say
that

19 this would have been within 30 seconds of the time
that

20 you entered?

21 A. It's probably close.

22 Q. Close?

23 A. Yes.

24 Q. Let's say within 30 seconds of
25 Waddell's entry, he begins to -- do we say
question or do

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1 we say -- let's just say obtain information
regarding

2 call. Is that fair to say?

3 A. I believe I said that she began
to

4 tell me about the assault.

5 Q. Well, doesn't that -- all
right.

6 "Darlie began telling of assault."

7 Again, all conversations with
Darlie

8 are prior to Walling's arrival?

9 A. Yes, sir.

10 Q. Okay. Waddell doesn't know if
Darlie

11 is still on phone. Fair enough?

12 A. Yes, sir.

13 Q. Okay. So, are you taking
notes?

14 A. At this time?

15 Q. Um-hum (Counsel nodding head
16 affirmatively.)

17 A. No.

18 Q. Not taking any notes?

19 A. No.

20 Q. Don't you carry a whip-out
book?

21 A. Yes.

22 Q. Did you have your -- tell the
jury

23 what you -- do you have a whip-out book with you?

24 A. I do.

25 Q. Would you show them what a
whip-out

Reporter Sandra M. Halsey, CSR, Official Court

1 book is?

2 A. A whip-out book is just a
little --

3 Q. Can you show them? Take it out
of
4 your pocket and show them?

5 A. No.

6 Q. Oh, you don't have it.

7 A. I have a whip-out book, but
it's --

8 Q. You left it in the car?

9 A. Well, no, I have it with me.

10 Q. With you right there?

11 A. Yes, sir.

12 Q. Well, just show them.

13 A. Well, it's a small little --

14 Q. Is there some reason you don't
want to
15 show them your whip-out book?

16 A. Well, there's nothing in my whip-
out
17 book that needs -- it's irrelevant to this case.

18 Q. Well, I'm not going to ask you to
read
19 it to them, I just asked -- is there some reason you

20 don't want to show them that it's just a little
spiral

21 book, isn't it?

22 A. Well, that's another thing we were
23 taught too also, is just --

24 Q. Never show anybody your whip-out

book?

25 A. No. Never show a defense
attorney.

1 Q. Okay. I'll tell you, I won't
look, if
2 you'll just show the jury what a whip-out book is.
3 A. A small --
4 Q. No, no, just take yours out and
show
5 it to them, Officer Waddell, and I won't look.
6 A. Okay. (Witness complies.)
7 Q. Now, you had that book with you
--
8 that wasn't so hard, was it?
9 A. I had a book with me, yes, sir.
10 Q. All right. Not that one?
11 A. Right.
12 Q. Right. But now, you're talking
to
13 her, and she's giving you information of the
assault.
14 A. Right.
15 Q. And you don't take any notes?
16 A. Not at the time. I've got my
gun in
17 one hand. And, I'm trying to talk on the police
radio
18 too and call for help.

19 Q. Oh, now you've got a radio in
the

20 other hand?

21 A. Off and on. I've got it in a
22 holder --

23 Q. Okay.

24 A. -- and every once in a while I
have to
25 pick it up and tell them --

1 Q. Send reinforcements?

2 A. I called for -- I told them we
needed

3 an ambulance, and we needed crime scene personnel,
and

4 that I needed some more help out here.

5 Q. All right. Okay. So you made
that

6 call. And as a matter of fact, the first notes that
you

7 made, were when you got back to the station, weren't
8 they?

9 A. Well --

10 Q. Is that fair to say?

11 A. I believe --

12 Q. That's fair to say, isn't it?

13 A. No, I believe I made some before
then.

14 Q. Oh, you believe you did?

15 A. Yes, sir.

16 Q. Is that a kind of a definite,
maybe?

17 A. Well, I did make some before
then.

18 Q. Oh, you did make some notes. Do

you

19 still have those notes?

20 A. I don't have them, no.

21 Q. Okay. Do you know where they
are?

22 A. No, sir, I don't.

23 Q. Don't know where they are?

24 A. No, sir.

25 Q. Did you make those notes in one
of

1 these whip-out books?

2 A. Yes.

3 Q. But not that one?

4 A. Not this one.

5 Q. So you've lost the notes?

6 A. No, I just don't know where they
7 are -- I don't have them with me. I believe a copy
was

8 given to Sergeant Walling.

9 Q. Okay. So, what we're relying on
now,

10 is what you can retrieve, I take it, from the halls
of
11 your memory?

12 A. Yes.

13 Q. Okay. And you're telling us now,
that

14 within 30 seconds of Waddell's entry, he -- Darlie,
began

15 telling of the assault. And, I need to add in here,

16 Waddell looked at garage door, but didn't think to
check

17 if it was locked? Was that your --

18 A. I didn't check it, no.

19 Q. You said you didn't think to

check?

20 A. Yeah.

21 Q. Okay. Turned out it wasn't

locked,

22 was it?

23 A. I'm sorry?

24 Q. It was not locked, was it?

25 A. I don't think it was.

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1 Q. You know it wasn't, don't you?

2 A. I didn't open it. I don't know
if it

3 was locked or not.

4 Q. Well, weren't you with Sergeant
5 Walling when he opened it?

6 A. I was behind him, yes.

7 Q. Well, I mean, couldn't you tell
8 whether it was locked or not when he opened it?

9 A. I don't know what type of lock
was
10 even on it. If it had a push-button lock, then it
11 opened, and it unlocked when you turned the knob. I
12 don't know what kind it had on it.

13 Q. Okay. Did you see blood on the
door
14 to the garage?

15 A. I didn't see any.

16 Q. All right. Are you saying there
was
17 no blood?

18 A. No, I'm saying I didn't see any.

19 Q. Okay. A well-trained eye like
yours

20 would have seen blood had it been on the door,

wouldn't

21 you? Isn't that fair to say?

22 A. Not necessarily.

23 Q. Okay. You're not trained to look
for

24 blood?

25 A. At that time I'm looking for a

1 suspect.

2 Q. All right. Did you see any blood
in
3 the utility room?

4 A. I don't recall seeing any.

5 Q. All right. Now, you talked with -
-

6 you talked with Darlie, and got the information that
7 you've told the prosecutor about; is that right?

8 A. Yes.

9 Q. And didn't enter it into your
notes at
10 that time? I'm not fussing with you, I'm just -- is
that
11 right?

12

13 MR. GREG DAVIS: I'm sorry, I'm
going

14 to object to all these sidebars, about him not
fussing,
15 or whatever he's doing.

16 THE COURT: I think he's just
17 commenting.

18 MR. DOUGLAS MULDER: I'm just
19 trying to coax an answer from him. I'm just -- I'm
20 just --

21 THE COURT: I understand.

22 MR. GREG DAVIS: Just ask the
23 questions and let him give the answers.

24 THE COURT: Gentlemen, please,
let's
25 stop the bickering back and forth. Just ask the

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1 questions. I think Mr. Mulder was just asking a
2 question. Let's go on.

3 MR. DOUGLAS MULDER: I asked the
4 question, would you ask him to answer?

5 THE WITNESS: What's your
question?

6 THE COURT: Re-ask the question.

7

8 BY MR. DOUGLAS MULDER:

9 Q. I said: At this time you didn't
make

10 any notes in your book, at the time then, and you
11 explained that you had your hands full with a radio
in

12 one hand, calling for help from time to time, and you
had

13 your gun out in the other hand, in case the assailant
14 came from the garage?

15 A. Right.

16 Q. Okay. So you didn't make any
notes at

17 that time, did you?

18 A. No.

19 Q. Okay. And, how long did you
continue

20 to question her there, for a long time, or a short

time

21 or --

22 A. The only questions I asked her was

if

23 she had a description of the suspect and who would

have

24 done it.

25 Q. And that's all you asked her, fair

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1 enough?

2 A. All that I can remember right now
3 asking her.

4 Q. But we don't know where the book
is
5 and we're relying on your memory, aren't we?

6 A. Yes.

7 Q. All right. Matter of fact, she
told
8 you she didn't know whether the suspect was white or
9 black, didn't she?

10 A. Yes. At one point she did.

11 Q. Okay. Now, did you talk to her,
or
12 question Darin Routier at that time?

13 A. No. I asked him if he knew who
would
14 have done something like that.

15 Q. Okay. And how long did you talk
to
16 him?

17 A. I just asked him that question
from
18 across the room and that was about it.

19 Q. When you put up your -- well, what

20 would you have done for that child at that time?

21 A. The only thing I know to do would

have

22 been to apply pressure on his wounds to try to stop

the

23 bleeding.

24 Q. Okay. And how would you have done

25 that?

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1 A. With a towel or something.

2 Q. With a towel. And it's your story
3 here today that you asked her to get a rag; is that
4 right?

5 A. Yes.

6 Q. A rag or a towel?

7 A. I think I asked her to get a
towel.

8 Q. You think you asked her to get a
9 towel. Okay. And she didn't do it?

10 A. No.

11 Q. Okay. Walling got there about
that
12 time?

13 A. Pretty close.

14 Q. Was she standing up or sitting
down
15 when Walling arrived?

16 A. I believe she was standing up.

17 Q. Okay. And then you told her to
sit
18 down again?

19 A. Yes.

20 Q. Okay. When she stood up, did you
tell
21 her to sit back down?

22 A. I believe I did.

23 Q. Okay. So, you -- it's your story

-- I

24 want to make sure I get this straight now. It's your
25 story that she was standing here, you told her to sit

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1 down. She was standing in this area, you told her to
sit

2 down and she sat down, and you ran up here and back.

3 Right?

4 A. I didn't run up there.

5 Q. Did you --

6 A. I walked up there.

7 Q. Well, all right.

8 A. I walked.

9 Q. Slow or fast or?

10 A. Well, I didn't walk real fast

because

11 I was trying to look as I went.

12 Q. Okay. But it was a well-lit area

13 though, wasn't it?

14 A. Right.

15 Q. I mean, you were trying to avoid

the

16 glass as you went?

17 A. I saw the glass as I was looking.

I

18 didn't know if there was anybody hiding on the other

side

19 of the island. I was looking for a suspect anywhere.

20 Q. Okay. And, you didn't see

anything --

21 you were asked, I think if you saw -- let me see,
were

22 you asked if you saw anything in here that would
have

23 impeded your walk between this den area and the
sink?

24 Were you asked that?

25 A. Today, I don't think so.

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1 Q. No, at one point.

2 A. At one point I was.

3 Q. And you said there was nothing
that
4 would have impeded your walk there?

5 A. No, that's not what I said.

6 Q. Okay. Let me see if I can find
out
7 what you said.

8 You were asked if there were any
--
9 you've seen the photographs since then, haven't you?
In
10 your preparation, you've seen a vacuum cleaner on
the
11 floor, haven't you?

12 A. Yes.

13 Q. Now, were you asked were there
any
14 large objects lying on the floor, and did you
answer, "I
15 didn't see any --" talking about the kitchen?

16 A. Yes.

17 Q. Did you answer that?

18 A. That sounds right, yes.

19 Q. Okay. Nothing you could trip
over if
20 you were walking to the sink and you said you didn't
see
21 any; is that right?
22 A. Well, I didn't see anything.
23 Q. All right. So, you didn't see
any
24 vacuum cleaner at that time. You didn't see any
vacuum
25 cleaner at the time you're talking about now, in
this

1 area, did you?

2 A. No.

3 Q. Okay. Now, like you just told
the

4 jury, you were concerned with the other side of the
5 island there. This is the island you're talking
about?

6 A. Yes, sir.

7 Q. That somebody might have been
there.

8 And it could have, perhaps, endangered your life or
the

9 lives of the people there. Right?

10 A. Yes, sir.

11 Q.
Okay. Is that fair? I
tried to write
12 down exactly what
you said.

13 A. I
can't read all of it.

14 Q.
Okay.

15 A.
Is that "Did not see"?

16 Q.

Um-hum. (Counsel
nodding head
17 affirmatively).
That's "D" and "N." I'm
sorry.

18 A.

Yes, sir.

19 Q.

Okay. Did you go into
the bathroom?

20 A.

At one point I did.

21 Q.

Okay. What was your
purpose in going

22 in there?

23 A.

That's when we were
checking the

24 house.

25 Q.

Okay. And you wanted to
check and see

1 if anybody was in
there?

2 A.
Yes.

3 Q. Did you examine the bathroom sink?

4 A. I didn't, no.

5 Q. Did you just eyeball it just to
see if

6 anybody had run any water in it, or anything like
that?

7 A. I just scanned over the bathroom.

8 Q. Did you look at the sink or not?

9 A. I didn't pay any particular
attention

10 to the sink, no.

11 Q. Okay. All right. Now, Officer

12 Waddell, was Sergeant Walling there when you
had a

13 conversation with Darin about the nurse across
the

14 street?

15 A. No.

16 Q. That was before Sergeant Walling
had

17 arrived?

18 A. Yes.

19 Q. But Darin was there in the den, or
20 in
21 this room with you and Darlie, when Sergeant Walling
22 arrived, was he?

23 A. I think he was.

24 Q. At any rate, the conversation that
25 you
26 had with Darin, was it in the family room when you
27 asked
28 about help?

1 A. I don't recall where we were. I
just

2 remember him saying that a nurse lived across the
street.

3 Q. Yeah, but it was chaotic, wasn't
it?

4 I mean, it is fair to say?

5 A. Somewhat.

6 Q. Not somewhat. It was chaotic,
wasn't

7 it?

8 A. Well, what do you mean by chaotic?

9 Q. Well, I mean, you had a woman who
was

10 hysterical, wasn't she?

11 A. She was upset.

12 Q. Was she just mildly upset?

13 A. She was screaming and yelling.

14 Q. Oh, okay. You had described her
as

15 hysterical. Do you still stick with that
description?

16 A. My description of hysterical is
I

17 believe she was screaming and yelling.

18 Q. Okay. So, I mean, things were
not

19 calm, like in this courtroom?

20 A. No.

21 Q. All right. And, she's yelling at
you,

22 to help the child, is she not?

23 A. No.

24 Q. Okay. Did Darin tell you to help
the
25 child?

1 A. Darin was yelling a lot stuff at
me.

2 He was yelling for me to get help.

3 Q. All right. And were you -- in
all

4 fairness, were you not overwhelmed by the situation
and

5 just kind of stood there?

6 A. No.

7 Q. In all fairness?

8 A. No.

9 Q. But you did nothing to help that
10 child?

11 A. No.

12 Q. All right. And you -- now, for
that

13 period of time that you asked those questions of
Darlie,

14 was Darin attempting to help the child, the child
that

15 y'all have referred to as the second child?

16 A. Yes.

17 Q. For that entire time?

18 A. Yes.

19 Q. And in the meantime he's yelling

at

20 you to get help?

21 A. Yes.

22 Q. Did he tell you, "Don't just
stand

23 there, get some help"?

24 A. I don't remember him saying that.

25 Q. Well, tell the jury what he was

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1 saying.

2 A. He was yelling at me to get some
help

3 and get someone out there.

4 Q. Well, did he yell at you? How
loud

5 was he speaking?

6 A. He was yelling at me.

7 Q. He was excited, wasn't he?

8 A. Yes.

9 Q. How was he dressed?

10 A. Blue jeans, no shirt, no shoes.

11 Q. All right. Barefooted, no shirt
and a

12 pair of jeans on?

13 A. Right.

14 Q. Well, how many times did he yell
at

15 you to get help?

16 A. I don't know. I don't remember.

17 Q. Did he appear to be excited?

18 A. He appeared to be, yes.

19 Q. Now, were you excited?

20 A. I wasn't excited. I don't know
what

21 you mean by "was I excited."

22 Q. Well, was your heart beating fast?

23 Were you nervous? Were you scared?

24 A. Yes.

25 Q. Okay. Now, once Officer Walling

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1 arrived, you told him briefly what happened, didn't
you?

2 A. Yes.

3 Q. He didn't question Darlie, did he?

4 A. No.

5 Q. And, he didn't question Darin, did
he?

6 A. No.

7 Q. Okay. So, Walling just talked to
you;

8 is that right?

9 A. When he first came in, yes.

10 Q. Well, you never did see him talk
to

11 Darin or Darlie, did you?

12 A. I saw him talk to Darin.

13 Q. All right. How long?

14 A. I don't know. It was out in the
front

15 yard.

16 Q. Okay. Could you hear what was
being

17 said?

18 A. No.

19 Q. Okay. "Walling came in, talked

only

20 to Waddell. Didn't talk to Darlie or Darin. Later
21 talked to Darin in front yard. Waddell couldn't
hear."

22 Is that fair?

23 A. Well, are you saying that, or
24 suggesting that Walling didn't talk to the defendant
at
25 all? No, he talked to her at one time out there. I

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1 don't know when.

2 Q. All right. When did he -- when
3 Walling came in -- let me make that when Walling
first

4 came in. All right?

5 A. All right.

6 Q. And, the only time that he talked
to

7 Darlie, to your knowledge, was when?

8 A. I know he talked to her when she
was

9 on the front porch.

10 Q. All right. Could you hear what
was

11 being said?

12 A. No.

13 Q. "Waddell couldn't hear what was
being

14 said." Okay. Fair enough?

15 A. Yes.

16 Q. All right. And that's the only
time

17 you saw him talk to Darlie. Right?

18 A. That's the only time I saw him.

19 Q. Okay. Now, Waddell (sic) came in

and

20 the two of you -- now by that time you've been there

two

21 or three, or at the maximum of four minutes; is that

22 right?

23 A. It could have been five or six.

It

24 was a short period of time.

25 Q. Closer back to the time when this

1 happened, you said it was two or three minutes. Is
there

2 any reason that your memory has --

3 A. It took me two to three minutes to
get

4 there.

5 Q. I understand that. And then it
6 took -- you were there for a couple or three minutes
7 before Walling got there; is that right?

8 A. There were several minutes. I
didn't

9 have a stopwatch to look and see.

10 Q. I understand. Now, while Darlie
was

11 on the phone, was she able to stop and contain
herself

12 and talk with you?

13 A. She talked to me, yes.

14 Q. Okay. While she was on the phone?

15 A. Yes.

16 Q. Okay. So, we should hear then,
and we

17 will hear conversations where she's directing herself
to,

18 as you rightly assume, the 911 operator, and talking

to

19 you as well?

20 A. Yes.

21 Q. And Darin's talking to you, and
you're

22 talking to her, and the dispatcher is talking to

23 somebody; isn't that right?

24 A. Yes.

25 Q. Okay. Are you talking to the

1 dispatcher as well?

2 A. Over my radio, yes.

3 Q. All right. So, you've got -- you
know

4 that she has at least two conversations going.
Right?

5 A. Right.

6 Q. And you've got -- and you're
talking

7 to the dispatcher on the radio, or dispatcher -- you
got

8 the gun in your hand, dispatcher on the radio like
this,

9 or like this. (demonstrating) You've got your
radio on

10 your left side?

11 A. Yes, sir.

12 Q. Okay. You're talking to the
13 dispatcher, and you're talking to Darlie and you're
14 talking to Darin. Right? The dispatcher -- is that
15 right?

16 A. Yes.

17 Q. Okay. The 911 operator is talking
to

18 Darlie, who is also talking to you. Right?

19 A. Right.

20 Q. Did you hear that on the 911 tape?

21 A. I heard some of it, yes.

22 Q. Okay. And does it stand to
reason, to

23 you, that if the 911 tape catches her, her -- well,
let

24 me back up a minute. You're comfortable with this,
25 aren't you?

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1 A. Yes.

2 Q. And, when you listen to the 911
tape,

3 do you hear Darlie answering your questions?

4 A. Yes.

5 Q. Okay. And do you hear her also
6 respond to the 911 operator?

7 A. I hear her telling me about the
knife.

8 Q. Okay. Does she volunteer
information

9 about picking up the knife?

10 A. Yes.

11 Q. Okay. Is it in response to
anyone's

12 question or direction?

13 A. No.

14 Q. Okay. Let me read something to
you.

15 And see if you recall this:

16 Officer Waddell, was it pretty
much

17 your assessment after you had been there for a
moment or

18 so, that the youngster that Darin was attempting to
help

19 was beyond help?

20 A. Yes.

21 Q. And that the other little boy, in
all

22 likelihood, was beyond help as well?

23 A. It appeared that way.

24 Q. Okay. You don't know what they
had
25 done prior to the time that you got there, do you?

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1 A. No.

2 Q. You don't know whether they had
3 attempted to administer mouth-to-mouth
resuscitation or

4 CPR on the kids, do you?

5 A. Not before I got there, no.

6 Q. Okay. As a parent yourself,
this

7 would be a traumatic event for a parent, wouldn't
it?

8 A. Yes.

9 Q. And people handle tragedy in
different

10 fashions, don't they? You know that as a police
officer,

11 don't you?

12 A. Yes.

13 Q. Okay. Now, were you there, and
did

14 you hear on the phone: "Hold on, baby, hold on,
baby,

15 hold on." And the 911 operator saying, "Calm down.
Talk

16 to me."

17 "I'm talking to my babies,
they're

18 dying."

19 Did you hear anything like that?

20 A. I recall hearing something.

21 Q. "Hold on, honey. Hold on, hold
on,

22 hold on."

23 A. She could have said that, yes.

24 Q. Well, she did express some

concern

25 then, apparently?

1 A. Right.

2 Q. Okay. "Stabbed my babies. My
babies

3 are dying. They're dead. Oh my God. Oh my God."

4 "Okay. Stay on the phone with
me."

5 Did you hear that?

6 A. I heard her say that, yes.

7 Q. Well, did you -- when they played
the

8 911 tape for you, did they -- did you hear the 911

9 operator say, "Stay on the phone with me"?

10 A. I don't doubt that she said it.

I

11 don't recall hearing it.

12 Q. Well, that's what they're trained
to

13 do -- well, you don't know what their training is?

14 A. Right.

15 Q. Okay. "Devin, no, oh my God. Oh
my

16 God."

17 Did you hear her say, "I'm scared
all

18 right. Y'all look out in the garage. Look out" --

she

19 said "y'all." Were there two of you there?

20 A. No, sir.

21 Q. But she's not saying you. She's
22 saying, "Y'all look out in the garage"?

23 A. Myself and Darin were in the
living

24 room.

25 Q. Okay. "Y'all look out in the
garage.

1 Look out in the garage. They left a knife laying on
2 the --"

3 And the 911 operator says,
"There's a

4 knife? Don't touch anything."

5 Did you hear that?

6 A. I didn't hear that.

7 Q. And she says, "I've already
touched it

8 and picked it up."

9 Well, that sounds like it's in
10 response to the 911 operator, who tells her, "Don't
touch

11 anything."

12 And she says, "I already touched
the

13 knife. I picked it up."

14 A. I don't know what she told her.

15 Q. I mean, does that make sense to
you?

16 A. That she touched it, or does what
make

17 sense?

18 Q. Well, we've already agreed that
it's

19 human nature for people to touch evidence at the
scene,

20 isn't it?

21 A. Right.

22 Q. And that's why the 911 officer --

23 that's why police officers tell them, "Don't touch

24 anything."

25 A. Yes.

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1 Q. Isn't that what you tell people?
2 A. Yes.
3 Q. You even put up plastic banners
around
4 there, tape around there, don't you?
5 A. Yes, sir.
6 Q. Yellow tape that says "crime
scene"?
7 A. Yes, sir.
8 Q. "Don't enter."
9 A. Yes, sir.
10 Q. Well, but you heard her tell you
on
11 here, the knife -- you asked her something about
the
12 knife. She says, "The knife was laying over
there, I
13 already picked it up."
14 A. I didn't --
15 Q. She tells you that?
16 A. I didn't ask her about the
knife.
17 Q. Did you see the knife there?
18 A. I saw the knife.
19 Q. Did you point to the knife

there?

20 A. I didn't point to it, I saw
it.

21 Q. Are you sure you didn't point to
that

22 knife or ask her about that knife?

23 A. I'm sure.

24 Q. But now -- now, did you -- are you
25 telling me that you did or did not hear your voice on
the

1 911 tape?

2 A. I did not hear my voice on the 911
3 tape.

4 Q. You couldn't distinguish your
voice on

5 the 911 tape?

6 A. I couldn't, no.

7 Q. Did you try to?

8 A. I tried.

9 Q. And that's why you listened to
it?

10 A. Yes.

11 Q. You know, often times, has it
been

12 your experience that often times, perhaps, the
person

13 talking isn't the best one to recognize their
voice?

14 A. Say that again.

15 Q. Well, you know, a lot of times,
you

16 know, when you hear yourself on a tape recording you
say,

17 "That's not me." Have you done that?

18 A. Yes.

19 Q. And you're just playing it back
and
20 you say, "that doesn't sound like me." I mean, a
lot of
21 times we don't know what we sound like, do we?

22 A. Yes.

23 Q. And at times we probably aren't
the
24 best ones to judge whether or not that's our voice,
in
25 fact, are we?

1 A. Right.

2

3 MR. DOUGLAS MULDER: Judge, do you
4 want to recess at 11:30? I'm not finished here yet,
and

5 I don't want to --

6 THE COURT: Well, can I see both
sides

7 a minute, please. If Mr. Mosty and Mr. Douglas will
come

8 up.

9

10 (Whereupon, a short
11 discussion was held off
12 the record, at the
side

13 of the bench, and
14 outside the hearing

of
15 the jury, after

which

16 time the

proceedings

17 were resumed on

the

18 record as

follows:)

19

20

MR. DOUGLAS MULDER: I want to

mark

21 this and offer it into evidence.

22

23

(Whereupon, the

24

exhibits were

25

marked for

Reporter Sandra M. Halsey, CSR, Official Court

1 identification
2 only, as
Defense
3 exhibit Nos.
4 13-A and 13-B.)
5

6 THE COURT: That will be fine.

7 MR. DOUGLAS MULDER: And I'll

call

8 this Defense Exhibit No. 13.

9 THE COURT: It's 13-A and B.

10 Any objection?

11 MR. GREG DAVIS: No objection.

12 THE COURT: All right.

Defense

13 Exhibit No. 13-A and 13-B are admitted.

14

15 (Whereupon, the items

16 Heretofore mentioned

17 Were received in

evidence

18 As Defense Exhibit No.

13-A

19 and 13-B for all

purposes,

20 After which time, the

21 Proceedings were
resumed

22 As follows:)

23

24 THE COURT: All right.

Well, let's

25 just go on till noon and see where we are.
Discuss it

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1 among yourselves.

2

3

(Whereupon, a short

4

discussion was held

off

5

the record, at the

side

6

of the bench, and

7

outside the hearing

of

8

the jury, after

which

9

time the

proceedings

10

were resumed on

the

11

record as

follows:)

12

13

THE COURT: All right. Ladies

and

14

gentlemen, we are going to recess till 1:15 for

lunch.

15

If you'll be back then.

16

Please don't discuss your

testimony

17 with anybody while you are out there.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. See you
then.

20 All right. If all members of the
21 spectators, if you will remain seated, please, while
the
22 jury leaves. Thank you.

23

24 (Whereupon, a short
25 Recess was taken,

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Court Reporter

19

courtroom, and

the

20

proceedings

were

21

resumed on the record,

22

in open court, in the

23

presence and hearing

24

of the defendant,

25

as follows:)

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1

2

THE COURT: Good afternoon, ladies

and

3

gentlemen. Be seated, please. Let the record
reflect

4

that all parties of the trial are present and the
jury is

5

seated.

6

All right. Mr. Mulder, you may

7

resume.

8

MR. DOUGLAS MULDER: Yes, sir.

9

THE COURT: And, Mr. Mulder, the

10

jurors have asked that you turn the easel, because
the

11

last four can't see it unless it's turned towards
them,

12

if you would do so, please.

13

MR. DOUGLAS MULDER: Is that all

14

right?

15

THE JURORS: Yes.

16

MR. DOUGLAS MULDER: All right.

17

18

19

CROSS EXAMINATION (Resumed)

20

21

BY MR. DOUGLAS MULDER:

22 Q. Do you understand, Officer
Waddell,

23 that you're still under oath?

24 A. Yes, sir.

25 Q. Incidentally, have you talked
with the

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1 prosecutors since we recessed?

2 A. I talked to them, yes.

3 Q. You talked to them?

4 A. Yes, sir.

5 Q. Did you talk to them about the
case?

6 A. No.

7 Q. You just talked to them?

8 A. Yes, sir.

9 Q. Did you talk to any of their
10 investigators?

11 A. No, sir.

12 Q. Okay. You just kind of passed
the
13 time of day with them?

14 A. Yes, sir.

15 Q. All right. About how long did
that
16 take?

17 A. A minute or so.

18 Q. Okay. Now, I believe you said
when
19 you and -- I mean, was there any reason for you to
talk
20 to them after you testified here?

21 A. No, sir.

22

performance or

23 anything?

24

25

case.

Q. Did they critique your

A. They told me I did good.

Q. I thought you didn't talk about

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1 A. Well, that wasn't about the
case, they
2 just told me -- made a comment.

3 Q. Okay. Well, at any rate, we
want you
4 back in the same frame of mind as you were before
the
5 recess.

6 Now, when your sergeant got
there,
7 when Sergeant Walling got there, y'all went back
into the
8 utility room, didn't you?

9 A. Yes, sir.

10 Q. And you were -- did you think
the
11 assailant might still be back there?

12 A. I thought he could be, yes.

13 Q. It had only been a couple of
minutes.

14 A. Yes.

15 Q. All right. So, you thought that
he
16 still might be cornered back there in the garage;
is that

17 right?

18 A. I thought he could have been,
yes.

19 Q. Okay. So, I guess you had your
guns

20 drawn?

21 A. Yes, sir.

22 Q. And the two of you went back
through

23 the utility room?

24 A. Yes, sir.

25 Q. Is that right?

1 A. Yes, sir.

2 Q. Into the garage?

3 A. I didn't go all the way into the

4 garage, no. Sergeant Walling did.

5 Q. You just -- you covered the door

to

6 make sure you weren't attacked from back here?

7 A. No, when he opened up the garage

door,

8 he went to the left and I looked to the right.

9 Q. You went in here to the right?

10 A. I looked in there from the

doorway.

11 Q. Oh, you just looked in?

12 A. I just looked in. Sergeant

Walling

13 took one step in, and he looked to the left and saw

the

14 window.

15 Q. All right. He saw a window?

16 A. He saw the window with the cut

screen.

17 Q. I mean, at that time, of course,

you

18 didn't know what he saw?

19 A. Yeah, he told me.

20 Q. Okay. But you didn't see what
he saw,

21 I guess?

22 A. I didn't see it, no.

23 Q. All right. Did you stick your
head in

24 then and look?

25 A. No.

1 Q. You never did look?

2 A. Not at that time, I didn't.

3 Q. Okay. So, did he, Sergeant

Walling,

4 go on into the garage?

5 A. No.

6 Q. Okay. The garage had a good bit
of

7 stuff in it, didn't it?

8 A. Yes, it did.

9 Q. But he was able to -- did he turn
on

10 the light?

11 A. No, we used flashlights.

12 Q. You know, most garages that I've
13 seen -- I don't know about this one, but they
generally

14 have a light, either on this side, or on this side,
and

15 you can turn on a light in the garage. Does that
have a

16 light?

17 A. I don't know if it did or not.

18 Q. Okay. So you just shined
flashlights

19 in there?

20 A. Yes, sir.

21 Q. All right. Now, you both had a -

- I

22 assume you had a bullet-proof vest on, didn't you?

23 A. Yes, sir.

24 Q. Okay. And I assume Sergeant

Walling

25 did too?

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1 A. I assume he did too.

2 Q. I mean, they're issued to you.

You're

3 supposed to wear them, aren't you?

4 A. It's not mandatory. I know he
has one

5 that he usually wears.

6 Q. At any rate, y'all peeked into
the

7 garage and then came on back; is that right?

8 A. Yes, sir.

9 Q. Did you come back the same way
that
10 you went in through the kitchen?

11 A. I did.

12 Q. How did Sergeant Walling come?

13 A. I didn't see him when he left,
but I

14 think he went through the nook into the dining room
and

15 back out the front door.

16 Q. He came back out this way?

17 A. Yes, sir.

18 Q. Okay. So, he went in this way
and he

19 came out this way?

20 A. Yes, sir.

21 Q. Okay. How did you exit?

22 A. The same way I came in.

23 Q. So, you went in this way and came
back

24 out this way. Right? (Indicating on diagram).

25 A. Yes, sir.

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1 Q. And then rendezvoused with him in
the

2 entry of the dining room?

3 A. Rendezvoused with who?

4 Q. Met with Sergeant Walling.

5 A. No.

6 Q. No?

7 A. No.

8 Q. Okay. Well, I don't --

Sergeant

9 Walling comes through here?

10 A. Yes, sir.

11 Q. All right. And what did you do
then?

12 A. I go back to the family room.

13 Q. You go back to the family
room?

14 A. Yes, sir.

15 Q. All right. And, do the
paramedics

16 come in?

17 A. Yes, sir.

18 Q. Okay. And when they come into
a

19 place, they come in, in a hurry, don't they?

20 A. They didn't run in.

21 Q. Well, were they walking fast?

22 A. Not really, they just walked
in.

23 Q. They just walked in
nonchalantly?

24 A. Well, from what I -- I saw them
walk
25 from the doorway to the family room.

1 Q. Okay.

2 A. I don't know if they ran to the
front

3 door from their ambulance or not.

4 Q. Okay. All right. So, you saw
them

5 come in. And, at that time was Darlie still here?

6 A. Yes.

7 Q. Okay. And was Darin, where?

8 A. I think, when the paramedics came
in,

9 I told both of them to sit down by the sliding glass
10 door.

11 Q. At that time, I take it, you
hadn't

12 told them to go get help from the neighbor?

13 A. I had already told him that. I
told

14 him that within the first minute or so of me showing
up

15 there.

16 Q. Well, did he go at that time and
get

17 help from the neighbor?

18 A. I don't know if he did or not.

19 Q. Well, now, before lunch you told
us
20 that he stayed in the area with the child until
Walling
21 got there.

22 A. Yes, sir.

23 Q. Has something changed your mind?

24 A. No, sir, it's the same.

25 Q. Okay. So, he didn't leave then?

1 A. Well, I lost sight of him at one
time.

2 Q. Well, I mean, golly, it's a room
that

3 was smaller than this one, wasn't it?

4 A. Right.

5 Q. Are you saying he left and went
some

6 place?

7 A. Yes.

8 Q. Well, now, you're supposedly
guarding

9 the safety, not only of yourself, but these other
people.

10 Wasn't that your main purpose in being there?

11 A. That's one of the reasons, yes.

12 Q. Okay. And you're saying you
lost

13 track of him, you're telling me he just wandered
off?

14 A. I assumed he was going across
the

15 street like he told me he was.

16 Q. All right. Well, did he leave or
not?

17 A. At one point he did. I don't
know at

18 what point that was.

19 Q. Did he ever leave the house?

20 A. I assume that he did.

21 Q. Okay. Did you -- incidentally,
did

22 you and -- when you told him, or permitted him to go
get

23 help from a neighbor, were y'all standing out here
on the

24 porch?

25 A. No, sir.

1 Q. Were you in -- let's see, in the
2 entry, back in the family room?

3 A. Well, I really don't know exactly
4 where I was. I know once I went inside the family
room,

5 the only time I left was to go to the garage with
6 Sergeant Walling, and then to take a peek before he
got
7 there.

8 Q. Okay. Well, then we know -- we
can
9 deduce, can we not, that if you had this conversation
10 with Darin, you had it, if you didn't leave until
Walling
11 got there. And you still didn't leave, except for
the
12 utility room, where you poked your head in, then you
had
13 the conversation somewhere in this area when you were
14 talking with Darin; is that right?

15 A. I'm telling you, I don't remember
16 where I had the conversation with Darin.

17 Q. Yes, sir, I understand. But when
you
18 tell me that once you got into the den area, you

didn't

19 leave until Sergeant Walling got there, I assume, if
in

20 fact you had the conversation with Darin you say you
did,

21 you had it here. Am I missing something?

22 A. Not necessarily.

23 Q. All right. Did you not tell me
that

24 once you got into the family room, the kitchen area,
that

25 you didn't leave?

1 A. Right.

2 Q. I mean, did you leave?

3 A. No. The only time I left, was to
go

4 into the kitchen by the island, when I peeked in the
5 garage, I came back and left when Sergeant Walling
got

6 there.

7 Q. All right. Now, we talked about
Darin

8 yelling at you to get help, haven't we?

9 A. Yes, sir.

10 Q. Okay. And you remember that now?

11 A. Yes, sir.

12 Q. All right. Was it after he yelled
at

13 you to get help, that you yelled back at him to get
help?

14 A. It could have been. I don't
remember

15 the exact time that I told him that if a nurse was
across

16 the street to go get her.

17 Q. Were you in the family room or the
18 kitchen when you had that conversation, to the

best of

19 your knowledge?

20 A. I don't remember.

21 Q. Were you in one room or the
other?

22 A. I don't recall.

23 Q. But we can -- can we at least
be

24 satisfied that you weren't outside when you had

that

25 conversation?

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Reporter

1 A. I'm pretty sure I wasn't
outside.

2 Q. Okay. And was that
conversation

3 before Sergeant Walling arrived?

4 A. Yes, sir.

5 Q. Okay. The conversation with
Darin,

6 regarding the nurse, was before Sergeant Walling
arrived;

7 fair to say?

8 A. I think it was.

9 Q. Okay. Did the nurse come back
with

10 Darin?

11 A. I remember the nurse being there.

I

12 don't know if she came -- she didn't come back with

13 Darin.

14 Q. Do you know if she came -- did

Darin

15 come back into the residence?

16 A. Yes.

17 Q. And how long was he gone, as best

you

18 recall?

19 A. Not very long. I don't know
minutes

20 or whatever, just a few.

21 Q. Okay. Do you know if Darin left
22 before or after Walling arrived?

23 A. I believe it could have been
before.

24 Q. You believe it could have been
before?

25 A. Yes, sir.

1 Q. Do you really know one way or the
2 other?

3 A. I'm not for sure, no.

4 Q. You don't -- there was a lot going
on,
5 wasn't there?

6 A. There was a lot going on.

7 Q. Okay. And, of course, you didn't
take
8 any notes, did you, at that point?

9 A. No. Not at that minute, no.

10 Q. Okay. Is it fair to say that up
to
11 the point that Sergeant Walling arrived, you hadn't
taken
12 any notes, had you?

13 A. No.

14 Q. Okay. All right. Well, Sergeant
15 Walling arrived, and the first thing you did, I
assume,
16 was brief Sergeant Walling on what to expect, or what
the
17 dangers were?

18 A. I told him about the suspect being
in

19 the garage, yes.

20 Q. Okay. So, y'all went to the
garage.

21 How long did that take?

22 A. Not very long.

23 Q. Are you talking about seconds?

24 A. Probably.

25 Q. Okay. The point was that Walling

1 wanted to make sure the scene was secure before the
2 paramedics entered. Wasn't that the purpose?

3 A. Yes.

4 Q. And the paramedics are out here in
a

5 holding pattern, and the idea is to get them in to
render

6 aid just as quick as possible; is that right?

7 A. Yes.

8 Q. So we're talking about a matter of
9 seconds, and that's why once Walling got in, assessed
the

10 situation, cleared the garage, he split through the
11 dining room, because it was the quickest way to get
to

12 the entry and out to the paramedics, wasn't it?

13 A. I guess it was.

14 Q. Well, it makes sense, doesn't it?

15 A. Yes, sir.

16 Q. Okay. And, just as soon as -- you
17 went back in here, and just as soon as he left, the
18 paramedics came in like that, didn't they, the two
of
19 them?

20 A. Very soon after, yes.

21 Q. Okay. We're talking about

seconds,

22 aren't we?

23 A. Yes, sir.

24 Q. All right. Did you and Walling

then

25 search the outside area?

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1 A. No.

2 Q. Did Walling search the outside
area?

3 A. I guess he did, I wasn't with
him.

4 Q. Okay. Once the paramedics came
in,
5 did you then station yourself at the entry.

6 A. When they first came in, no.

7 Q. Did you help them or assist
them?

8 A. I was -- I was in there with the
9 defendant and her husband.

10 Q. Okay. But we've already been
through
11 that. We know that you didn't question her anymore,
or
12 talk to her anymore after Sergeant Walling arrived.
But
13 you were standing in the same room with her?

14 A. Yes, sir.

15 Q. Okay. Did you then leave her and
16 station yourself at the door?

17 A. No, sir.

18 Q. Okay. You had said earlier that
you

19 were at the door, as best you recall, at what time?

20 A. I said approximately 2:40 or 2:45.

21 Q. 2:40 to 2:45. Okay. And how long
did

22 you station yourself at that door?

23 A. Until a little bit after 3:00

o'clock.

24 Q. Okay. And where did you go then?

25 A. Around to the back.

1 Q. And was that with Officer Craig?

2 A. I'm sorry, when he -- after I left
the

3 door, I went with Officer Griffith, the K-9 officer.

4 Q. Okay. And you went around in back
and

5 went wherever you went with the K-9 officer?

6 A. Yes, sir.

7 Q. He was from Garland P.D.?

8 A. Yes, sir.

9 Q. Now, at the time that you were
10 stationed at the door, is it your testimony that no
one,

11 no civilian entered the premises?

12 A. Yes, sir.

13 Q. All right. You're sure about
that?

14 A. Yes, sir.

15 Q. Okay. And certainly, no civilian
had

16 entered the premises prior to the time that you
stationed

17 yourself at the door, had they?

18 A. The nurse.

19 Q. Well, you know, she just came to
the

20 doorway.

21 A. She was in the entryway.

22 Q. Came all the way into the
entryway?

23 A. She was in the entryway when I
came

24 down from upstairs.

25 Q. All right. So, of course, you
don't

1 know if she had been in -- do you know if she had
been in

2 the den area?

3 A. I don't know for a fact, no.

4 Q. Okay. And you don't know what
-- when

5 you went upstairs, I assume that was after the
paramedics

6 arrived?

7 A. Yes.

8 Q. And it was you and Sergeant
Walling

9 that went upstairs?

10 A. Yes.

11 Q. Obviously, you being upstairs,
you

12 don't know what questions Darlie asked the
paramedics, or

13 what information they gave her, or what the
exchange was

14 between Darlie and Darin and the paramedics while
you

15 were gone, do you?

16 A. No.

17 Q. No way you could know, is

there?

18 A. No.

19 Q. You aren't saying they didn't
have an

20 exchange, are you?

21 A. No.

22 Q. Now, did you go into the
living room?

23 A. Sergeant Walling went into the
living

24 room before he walked out of the house.

25 Q. Okay.

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Reporter

1 A. The first time.

2 Q. My question was, did you go
into the
3 living room?

4 A. No.

5 Q. Okay. Did you go into the
dining
6 room?

7 A. No.

8 Q. Okay. You said that you and
Sergeant
9 Walling went upstairs and found the infant?

10 A. Yes, sir.

11 Q. And did you make any plans --
make
12 any -- do anything to take care of the infant, or
did you
13 just leave the child there?

14 A. I went over and checked the
infant to

15 see if it was injured. He -- I don't know
whether it was

16 a he or she, was standing up in the bed. They
appeared

17 to be fine to me.

18 Q. Okay. So you just left the

infant

19 there and went on about your business?

20 A. Yes, sir.

21 Q. Okay. Where -- once you came
down

22 from upstairs, is that when you stationed
yourself at the

23 entry?

24 A. Yes, sir.

25 Q. Okay. And, by that time it's
2:40, as

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1 best you can tell, to 2:45?

2 A. Approximately.

3 Q. So, is it fair to say that you
had

4 been there, by that time, about 10 minutes?

5 A. That is probably close.

6 Q. All right. This happened --
7 everything happened pretty fast, didn't it?

8 A. Yes, sir.

9 Q. And, in that 10 minutes that you
were

10 there -- is it fair to say that about 10 minutes had
11 expired when you stationed yourself at that door, at
the
12 entry?

13 A. I would say at least 10 minutes.

14 Q. Well, I mean, we said 10 minutes
20

15 seconds ago. Has anything changed your memory?

16 A. No.

17 Q. Okay. Are you comfortable with 10
18 minutes?

19 A. Yes, sir.

20 Q. Okay. And you were there at the
front

21 door from 2:40, or 2:45, until 3:00 or shortly
22 thereafter, is that what you said?

23 A. Yes, sir.

24 Q. Okay. And in that time, you did
all
25 of the stuff that you've told us about, and you and

Sandra M. Halsey, CSR, Official Court Reporter

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1 Walling managed to conduct a complete search of the
2 interior of the residence, the first floor and the
second

3 floor; is that correct?

4 A. Yes, sir.

5 Q. Okay. And assure yourselves that
6 everything was secure?

7 A. Yes, sir.

8 Q. Now, you became, I suspect,
reasonably

9 familiar with the, what's called the family room
here,

10 the kitchen and the entry room, that's where you were
11 mainly involved; is that right?

12 A. Yes, sir.

13 Q. Okay. And you said, I believe,
that

14 you saw the one towel that Darlie had to her neck; is
15 that right?

16 A. Yes, sir.

17 Q. Is that right?

18 A. Yes, sir.

19 Q. And --

20

21 MR. DOUGLAS MULDER: Mark this,

22 please.

23

24

the

25

(Whereupon,

exhibit was

Sandra M. Halsey, CSR, Official Court Reporter

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1 marked for

2

Identification

3

only, as

Defense

4

Exhibit No.

14.)

5

6

7 BY MR. DOUGLAS MULDER:

8

Q. Let me hand you, Officer Waddell,
what

9 has been marked for identification and record
purposes as

10 Defendant's Exhibit No. 14, and I'll ask you to look
at

11 that. Did you have a transcript to follow Sunday, I
12 believe it was, when you heard the 911 tape?

13

A. Did I have a copy of the
transcript?

14

Q. Did you have a copy of -- did the
15 prosecutor furnish you with their rendition of what
was

16 said on the tape?

17

A. Yes.

18

Q. Okay. Do you recognize what I've

19 handed you? Does it look familiar?

20 A. It looks familiar, yes.

21 Q. Okay. And do you see yourself in
22 there as the -- identified as PO1?

23 A. Yes, sir.

24 Q. Okay. PO1 would be Police Officer

1,
25 I assume.

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. That's what I would assume.

2 Q. Okay. And you recognize that, I
3 guess, because that's basically what you told the
jury

4 you said, at least sometime after you got there. Is
that

5 right?

6 A. Yes.

7 Q. That obviously wouldn't be --
those

8 wouldn't be your first words when you got there,
would

9 they?

10 A. No.

11 Q. Okay. So, I mean, where it says
"PO1

12 look for a rag," you had been there sometime before
you

13 said that, had you not?

14 A. I had been there for a little bit
15 before that, yes.

16 Q. Well, I mean, it makes sense,
that's

17 not -- that's just not the first thing that you're
going

18 to say when you -- it may have been the first thing

that

19 was picked up, put it's not the first thing you're
going

20 to say, is it?

21 A. No.

22 Q. Okay. Is it fair to say that you
had

23 been there, what, at that time for how long? Maybe
a

24 minute?

25 A. Could have been.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Could have been a minute or
so?

2 A. Yes, sir.

3 Q. Okay. You say a minute.

We're

4 talking about 60 seconds?

5 A. That's probably close.

6 Q. Okay.

7

8 MR. DOUGLAS MULDER: Can y'all
see

9 that? I'm sorry, did I move this thing around
again?

10 Can you see that? All right.

11

12 BY MR. DOUGLAS MULDER:

13 Q. Did you see wet towels around
the

14 family room in that entry?

15 A. No.

16 Q. You did not?

17 A. No.

18 Q. Okay. Is it fair to say that

--

19 you're not saying there weren't towels around there,
are

20 you?

21 A. I didn't see any towels.

22 Q. Okay. But you're not saying
there

23 weren't towels there? There's a difference.

24 A. No. Right.

25 Q. Okay. Might have been, didn't
see

Sandra M. Halsey, CSR, Official Court Reporter

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1 them?

2 A. Didn't see them.

3 Q. You're saying that if there were
4 towels around there, wet towels around there, they
had

5 apparently, the Routiers had done some things before
you
6 got there. Would that be fair to say?

7 A. Well, I didn't see any towels.

8 Q. Okay. But they didn't get
any

9 towels -- nobody got any wet towels after you
got there,
10 did they?

11 A. No, sir.

12 Q. Okay. Do you know about what
time,

13 Officer Waddell, Darlie Routier was taken from
the scene?

14 A. I don't know.

15 Q. Was she taken from the scene
before

16 you were relieved at the -- from your post at
the entry?

17 A. I believe she was.

18 Q. So, is it fair to say that

she left,

19 as best you recall, sometime before 3:00
o'clock?

20 A. Yes, sir.

21 Q. Okay. Is it fair to say that
she left

22 before 3:00 o'clock, or left -- is it around
3:00

23 o'clock, or before -- she left at 3:00 o'clock
before you

24 were relieved on the front door?

25 A. Yes, sir, I think so.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Again, you still hadn't had
time, at

2 that point, to make any notes, had you?

3 A. No.

4 Q. Okay. Before -- during the
couple or

5 three minutes that you were there with the
Routiers,

6 before Sergeant Walling arrived and you had the
7 conversation, do you recall how many times you
told

8 Darlie to sit down?

9 A. Probably two or three times.

10 Q. Two or three times?

11 A. Um-hum. (Witness nodding
head

12 affirmatively).

13 Q. Did you tell her to lay down
one time?

14 A. I don't recall. I remember
telling

15 her to sit down.

16 Q. Okay. Let me hand you again
what's

17 been marked for identification record purposes

as

18 Defendant's Exhibit No. 14. Would that be you,

PO1

19 again?

20 A. Yes, sir.

21 Q. And it says, "lay down"?

22 A. Yes, sir.

23 Q. Before Sergeant Walling

arrived,

24 Waddell told Darlie to lay down and/or sit down

two or

25 three times. Is that fair?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. Yes, sir.

2 Q. Okay.

3

4 MR. DOUGLAS MULDER: Thank

you,

5 Officer Waddell.

6

7

8 REDIRECT EXAMINATION

9

10 BY MR. GREG DAVIS:

11 Q. Officer Waddell, just a

couple of

12 questions. When you looked inside the garage

while

13 Officer Walling, Sergeant Walling actually

looked in

14 there, could you tell whether or not this garage

had an

15 overhead door?

16 A. Yes.

17 Q. Okay. And, again, as we're

looking at

18 this with the -- would the overhead doors be this

19 direction toward the alley?

20

A. Yes.

21

Q. Right up here toward the top?

22

A. Yes, sir, it is.

23

Q. Could you tell from where you

were

24 whether or not that door was closed or not?

25

A. It was closed.

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1 Q. When Mr. Mulder was asking you
about
2 anything impeding your way to the sink, do you know
3 whether or not a vacuum cleaner or any other object
was
4 laying on that floor?

5 A. I didn't see it, no.

6 Q. Is it possible that it was?

7 A. Well, yes.

8
9 MR. DOUGLAS MULDER: Judge,
we're
10 going to object to -- he's suggesting the answer to
it.

11 THE COURT: Overruled.

12

13 BY MR. GREG DAVIS:

14 Q. You can go ahead and answer it.

15 A. It's possible that it was there.

16 Q. Let me just ask you, Officer
Waddell,

17 as we look here at the kitchen -- as we look here at
the

18 kitchen area, this island here, did you ever go over
here

19 on this other side of the island closer to the range
and

20 to the sink?

21 A. No, sir.

22 Q. Either on the way to the garage

or on

23 the way out of the garage, either time?

24 A. No, sir.

25 Q. Okay. The times that Mr. Mulder
has

1 written here on these sheets, let me just ask you:
Do
2 you consider these to be exact times or estimates?
3 A. Estimates.
4 Q. Again, were you out there during
this
5 situation looking at your watch every two or three
6 minutes to determine exactly what time you started
doing
7 something and what time you stopped doing something?
8 A. No.
9 Q. Are you sure that you stayed on
the
10 front door until Officer Steve Wade got there to
relieve
11 you?
12 A. Yes, sir.
13 Q. Are you sure that no one came or
went,
14 once you got on that door until he got there to
relieve
15 you?
16 A. Nobody but the fire personnel.
17 Q. All right. And was that to go in
or

18 to go out?

19 A. They were going to get their
stuff,

20 their equipment and leave.

21 Q. Was there ever a time once you
got

22 there, while the defendant was still on the phone to
911,

23 was there ever a time where you took the phone
yourself

24 and started talking with the dispatcher?

25 A. No, sir.

1 Q. Were there times when you'd be
2 speaking with the defendant when you were next to
her or
3 close to her?

4 A. Yes, sir.

5 Q. Were there other times when you
may
6 have been speaking with her when you're some
distance
7 away from her?

8 A. Yes, sir.

9 Q. Did I understand your testimony
to be
10 to Mr. Mulder that this defendant, while you were
there
11 with her, was able to carry on two conversations at
one
12 time, one with you and one with the dispatcher?

13 A. Yes, sir.

14 Q. And, Officer Waddell, when you
said
15 "look for a rag," can you tell us who you were
talking
16 to?

17 A. The defendant.

18

19

MR. GREG DAVIS: I have no

further

20 questions.

21

THE COURT: Mr. Mulder, anything

else?

22

MR. DOUGLAS MULDER: Yeah, just

a

23 thing or two, Judge. I'll try to be brief.

24

THE COURT: All right. That's

quite

25 all right.

1
2 (Whereupon, the following
3 mentioned item was
4 marked for
5 identification only
6 as Defendant's Exhibit 13-C,
7 after which time the
8 proceedings were
9 resumed on the record
10 in open court, as
11 follows:)

12

13

14 RE CROSS EXAMINATION

15

16 BY MR. DOUGLAS MULDER:

17 Q. Would you tell us, Officer
Waddell,

18 how many people were in and out of that residence
that

19 you know of?

20 A. Myself, Sergeant Walling and
there

21 were at least two paramedics. Probably six or
seven.

22 I'm not real for sure. There were some paramedics

that

23 arrived when I went upstairs also.

24 Q. And if I told you that there

were

25 eight paramedics out there, would you quarrel
that?

Reporter Sandra M. Halsey, CSR, Official Court

1 A. No, sir.

2 Q. Okay. You know -- of
course, when you

3 were upstairs, you don't know who was in and
out of

4 there, do you?

5 A. No.

6 Q. Okay. You know that -- do
you know

7 how many police officers were in and out of
there?

8 A. Just two.

9 Q. All right. And, when the
paramedics

10 come in there, Officer Waddell, it's been your
experience

11 as a police officer, that they may move
things? They

12 aren't as careful about a crime scene, and
preserving the

13 crime scene as a police officer, a trained
police officer

14 might be, are they?

15 A. No, sir.

16 Q. Okay. Matter of fact, they
move

17 things, don't they?

18 A. Sometimes.

19 Q. Frequently. And if they

have to move

20 something to get access to an injured party,

they do that

21 and they sacrifice the crime scene for the

party, do they

22 not?

23 A. Yes, sir.

24 Q. All right. And, you aren't

telling

25 us, or telling the jury, that you said you
were conscious

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Reporter

1 of this island here, because you thought
someone might be

2 hiding behind it. Didn't you say that?

3 A. The thought crossed my
mind, yes.

4 Q. Okay. As you approached
this area,

5 you aren't telling this jury that anyone
careful enough

6 to not step on the glass would overlook a
vacuum cleaner

7 that was turned over in this area, if it was
there at

8 that time, are you?

9 A. Can you repeat that?

10 Q. Well, I'm just saying that
it would be

11 like overlooking an elephant. If you're
careful enough

12 not -- you're conscious enough not to step on
any glass,

13 or you say you are, you're not going to
overlook an

14 overturned vacuum cleaner, are you? That
makes sense,

15 doesn't it?

16 A. No, sir.

17 Q. It doesn't make sense?

18 A. When I saw the glass, I was
paying

19 attention to where I was walking. I wasn't
walking

20 toward the other side of the island.

21 Q. Remember when I asked you
if there was

22 anything that impeded your walk from the den
to the

23 kitchen sink, and you said, "No, there was
nothing"?

24 A. I said I didn't see
anything.

25 Q. Well, doesn't that --
you're telling

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Reporter

1 the jury you did look toward the sink, aren't
you?

2 A. Yes, I looked toward the
sink.

3 Q. And didn't see any vacuum
cleaner?

4 A. I didn't see it, no.

5 Q. Okay.

6

7 MR. DOUGLAS MULDER: We'll offer
into

8 evidence Defendant's Exhibit No. 13-C.

9 MR. GREG DAVIS: No objection.

10 THE COURT: Defense Exhibit No.
13-C

11 is admitted. What is 13-C?

12 MR. DOUGLAS MULDER: That is the

--

13 THE COURT: That last one you did
up

14 there? Okay.

15 MR. DOUGLAS MULDER: Yes, sir.

16 THE COURT: All right.

17

18 (Whereupon, the item

19 Heretofore mentioned

20 Was received in evidence
21 As Defense Exhibit No. 13-C
22 For all purposes,
23 After which time, the
24 Proceedings were resumed
25 As follows:)

Sandra M. Halsey, CSR, Official Court Reporter

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1

2

THE COURT: All right.

3

MR. DOUGLAS MULDER: Let me add

this

4

to it, and I'll reoffer it if that's necessary.

5

6

BY MR. DOUGLAS MULDER:

7

Q. But you said how many people were

in

8

the scene that you're aware of? Did you say six or

9

seven?

10

A. Six or seven.

11

Q. Okay.

12

13

MR. DOUGLAS MULDER: I'll reoffer

14

Defendant's Exhibit No. 13-C as amended.

15

MR. GREG DAVIS: No objection.

16

THE COURT: All right. State's

(sic)

17

Exhibits 13-A and B have already been admitted, and

18

State's (sic) Exhibit 13-C is admitted.

19

MR. GREG DAVIS: Your Honor, I'm

20

sorry, that's Defendant's Exhibit.

21

THE COURT: I mean, Defendant's

22

Exhibit, excuse me, yes, is admitted.

23

24
25

(Whereupon, the item
Heretofore mentioned

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1 Was received in evidence
2 As Defendant's Exhibit
3 No. 13-C for all purposes,
4 After which time, the
5 Proceedings were resumed
6 As follows:)

7
8 MR. DOUGLAS MULDER: Judge, can
we
9 have a minute? Sixty seconds?

10 THE COURT: Sixty seconds, yes,
that
11 will be fine.

12

13 BY MR. DOUGLAS MULDER:

14 Q. Did -- when you were here the
other

15 day, Sunday, and listened to the tape and discussed
your
16 testimony, did you hear the entire 911 tape?

17 A. I don't know if we heard the
whole
18 thing or not.

19 Q. Would you recognize it if I
were to --

20

21 MR. DOUGLAS MULDER: You don't
have

22 any objection to me playing this?

23 MR. GREG DAVIS: Is this the
copy that

24 we gave to you?

25 MR. DOUGLAS MULDER: Yes.

Sandra M. Halsey, CSR, Official Court
Reporter

- and

21 that's somewhat difficult to understand, isn't it?

22 A. Yes, sir, it is.

23 Q. But you're first identified on
that

24 tape about halfway into it, aren't you?

25 A. I guess.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. You guess?

2 A. I'm not sure.

3 Q. What are you guessing about?

4 A. I don't know the time limit on
that

5 tape. I don't know at what point. I couldn't
tell at

6 what point I was there.

7 Q. Okay. You've admitted that you
talked

8 to her for about a minute before you're identified on
9 this tape.

10

11 MR. GREG DAVIS: Your Honor, I --
at

12 this time I'd -- the only problem I've got is Mr.
Mulder

13 referring to a document not in evidence. I've got no
14 objections to him offering that transcript so he

can

15 refer to it.

16 THE COURT: Do you want to offer
the

17 transcript, Mr. Mulder?

18 MR. DOUGLAS MULDER: Well, I

don't

19 necessarily vouch for everything in this
transcript,

20 Judge. And I'll conduct my own deal, if you don't
mind.

21 MR. GREG DAVIS: Well, then I'll

be

22 objecting to him. If he's not going to offer it,

I'm

23 going to object to him referring to

it.

24 THE COURT:

Sustained.

25 MR. DOUGLAS MULDER: I'll offer

my own

Sandra M. Halsey, CSR, Official Court Reporter

1 evidence. I don't need their suggestions as to when
to
2 offer something.

3 THE COURT: We understand that.
4 Please do not refer to that if you're not going to
use
5 it. Thank you.

6

7

8 BY MR. DOUGLAS MULDER:

9 Q. Well, we agreed, did we not, that
you
10 were there at the residence some 60 seconds before
you
11 said "look for a rag," and also told her just
seconds
12 later to lay down or sit down two or three times.

13 A. I said that, yes.

14 Q. And it was during that time that
you
15 were gleaning your information in questioning her,
wasn't
16 it?

17 A. No, sir. I didn't question her,
other

18 than ask her who did it and for a description of the
19 suspect.

20 Q. And she was able to talk to you
and

21 911 at the same time. That's your story, isn't it?

22 A. Yes, she was.

23

24 MR. DOUGLAS MULDER: I believe

that's

25 all. Thank you.

1 MR. GREG DAVIS: No further
questions.

2 THE COURT: All right. You may
step
3 down. Your next witness.

4 MR. TOBY L. SHOOK: Call
Lieutenant
5 Matt Walling.

6 THE COURT: Lieutenant Walling.
7 And, ladies and gentlemen,
Lieutenant

8 Walling was sworn in yesterday, if you recall.
9 Officer, if you'll just have a
seat
10 here, please. Speak loudly into the microphone.
11 Go ahead, please.

12

13 Whereupon,

14

15 LIEUTENANT MATT WALLING,

16

17 was called as a witness, for the State of Texas,
having

18 been first duly sworn by the Court to speak the
truth,

19 the whole truth, and nothing but the truth, testified

in

20 open court, as follows:

21

22

23

DIRECT EXAMINATION

24

25 BY MR. GREG DAVIS:

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Sir, would you please tell us your
2 full name.

3 A. James Matthew Walling, W-A-L-L-I-
N-G.

4 Q. Okay, Mr. Walling. How are you
5 employed?

6 A. I'm a lieutenant with the Rowlett
7 Police Department.

8 Q. All right. Were you recently
promoted
9 to the position of lieutenant?

10 A. Yes, sir, I was.

11 Q. Okay. When did that promotion
occur?

12 A. On January the 2nd.

13 Q. All right. And prior to that,
were
14 you a sergeant with the Rowlett Police Department?

15 A. Yes, sir, I was.

16 Q. How old a man are you?

17 A. 33.

18 Q. Are you married?

19 A. No, sir.

20 Q. Do you have any children?

21 A. No, sir.

22 Q. How long had -- how long have you

been

23 a Rowlett Police Officer?

24 A. A little over 10 years.

25 Q. Let me direct your attention back
to,

Sandra M. Halsey, CSR, Official Court Reporter

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1 it's going to be the evening of June 5th, 1996. Were
you

2 on duty that evening?

3 A. Yes, sir, I was.

4 Q. And what were your
responsibilities

5 that evening?

6 A. I was a patrol sergeant for deep
7 nights.

8 Q. Officer David Waddell just
testified.

9 Were you his supervisor that evening?

10 A. Yes, sir, I was.

11 Q. How many patrol officers were you
12 supervising?

13 A. Myself and five.

14 Q. Do you remember what time you came
on

15 duty that evening?

16 A. At approximately 9:30.

17 Q. Now, did you actually go out on
patrol

18 yourself?

19 A. Yes, sir, I did.

20 Q. Were you in a marked patrol car?

21 A. Yes, sir.

22 Q. Were you also wearing a uniform
like

23 you're wearing this afternoon?

24 A. Yes, sir.

25 Q. I want to direct your attention,

Sandra M. Halsey, CSR, Official Court Reporter

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1 Lieutenant, to approximately 2:30 a.m. on June the
6th,

2 1996, and ask you where you were at that time.

3 A. I was approximately in the 5000
block

4 of State Highway 66 in Rowlett on the west side of
town.

5 Q. Okay. Are you familiar with where
the

6 Victory Baptist Church is there in Rowlett?

7 A. Yes, sir, I am.

8 Q. Is that also on Highway 66?

9 A. Yes, sir.

10 Q. Now Liberty Grove Road and Highway
66,

11 would that be east or west of that location?

12 A. That would be west of that
location.

13 Q. Do you know about how far west of
that

14 church that would be?

15 A. A little over a mile.

16 Q. Now, at about 2:30 a.m., did you
17 receive a call over your radio?

18 A. Yes, sir, I did.

19 Q. What was the nature of that call?

20 A. It was regarding a stabbing.

21 Q. And who was calling you on the
radio?

22 A. It was a communication's officer,
23 Janice Bloom.

24 Q. All right. She worked for the
Rowlett
25 Police Department?

1 A. Yes, sir.

2 Q. And what were you informed of at
that
3 time?

4 A. That there had been a stabbing at
5801
5 Eagle Drive, and that the Rowlett Fire Department
6 ambulances had been dispatched.

7 Q. All right. Did you then proceed
to go
8 to 5801 Eagle Drive?

9 A. Yes, sir, I did.

10 Q. Can you tell the members of the
jury
11 how far it is from Liberty Grove and 66 to 5801 Eagle
12 Drive?

13 A. It's about 3.1 miles.

14 Q. All right. And how long did it
take
15 you to get from your location to 5801 Eagle Drive?

16 A. Approximately three to five
minutes.

17 Q. Now, on the way over there,
18 Lieutenant, did you see any vehicles speeding away
from,

19 what is it, Dalrock Heights, is that the
neighborhood

20 where 5801 is?

21 A. Yes, sir, it is.

22 Q. Did you see any vehicles leaving
that

23 neighborhood at a high rate of speed?

24 A. No, sir, I didn't.

25 Q. Did you see any persons on foot
while

1 you were going over to 5801 Eagle Drive?

2 A. No, sir.

3 Q. Do you remember how you came into
that

4 neighborhood, what street that you came in on?

5 A. Yes, sir. I turned in on
Willowbrook,

6 and I was behind the ambulance 902.

7 Q. So that would have been one of
the

8 ambulances that was sent by the Rowlett Fire
Department;

9 is that right?

10 A. Yes, sir. That was the first
11 ambulance.

12 Q. So y'all came in the neighborhood
13 about the same time?

14 A. Yes, sir.

15 Q. As you were coming in the
16 neighborhood, Lieutenant, besides the emergency
vehicle

17 that you've just told us about, did you see any
other

18 vehicles driving around in that neighborhood?

19 A. No, sir.

20 Q. Did you see any persons on foot
as you
21 came into that neighborhood?
22 A. No, sir.
23 Q. Did you then go to the house?
24 A. Yes, sir.
25 Q. And where exactly did you park in

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1 relationship to that house?

2 A. I parked on the northwest side of
the
3 lot of the house at the entrance to the alley
running
4 behind the house.

5 Q. Lieutenant, if you'll step down,
6 please, with the Court's permission.

7
8 THE COURT: Yes, sir. You may do
so.

9
10 (Whereupon, the witness
11 stepped down from the
12 witness stand, and
13 approached the jury
rail
14 and the proceedings
were
15 resumed as follows:)

16
17 BY MR. GREG DAVIS:

18 Q. Lieutenant, if you'll use this
19 pointer, please, and just show the members of the
jury
20 where you parked your vehicle when you came up

there.

21 A. I partially pulled into the alley
and

22 parked it right here.

23 Q. All right. Did you see any other
24 police vehicles when you got there?

25 A. Yes, sir. Officer Waddell's
vehicle

Sandra M. Halsey, CSR, Official Court Reporter

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1 was in this area, right around here.

2 Q. Okay. So you came over there
closer

3 to the alleyway; is that correct?

4 A. Yes, sir.

5 Q. All right. Thank you.

6

7 (Whereupon, the witness
8 resumed the witness
9 stand, and the
10 proceedings were resumed
11 on the record, as
12 follows:)

13

14 BY MR. GREG DAVIS:

15 Q. When you came up there near the
16 alleyway, did you look down the alley?

17 A. Yes, sir, I did.

18 Q. Did you see anybody?

19 A. No, sir.

20 Q. Okay. How about Eagle Drive, as
it

21 proceeds, I guess what's going to be west down here.
Did

22 you look down that portion of Eagle Drive?

23

A. Yes, sir, I did.

24

Q. Did you see anybody down there?

25

A. No, sir.

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1 Q. What did you do then, once you got
2 your car parked?

3 A. I exited the car and came around
the
4 side of the house to the front.

5 Q. Did you actually come inside the
house
6 then?

7 A. Yes, sir. I went through the
front
8 door and met with Officer Waddell in the living room
9 area.

10 Q. If you would, again, step down
with
11 the Court's permission.

12

13 THE COURT: Yes, go ahead.

14

15 (Whereupon, the witness

16 Stepped down from

the

17 Witness stand, and

18 Approached the jury

rail

19 And the proceedings

were

20

Resumed as follows:)

21

22 BY MR. GREG DAVIS:

23

Q. All right. Lieutenant, first, if

24

you'll -- I think you said that you had just come in

the

25

family room; is that right?

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1 A. Yes, sir.

2 Q. Lieutenant, if you would if you
will

3 just point out where you first saw Officer Waddell
when

4 you came in the family room?

5 A. He was about right here.

(Indicating

6 on photo.)

7 Q. All right. And, where was -- did
you

8 see anyone else in the family room besides Officer
9 Waddell?

10 A. Yes, sir. Darin Routier and
Darlie

11 Routier and the other child.

12 Q. All right. Now, you referred to
13 Darlie Routier. Is that the female sitting over
here at

14 the table with the gray coat on?

15 A. Yes, it
is.

16 Q. All
right.

17

18 MR. GREG DAVIS: Your Honor, may

the

19 record please reflect that this witness has
identified

20 the defendant.

21 THE COURT: Yes, sir.

22

23 BY MR. GREG DAVIS:

24 Q. Can you please point for the

members

25 of the jury where the defendant was, when you first
saw

Sandra M. Halsey, CSR, Official Court Reporter

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1 her?

2 A. She was standing behind Officer
3 Waddell, right along in here.

4 Q. Okay. And you had mentioned that
you
5 saw Darin Routier, the husband. Please point out for
the
6 members of the jury where he was.

7 A. He was standing beside her.

8 Q. Okay. So you've got the Officer -
-
9 the defendant and her husband all in this area; is
that
10 correct?

11 A. Yes, sir. The officer was closer
up
12 here.

13 Q. Okay. You say that you saw a
child.

14 Which child are you talking about?

15 A. There was one child laying
16 approximately here, and then one in front of the TV
over
17 here.

18 Q. Okay. Now, what is the first
thing

19 that you did then? When you came in, you saw these
20 individuals. Tell the members of the jury, what's
the
21 first thing that you did?
22 A. I first asked Officer Waddell to
give
23 me a quick rundown or what had happened. And, at
that
24 time, he told me that somebody had broken into the
house,
25 and that he had been told that a person had left
through

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1 the garage area and may possibly still be in the
garage

2 area.

3 Q. All right. What did you do
then?

4 A. At that time Officer Waddell
and I

5 went over to the garage area to search it.

6 Q. With the pointer, again, would
you

7 please describe for the members of the jury the
route

8 that you took from the family room to investigate
the

9 garage.

10 A. Yes, sir. We went right through
here,

11 through the utility room door, up to the garage
door. I

12 opened the garage door and stepped into the garage.

13 Q. Okay. Did I understand you to
say,

14 did you go on what I am going to call the bottom
portion

15 of the -- is this an island there that is in the
kitchen?

16 A. Yes, sir, it is.

17 Q. Did you go below that to get to
the
18 garage?

19 A. Yes, sir.

20 Q. Okay. Are you sure that you
didn't go

21 this way, which would have been between the island
and

22 the sink in order to get to the garage?

23 A. Yes, sir, I'm positive.

24 Q. As you're going through the
kitchen,

25 Lieutenant, did you see anything on the floor over
here

1 between the island, and I believe it's the pantry -
- is
2 it over here?

3 A. Yes, sir.

4 Q. Did you see anything on the
floor in
5 that area?

6 A. There was a broken wine glass
here,
7 and a little bit of blood.

8 Q. Okay. How about over in this
area?

9 Were you looking in this area over here, which is
going
10 to be on the other side of the island, and I
believe in

11 the area of the sink, were you looking over there?

12 A. No, sir. I didn't pay very much
13 attention to that area.

14 Q. All right. Do you know whether or
not

15 there was anything over here laying on the floor or
16 standing up in this area?

17 A. There was a vacuum cleaner. I
don't

18 know if I saw it when I initially went through, but
there

19 was a vacuum cleaner there.

20 Q. All right. You said -- did you go
21 through this area; is that correct?

22 A. Yes, sir.

23 Q. Is there a doorway between the
kitchen

24 and the utility room?

25 A. Yes, sir, there is.

1 Q. Okay. When you went through
there,

2 was it open or was it closed?

3 A. It was open.

4 Q. Was a light on in the kitchen?

5 A. Yes, sir.

6 Q. How about the utility room light?

Was

7 it on or was it off?

8 A. I don't recall if it was on or
off.

9 Q. Is there also a door that leads
from
10 the utility room into the garage?

11 A. Yes, sir.

12 Q. All right. And when you first
got to

13 it, was it open or was it closed?

14 A. It was closed, but not all the
way

15 closed. It was pushed shut, but it wasn't
latched.

16 Q. All right. Did it have a lock
on it?

17 A. Yes, sir, it did.

18 Q. Did you see -- did you notice
anything

19 unusual about the door?

20 A. There was blood on the door.

21 Q. And, on what portion of the
door was

22 the blood?

23 A. Around the door handle, up and
down

24 around the door handle.

25 Q. Okay. I guess kind of on the
side of

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Reporter

1 the door?

2 A. On the facing, yes, sir.

3 Q. Okay. Could you see any
defects in

4 the door, such as signs that it had been broken,
torn

5 into, anything of that order?

6 A. No, sir.

7 Q. When you looked at the door,
did you

8 see any evidence that there had been forced
entry through

9 that door leading from the garage into the
utility room?

10 A. No, sir, there was not.

11 Q. Okay. I believe that you
just said

12 that you stepped into the garage?

13 A. Yes, sir, I did.

14 Q. All right. When you stepped
in there,

15 was the light on in the garage?

16 A. I don't recall if it was or
not.

17 Q. All right. Did you have a

flashlight

18 with you?

19 A. Yes, sir, I did.

20 Q. How far into the garage did
you go?

21 A. A couple of feet.

22 Q. All right. And what did you
do once

23 you stepped in a couple of feet?

24 A. I cleared the garage, looked
back over

25 here, looked over here to see if there was
anybody in

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Reporter

1 there. I looked over this way. There was a
refrigerator

2 here, and when I looked on the other side of the
3 refrigerator, and I noticed that the window
screen had

4 been cut.

5 Q. Is there a door to that
garage, an

6 over-head door?

7 A. Yes, sir, there is.

8 Q. All right. Where is that
located?

9 A. It's located at the back
here.

10 Q. Did you notice whether or not
that

11 garage door was open or closed?

12 A. It was closed.

13 Q. Are there a number of windows
on this

14 wall here?

15 A. Yes, sir.

16 Q. Did you see anything wrong
with any of

17 the other windows?

18 A. No, sir, I didn't.

19 Q. Which window was it where you
saw the
20 screen cut?

21 A. It was this window.

22 Q. Okay. You're referring to
this one
23 here?

24 A. Yes, sir.

25 Q. Okay. Did you go over to the
window

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1 to inspect it closer at that time?

2 A. No, sir, I did not, not from
the

3 inside of the garage.

4 Q. Okay. Why not?

5 A. With the window being cut, I
was

6 making the assumption that he had left out that
way,

7 possibly. So I was going to get around to the
backyard

8 as quick as I could.

9 Q. Now, was Officer Waddell in the
garage

10 with you or did he remain behind you?

11 A. He covered me. He was behind me.
I'm

12 not sure how far into the garage that he went.

13 Q. Okay. Now, when you finished
clearing

14 the garage here, and you had seen the window cut
here,

15 what did you do at that point?

16 A. We both exited the garage and came
17 back through the utility room into the kitchen

area. I

18 left through the house, through the dining room
area,

19 looking and clearing it as I left to make sure
there

20 wasn't anybody there. I came over here and did a
quick

21 search of that, then went out the front door and
around

22 to the backyard.

23 Q. Is that why you took a different
route

24 out of the house?

25 A. Yes, sir.

1 Q. When you looked in the nook, did
you
2 see anything unusual?

3 A. No, sir.

4 Q. When you looked in the formal
dining
5 area, did you notice anything unusual at that time?

6 A. No, sir.

7 Q. How about the formal living room,
8 anything unusual about it as you left the house
there?

9 A. No, sir.

10 Q. Now, when you left the house,
11 Lieutenant, where did you go to?

12 A. I went around the front the same
way
13 that I had come in to the backyard, to the back
driveway
14 and to the gate leading into the backyard.

15

16 (Whereupon, the following
17 mentioned items were marked
18 for identification only
19 as State's Exhibits

13,

20 13-A,B,C,D & E,

21 after which time the
22 proceedings were
23 resumed on the record
24 in open court, as
25 follows:)

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Court Reporter

1

2 BY MR. GREG DAVIS:

3 Q. Okay. Lieutenant, let
me show you

4 what I've had marked as State's Exhibits
13, 13-A, B, C,

5 D and E. Do you recognize these
photographs?

6 A. Yes, sir, I do.

7 Q. First of all, State's
Exhibit No. 13,

8 is that a true and accurate aerial
photograph of 5801

9 Eagle Drive?

10 A. Yes, sir, it is.

11 Q. And State's Exhibits
13-A, 13-B, 13-C,

12 13-D and 13-E, do they truly and
accurately depict the

13 backyard of 5801 Eagle Drive as it
appeared on June 6th,

14 1996?

15 A. Yes, sir, they do.

16

17 MR. GREG DAVIS: Your
Honor, at this

18 time we'll offer State's Exhibits 13, 13-
A, B, C, D and E

19 at this time.

20 MR. RICHARD C. MOSTY:

No objection.

21 THE COURT: All

State's Exhibits

22 offered are admitted.

23

24 (Whereupon, the items
25 Heretofore mentioned

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Court Reporter

1 Were received in
evidence

2 As State's Exhibit
No. 13

3 And 13-A through 13-E
4 For all purposes,
5 After which time, the
6 Proceedings were
resumed

7 As follows:)

8 BY MR. GREG DAVIS:

9 Q. Lieutenant, again, now, as we're
10 looking here at these photographs, this backyard that
you
11 said you came around, did you come around -- which
way
12 did you go around? Did you go around this way to get
to
13 the backyard or did you go around this way?

14 A. I went around this way, back
around by
15 where I had parked my car and up here, up the
driveway to
16 the back gate.

17 Q. Is there a fence around this
backyard?

18 A. Yes, sir, there is.
19 Q. Okay. Describe what kind of fence
it
20 is.
21 A. It's a wood picket fence painted
22 white.
23 Q. All right. Do you know about how
tall
24 it is?
25 A. Approximately six feet.

1 Q. Okay. Did it have a gate to it?

2 A. Yes, sir, it did.

3 Q. And with the pointer, would you
just

4 show us where that gate's located on that aerial
5 photograph. Right there?

6 A. Right there next to that garage
door.

7 Q. Okay. When you got back around
there

8 did you go immediately into the backyard or did you
wait?

9 A. I slowed my pace just a few
seconds.

10 About the time I was coming around into the driveway
11 another officer had pulled up. I motioned to him to
12 follow me to come into the backyard with me to help
me to
13 search.

14 Q. What's his name?

15 A. Officer D. Moore, Darcel Moore.

16 Q. All right. And, did he then join
you

17 up here?

18 A. Yes, sir, he did.

19 Q. Now the gate that you've told us

about

20 that leads into this backyard, did you notice whether

or

21 not it was open or was it closed?

22 A. It was closed.

23 Q. Okay. How did you get in the

backyard

24 then?

25 A. It was latched but there was not a

1 lock on it. I lifted up the latch and used the
handle to

2 push it open. It rubbed. It wouldn't open when I
first

3 pushed on it so I had to use my foot at the bottom of
the

4 gate to apply pressure and ended up shoving it open.

5 Q. Was the bottom dragging on the
ground

6 then?

7 A. Yes, sir.

8 Q. So, was it difficult for you to
open

9 that?

10 A. Yes, sir, it was.

11 Q. All right. And the pressure that
you

12 put on there, did I understand you to say it was
toward

13 the bottom portion as you pushed the gate open?

14 A. Yes, sir.

15 Q. All right. Did you actually then
go

16 into the backyard?

17 A. Yes, sir, I did.

18 Q. Now, did Officer Moore accompany
you

19 into the backyard?

20 A. Yes, sir.

21 Q. If you would, please tell the
members

22 of the jury what you saw as you first got in there
and

23 what did you do?

24 A. When I first entered the backyard

I
25 saw -- there was a spa house, a spa there. I looked
back

1 over at first to where -- to get my bearings on where
the
2 window was that had been cut in the garage. When I
saw
3 that, I went on in, and started to do a search of the
4 backyard, looking around for things that were covered
by
5 my view.

6 I went around past the spa house
and
7 checked on the side of it. Looked around the
corner of
8 the yard, the back yard to where it wraps back
around
9 toward the front yard. And, after doing that, I
came
10 back and I entered the spa, and did a search of the
spa.

11 Q. All right. When you first came
into
12 the backyard, Lieutenant, were any lights on in the
13 backyard?

14 A. No, sir, there weren't.

15 Q. At anytime that you were in the
16 backyard, did a light come on?

17 A. Yes, sir. About the time I was
18 walking in front of the spa, a motion-sensor light
that
19 was mounted on the spa came on.

20 Q. Okay. Now I put my pointer on a
21 wooden object here. Is that the wooden spa that
you're
22 talking about here?

23 A. Yes, sir, it is.

24 Q. Okay. And, do I understand you
to say
25 that as you walked past that the light came on?

1 A. Yes, sir.

2 Q. How long did you stay in the
backyard

3 before exiting the backyard?

4 A. Approximately one to two minutes.

5 Q. Did the light -- did this
6 motion-sensor light, did it go off before you had
7 actually left the backyard?

8 A. No, sir, it didn't.

9 Q. It was still on?

10 A. Yes, sir.

11 Q. Now, if we could, is there also -
- I

12 guess -- well, is there a fish pond or something in
the

13 backyard also?

14 A. Yes, sir.

15 Q. If we could, let's start looking
at

16 State's Exhibits 13-A and 13-B. And if you would,
what

17 does State's Exhibit 13-A show us?

18 A. That's a photograph of the window
with

19 the screen cut. Then immediately outside the window

20 there's a couple of plastic chairs, a child's toy and
21 another plastic chair that is overturned.

22 Q. All right. Am I pointing at the
23 window that you're referring to where the screen was
cut?

24 A. Yes, sir.

25 Q. Is this the same screen that you
had

1 seen from inside the garage?

2 A. Yes, sir, it is.

3 Q. All right. And are these two
plastic

4 chairs that you're referring to here by the window?

5 A. Yes.

6 Q. Okay. When you saw them that
evening,

7 obviously these photographs were taken during the

8 daytime. Right?

9 A. Yes, sir.

10 Q. You're looking at this during the
11 night?

12 A. Right.

13 Q. These two chairs, were they still
in

14 the same position, upright position when you first
saw

15 them at approximately, what 2:35, 2:40, somewhere in
16 there?

17 A. Yes, sir, they were.

18 Q. All right. How about this chair
over

19 here that's been overturned. Was it down in this
same

20 position when you first saw it?

21 A. Yes, sir, it was.

22 Q. What is this, it looks like what

a

23 child's soccer goal or something?

24 A. Yes, sir.

25 Q. Was it still upright in this same

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1 position when you saw it there that morning?

2 A. Yes, sir, it was.

3 Q. Can you tell us what this light
blue

4 object is here, beside one of these chairs? What
does

5 that appear to be?

6 A. I believe that's a food dish, but
I'm

7 not positive.

8 Q. Now, if we were to look at this,
and

9 continue to the right, would we come to the sliding
glass

10 door that leads into the family room?

11 A. Yes, sir.

12 Q. Is that what's shown on State's
13 Exhibit 13-B?

14 A. Yes, sir, it is.

15 Q. Okay. Lieutenant, when you're in
the

16 backyard and you're examining this window, could you
tell

17 whether or not there was any light coming from the
family

18 room?

19 A. Yes, sir, there was.

20 Q. All right. And could you
determine

21 what kind of light was coming out of that family
room?

22 A. You could see the reflection from
the

23 TV through the blinds, through the slats, the
openness in

24 the blinds and the interior lights were on also at
that

25 time.

1 Q. All right. Is that visible to
you as

2 you stood out here, outside the home?

3 A. Yes, sir, it is.

4 Q. Okay. When you looked at the
sliding

5 glass door, did you see any evidence of any forced
entry

6 here?

7 A. No, sir.

8 Q. As we look at State's Exhibit 13-
C,

9 are we really continuing 13-A to the left toward the
10 gate, is that the direction we're looking?

11 A. Yes, sir.

12 Q. In fact, do we see an open gate
here?

13 A. Yes, sir.

14 Q. Is that the gate that you entered
15 through to get to the backyard?

16 A. Yes, sir, it is.

17 Q. Are there additional windows to
the

18 garage shown in State's Exhibit in 13-C?

19 A. Yes, sir, two additional windows.

20 Q. Okay. What are these objects --
what

21 are these long objects here at the side of the gate?

22 A. Those are fence post, or gate
post,

23 that haven't been cut even with the fence yet.

24 Q. This gate, does it open -- is it
a
25 gate where you push it in or do you pull it out?

1 A. It goes from the outside,
standing

2 outside and you push it in into the backyard.

3 Q. Is it fair to say that in 13-C we
see

4 that it's been pushed in in an open position?

5 A. Yes, sir.

6 Q. The fence and the gate, are they
7 painted a color?

8 A. They're painted white.

9 Q. And, do we see a portion of the
fence

10 and the gate painted white in 13-C?

11 A. Yes, sir.

12 Q. Okay. 13-D. What portion of the
13 backyard are we looking at there?

14 A. That's also the back gate, and it
has

15 part of the spa in it.

16 Q. And State's Exhibit 13 (sic)
finally.

17 What portion of the backyard are we looking at
there?

18 A. That's the other side of the spa
and

19 it shows the far southwest corner of the backyard.

20 Q. Okay. Let me ask you, the time
that

21 you were in this backyard, Lieutenant, did you see
anyone

22 in this backyard besides yourself and Officer Moore?

23 A. No, sir.

24 Q. Did you hear anything unusual as
you

25 went back to this backyard, sir?

1 A. No, sir.

2 Q. Now, did I understand you to say
that
3 you actually went into this spa?

4 A. Yes, sir, I did.

5
6 (Whereupon, the following
7 mentioned items were
8 marked for
9 identification only
10 as State's Exhibit 14-A,
11 B & C, after which
time
12 the proceedings
were
13 resumed on the record
14 in open court, as
15 follows:)

16

17 BY MR. GREG DAVIS:

18 Q. Okay. Lieutenant, let me show
you
19 what's been marked as State's Exhibits 14-A, 14-B
and
20 14-C. Do you recognize these to be true and
accurate

21 depictions of the interior of the redwood spa as
22 it
23 appeared on June 6th of 1996?

24 A. Yes, sir, they are.

25 MR. GREG DAVIS: Your Honor, at
this
Sandra M. Halsey, CSR, Official Court Reporter

1 time we'll offer State's Exhibits 14-A, 14-B and
14-C.

2 MR. RICHARD C. MOSTY: No
objection.

3 THE COURT: State's Exhibits 14-
A, B
4 and C are admitted.

5
6 (Whereupon, the items
7 Heretofore mentioned
8 Were received in evidence
9 As State's Exhibit Nos.
14-A
10 through 14-C for all
purposes,

11 After which time, the
12 Proceedings were resumed
13 As follows:)

14

15 BY MR. GREG DAVIS:

16 Q. Lieutenant Walling, if we first
look
17 at -- well, just tell us, what did you see when you
came
18 in that spa that evening?

19 A. There was the -- I flipped the
lights

20 on. Which, the switch was right beside the door.
There

21 was the spa itself that was in the center of the
room.

22 There was a bar area, T.V. set, and a stereo.

23 Q. In State's Exhibit 14-A, do we
see the

24 stereo system here?

25 A. Yes, sir.

1 Q. In 14-B, do we see a portion of
the

2 stereo and a portion of the hot tub itself?

3 A. Yes, sir.

4 Q. And what do we see in State's
Exhibit

5 14-C?

6 A. A television set that was sitting
on

7 the bar in the corner.

8 Q. Okay. Do you recall whether or
not

9 the door to the spa was open or was it closed?

10 A. It was closed.

11 Q. Did you have to open it yourself
to

12 get in here?

13 A. Yes, sir, I did.

14 Q. Sir, did you see any sign at all
that

15 anything had been disturbed inside this redwood spa
when

16 you went in there that morning?

17 A. No, sir.

18 Q. All right. Lieutenant, you have
now

19 cleared the backyard, you've cleared the redwood
spa.

20 Could you tell us what is the next thing you did once
you

21 finished up with this backyard area?

22 A. Exited the backyard. I instructed
23 Officer Moore to start a search of the neighborhood
for

24 suspects. I went around, back around the front of
the

25 residence, met up with Officer Waddell again and we
did a

1 search of the upstairs of the residence.

2 Q. And do you know approximately how
many
3 rooms are upstairs in that residence?

4 A. Three bedrooms. I believe three
5 bedrooms and an extra living area or a game room
and
6 bathrooms.

7
8 (Whereupon, the
9 Exhibits were
10 Marked for

11
Identification

12 Only, as
State's
13 Exhibit Nos.
16-A
14 Through 16-F,
after
15 which the
proceedings.

16 resumed as
follows:)

17

18 BY MR. GREG DAVIS:

19 Q. All right. Lieutenant, let me
show
20 you what's been marked as State's Exhibit 16-A, 16-
B,
21 16-C, 16-D, 16-E and 16-F. Do you recognize these
22 photographs to be true and accurate depictions of the
--
23 the portion of the upstairs rooms as they appeared on
24 June 6th of 1996 at 5801 Eagle Drive?
25 A. Yes, sir.

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1

2 MR. GREG DAVIS: Your Honor, at
this
3 time we'll offer State's Exhibits 16-A, 16-B, 16-C,
16-D,
4 16-E and 16-F.

5 MR. RICHARD C. MOSTY: No
objection.

6 THE COURT: State's Exhibits 16-
A, B,
7 C, D, E and F are admitted.

8

9 (Whereupon, the items
10 Heretofore mentioned
11 Were received in
evidence

12 As State's Exhibit No.
16-A
13 through 16-F for all purposes,
14 After which time, the
15 Proceedings were resumed
16 As follows:)

17

18 BY MR. GREG DAVIS:

19 Q. If we could, first looking at
State's

20 Exhibits 16-A, 16-B and 16-C. Can you tell us which
room

21 these three photographs depict, sir.

22 A. That's the upstairs, what I call
the

23 game room area.

24 Q. All right. And these items up on
the

25 wall that we see here in 16-A, can you tell us what
those

1 are?

2 A. Those are collectibles, like
3 autographs and I believe there were some cards there
4 also, like baseball cards. I'm not sure about that,
but
5 they were famous people's autographs.

6 Q. This photograph in 16-B, is that
Sammy
7 Davis, Jr.?

8 A. Yes, sir, it is.

9 Q. Okay. Do you recognize the other
10 photograph below that, who that is?

11 A. I believe that that's the
defendant,
12 I'm not positive.

13 Q. Okay. The other equipment, the
other
14 items shown here in 16-B, what are those?

15 A. It's a rack stereo system,
speakers,
16 and I believe those are CDs.

17 Q. Looking at State's Exhibit 16-C,
the
18 large object on the left side of this photograph,
what is
19 that?

20 A. That's a big screen TV.

21 Q. And the item on the right hand
portion

22 of the photograph, 16-C, what's that?

23 A. It's a computer system.

24 Q. Officer, as you came into this
room

25 here, the playroom upstairs, did you find anything
that

1 appeared to be missing in this room, sir?

2 A. No, sir.

3 Q. Did there appear to be anything
that

4 had been rifled through or moved in this playroom
prior

5 to you coming in here?

6 A. No, sir.

7 Q. When you -- is this the first
room

8 that you cleared upstairs?

9 A. Yes, sir, it is.

10 Q. What's the next room you cleared
--

11 once you cleared the playroom here, what's the next
room

12 that you went into?

13 A. The master bedroom.

14 Q. And in relationship to the
playroom,

15 where would it be located?

16 A. Just out the door.

17 Q. And State's Exhibit 16-D, tell us
18 where we are upstairs as we're looking at 16-D?

19 A. You're outside looking into the

master

20 bedroom.

21 Q. Master bedroom being here; is

that

22 correct?

23 A. Yes, sir.

24 Q. And would the playroom be to the

right

25 or to the left?

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1 A. To the left.

2 Q. So it would be over here; is that
3 right?

4 A. Yes.

5 Q. This door leading into it?

6 A. Yes, sir.

7 Q. Okay. What are we looking at
over
8 here on the right hand side of that photograph?

9 A. Some type of clock, I believe,
and
10 candlesticks.

11 Q. All right. And we're then
looking in
12 the doorway into the master bedroom; is that right?

13 A. Yes, sir.

14 Q. 16-E and 16-F, do they show
different
15 portions of that master bedroom?

16 A. Yes, sir, they do.

17 Q. And just, if you could just
orient us
18 as to what we see in 16-E first.

19 A. This is the bed, the dresser, the
20 child's crib.

21 Q. All right. Did you find anybody
in
22 this room?

23 A. Yes, sir. Approximately an eight
24 month old child.

25 Q. All right. Where?

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1 A. She was in -- or he was in the
crib.

2 Q. Okay. Did you have an
opportunity to

3 look at him to see if he was okay or not?

4 A. Yes, sir. When we entered the
room he

5 was up on the side of the crib.

6 Q. Did he appear to have any
injuries?

7 A. No, sir.

8 Q. Did he appear to be having any
sort of

9 problems at all?

10 A. No, sir.

11 Q. Did you take him with you at
that

12 point or did you leave him there?

13 A. We left him in the crib.

14 Q. And why did you leave him
there?

15 A. We hadn't finished searching
the rest

16 of the upstairs. We knew that there wasn't any
danger in

17 that room. He was in the best place that he could
be at

18 the time.

19 Q. In 16-F, what do we see there?

20 A. That's open, I guess you would
call it

21 a credenza with a television set in it. And then
it

22 looks off into the master bathroom.

23 Q. Okay. Again, looking at this
master

24 bedroom, did you find any evidence that anyone had
been

25 pulling open drawers, pulling out items, taking
anything

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1 out of this room, sir?

2 A. No, sir.

3 Q. Once you finished with the
playroom

4 and the master bedroom, where did you next go in
the

5 upstairs area?

6 A. Went to the child's room.

7 Q. Okay.

8

9 THE COURT: Gentlemen, the jury
has

10 been sitting here for an hour and a half so I think
we'll

11 take a 10 minute break now.

12

13 (Whereupon, a short

14 Recess was

taken,

15 After which

time,

16 The proceedings

were

17 Resumed on the

record,

18 In the presence

and

19

Hearing of the

defendant

20

And the jury, as

follows:

21

22

THE COURT: All right. Let's

23

continue. Are both sides ready to bring the jury

back

24

and continue?

25

MR. GREG DAVIS: Yes, sir, the

State

1 is ready.

2 MR. RICHARD MOSTY: Yes, your
Honor,

3 we are ready.

4 THE COURT: All right. Everyone
is
5 seated. Bring the jury in, please.

6
7 (Whereupon, the jury
8 Was returned to

the
9 Courtroom, and

the
10 Proceedings

were
11 Resumed on the

record,
12 In open court, in

the
13 Presence and

hearing
14 Of the defendant,

15 As follows:)

16
17 THE COURT: All right.

Let's

18 continue, please. Let the record reflect that
all
19 parties in the trial are present and the jury is
seated.

20

21

22 (Whereupon, the following

23 mentioned items were

24 marked for

25 identification only

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1 as State's 17-A, B & C,
2 after which time the
3 proceedings were
4 resumed on the record
5 in open court, as
6 follows:)

7

8 BY MR. GREG DAVIS:

9 Q. Lieutenant, I believe we were at
the
10 point where you said that you were going to check the
11 children's room; is that correct?

12 A. Yes, sir.

13 Q. All right. Let me ask you to
look,
14 please, at State's Exhibit 17-A, 17-B and 17-C. Do
these
15 fairly and accurately depict the children's rooms as
they
16 appeared on June 6, 1996?

17 A. Yes, sir, they do.

18

19 MR. GREG DAVIS: Your Honor, at
this
20 time we'll offer State's Exhibits 17-A, B and C.

21 MR. RICHARD C. MOSTY: No

1 Heretofore mentioned
2 Were received in evidence
3 As State's Exhibit No. 17-A
4 through 17-C for all purposes,
5 After which time, the
6 Proceedings were resumed
7 As follows:)

8

9 BY MR. GREG DAVIS:

10 Q. Again, Lieutenant, if we could,
just
11 looking here at State's Exhibit 17-A, where are we in
the
12 upstairs portion of the house when we're looking?

13 A. We're on the, I guess, the
balcony.

14 When you come up the stairs you're on the landing,
just
15 outside the game room and master bedroom looking
towards
16 the door.

17 Q. The master bedroom and the
playroom

18 would be on the left side here?

19 A. Yes, sir.

20 Q. All right. So now we're looking
on

21 the other side of the landing over here; is that
right?

22 A. Yes, sir.

23 Q. And we're still seeing the same
clock

24 and candelabra that we see in the other photograph;
is
25 that right?

1 A. Yes, sir.

2 Q. This room here in 17-A, what
room is
3 that?

4 A. That's a child's room.

5 Q. All right. Did you find
anything

6 unusual in this room, sir?

7 A. No, sir.

8 Q. Anything that appeared to have
been

9 taken out of place, thrown on the floor or
anything of

10 that order?

11 A. No, sir.

12 Q. State's Exhibits 17-B and 17-C,
is

13 that another child's room?

14 A. Yes, sir, it is.

15 Q. And in relationship to this
first

16 child's room, would it be to the right past this
bathroom

17 area?

18 A. Yes, sir.

19 Q. And in general, what was the

condition

20 of this child's room?

21 A. At the time that we went in and
did

22 our search, there wasn't anything out of place. This
bed

23 was made up though.

24 Q. So, we see a multi-stripped

comforter

25 here; is that right?

1 A. Yes, sir.

2 Q. And when you and Officer Waddell
first

3 came in there, the bottom bunk was made up just like
the

4 top bunk; is that right?

5 A. Yes, sir, it is.

6 Q. Is there something here on top of
this

7 top bunk?

8 A. There's a child's toy rifle.

9 Q. All right. You didn't find -- did
you

10 find any real weapons in this room, sir?

11 A. No, sir.

12 Q. Anything that appeared to be out
of

13 order here, or appear to have been taken out, or
looked

14 at, or anything of that order?

15 A. No, sir.

16 Q. Okay. Now, when you finished up
with

17 the two children's rooms, were there any other rooms
to

18 search upstairs?

19 A. No, sir, just the bathroom.

20 Q. All right. So, anything unusual
here?

21 A. No, sir.

22 Q. All right. So you finished up all
23 upstairs. What did you and Officer Waddell do at
that

24 point then?

25 A. We both came downstairs. At that

1 point I exited the house and got on my portable
radio,
2 and I had already previously called for some other
units
3 into the area. I started finding out their locations
and
4 assigning them job assignments. And I made a few
more
5 calls for crime scene and --

6 Q. Well, had you had an opportunity
prior
7 to going upstairs to actually -- I think, did I
8 understand you to say that you went through the nook,
the
9 dining room entryway and you also looked into the
living
10 room; is that right?

11 A. Yes.

12
13 (Whereupon, the following
14 mentioned items were marked
15 for identification only
16 as State's Exhibits
17 15-A,B,C,D,E & F,
18 after which time the
19 proceedings were

20 resumed on the record

21 in open court, as

22 follows:)

23

24 BY MR. GREG DAVIS:

25 Q. Lieutenant, if you would, if you
will

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1 now look at State's Exhibits 15-A, 15-B, 15-C, 15-D,
15-E

2 and 15-F. I'll ask you if they truly and accurately
3 depict the dining room, the formal living room,
the

4 breakfast nook and portions of the kitchen as
they

5 appeared on June 6th, 1996?

6 A. Yes, sir, they do.

7

8 MR. GREG DAVIS: Your Honor, at
this

9 time we'll offer State's Exhibits 15-A, 15-B, 15-C,
15-D,

10 15-E and 15-F

11 MR. RICHARD C. MOSTY: No
objections.

12 THE COURT: State's Exhibits 15-A,
B,

13 C, D, E and F are admitted.

14

15 (Whereupon, the items

16 Heretofore mentioned

17 Were received in

evidence

18

As State's Exhibit No.

15-A

19

through 15-F for all purposes,

20

After which time, the

21

Proceedings were resumed

22

As follows:)

23

24

25 BY MR. GREG DAVIS:

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1 Q. Lieutenant, first if we could
look at

2 State's Exhibit 15-A. What room are we looking at
here?

3 A. That's the dining room.

4 Q. All right. And, several items on
the

5 table here?

6 A. Yes, sir.

7 Q. Did there appear to be anything
out of

8 place in the formal dining room when you looked at
it

9 that morning, sir?

10 A. No, sir, it was -- the dishes
were

11 set. Everything is just like it is now.

12 Q. Okay. 15-B and 15-C, which room
does

13 this show?

14 A. That's the living room.

15 Q. Okay. Do there appear to be
anything

16 missing or out of order in the formal living room
when

17 you looked at it that morning, sir?

18 A. No, sir.

19 Q. State's Exhibit 15-D, what room
is
20 that?

21 A. That's the breakfast nook.

22 Q. All right. And what object is
that on
23 the left. Does it appear to be some sort of
cabinet?

24 A. Like a china cabinet, or
something
25 like that.

1 Q. Did there appear to be anything
2 missing or out of order in the breakfast nook area
when

3 you looked at it that morning?

4 A. No, sir.

5 Q. State's Exhibit 15-E, what room
is

6 that?

7 A. That's the kitchen.

8 Q. Okay. And what portion of the
kitchen

9 are we looking at?

10 A. That's the island counter.

11 Q. This is. Correct?

12 A. Yes.

13 Q. Is this going to be the same
island

14 right here?

15 A. Yes, sir.

16 Q. Okay. And in State Exhibit 15-E,
can

17 you tell which end of the island that we're looking
at?

18 A. No, sir, I don't recall which end
that

19 is.

20 Q. All right.

21 A. I think it's the end that you
first

22 come to when you're coming from the living room into
23 there, but I'm not sure.

24 Q. Okay. Are there certain items up
25 there on top of that island?

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1 A. Yes, sir, there are.

2 Q. Okay. Seems to be a red and a
black
3 object here. Do you know what those are?

4 A. It's a wallet, and like a Day
Timer
5 book.

6 Q. In what condition were those
things?

7 A. They were as they are in the
picture,
8 laying on top of each other.

9 Q. Did it appear that either one of
them
10 had been opened?

11 A. No, sir.

12 Q. Are there two other objects,
besides
13 the Day Timer and the wallet there?

14 A. Yes, sir, a set of car keys and a
15 watch.

16 Q. All right. The darker object
being
17 the car keys and then we see a gold watch; is that
right?

18 A. Yes, sir.

19 Q. Were they in plain view that
morning?

20 A. Yes, sir, they were.

21 Q. State's Exhibit 15-F. What
portion of

22 the kitchen are we looking at there?

23 A. That's that counter top that
separates

24 the kitchen from the family room.

25 Q. Okay. This area right here?

1 A. Yes, sir.

2 Q. Okay. And are there certain
objects

3 shown on top of this kitchen counter or kitchen
bar?

4 A. Yes, sir, several rings, I
believe a

5 bracelet, maybe a couple of bracelets. I'm not
sure if

6 there's a necklace there or not. I didn't look at
this

7 close enough to see if it was a bracelet or a
necklace.

8 Q. All right. And these items
right

9 here, the jewelry and the bracelets, the rings, the
other

10 bracelet right here. Were these items also out there
in

11 plain view where you could see them?

12 A. Yes, sir.

13 Q. Let me just ask you, Lieutenant,
in

14 your search of the downstairs portion of the house
and

15 your search of the upstairs portion of the house, did
you

16 find any sign that anyone had been in that room
looking

17 for property in any of those rooms, sir?

18 A. No, sir.

19 Q. Now, let's go back, if we may now,
20 you've checked downstairs. You've gone outside.

You've

21 checked upstairs. You come downstairs with Officer
22 Waddell. Correct?

23 A. Yes, sir.

24 Q. And again, if you will, tell us
what

25 you did when you came downstairs after finishing the

1 searching upstairs.

2 A. When I came downstairs I exited
the
3 residence into the front yard. And at that time I
got on
4 my portable radio and called to find out where the
5 additional units were that I asked to come over. I
6 started assigning perimeter areas, or different areas
for
7 them to set up and different areas for them to drive
in
8 attempt to locate the suspect. Also, I called for a
9 crime scene unit. I had my lieutenant notified. And
I
10 also attempted to arrange for a helicopter search,
and a
11 K-9 unit.

12 Q. Okay. And, were you successful in
13 getting a K-9 unit out here?

14 A. Yes, sir.

15 Q. How about the
helicopters?

16 A. No, sir. I contacted
D.P.S.

17 helicopter division and was told that a helicopter

was

18 not successful for a night search in a neighborhood

like

19 that.

20 Q. Let me ask you, Lieutenant,

whether at

21 anytime that evening that you came in contact with

any

22 vehicles driving along Eagle Drive?

23 A. Yes, sir. Approximately during

this

24 time when I was on my radio in the front yard a

car came

25 around from the side of the house towards the
front of

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1 the house.

2 Q. Okay. We're now looking at
State's

3 Exhibit No. 8 here, which is the aerial of the
house.

4 Can you use this pointer and just indicate for the
5 members of the jury where you saw this car?

6 A. I was right along in this area
here,

7 and the vehicle was coming down here. And about
when it

8 got right along in here I was in the street and I
stopped

9 it.

10 Q. All right. Can you tell us
what kind

11 of car it was?

12 A. It was a dark colored Sedan.

13 Q. All right. How many people
were

14 inside?

15 A. I think there were four.

16 Q. All right. What did you do
once you

17 got the car stopped?

18 A. Since at the time I had a

suspect

19 description, I ordered everybody out at gunpoint.

20 Q. All right. Let me just ask

you, you

21 said you had a suspect description. Correct?

22 A. Yes, sir.

23 Q. What was the suspect

description that

24 you had at the time that you stopped this vehicle?

25 A. A white male wearing a dark
colored

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1 ballcap, a black shirt and blue jeans.

2 Q. All right. You got the car
stopped

3 now. Just pick it up from that point, please.

4 A. Yes, sir. I stopped the car, I
had

5 the occupants, which there were four, exit the car
and

6 place their hands along the hood of the car, at
which

7 time I identified them.

8 Q. All males or all females?

9 A. There were two white males, one
black

10 male and one female.

11 Q. All right. You got everyone out?

12 A. Yes, sir.

13 Q. How was the lighting out there at
that

14 location where you had these people out?

15 A. It was pretty good. There was a
16 street light nearby.

17 Q. All right. What did you do --
once

18 you got them out, what did you have them do?

19 A. I had them place their hands on
the
20 front of the car, so that I could check them for
weapons.
21 I checked them for weapons and I checked the interior
of
22 the vehicle for anything relating to this crime. I
23 identified them.
24 Q. Okay. Let me ask you: Did any of
25 these people in this automobile -- let's talk about
the

1 three males. That's what you were looking for, a
male,

2 correct?

3 A. Yes, sir, white male.

4 Q. Any of the two white males then
match

5 the description that you had been given?

6 A. No, sir, both were wearing

7 light-colored shirts.

8 Q. Okay. Wearing light-colored
shirts?

9 A. Yes, sir.

10 Q. Either of them wearing ball caps?

11 A. No, sir.

12 Q. Did you look at the occupants to
see

13 whether you could see any blood on any of these

14 occupants?

15 A. Yes, sir, I looked individually at

16 each one, made them show me their hands, front and
back.

17 I looked up and down their clothes, checked their
shoes

18 by looking at them.

19 Q. What did you see?

20

A. I didn't find anything.

21

Q. How about the outside of the
vehicle?

22

A. I examined it and I didn't find
23 anything.

24

Q. All right. Did you look inside
the
25 vehicle?

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1 A. Yes, sir, I did.

2 Q. Did you see any blood inside the
car?

3 A. No, sir.

4 Q. Okay. How about any clothing?
Did

5 you find any dark T-shirts, any ball caps, any other
6 clothing inside the car?

7 A. No, sir, I didn't.

8 Q. Okay. What did you do then once
you

9 finished the search of the occupants, you identified
them

10 and you completed the search of the vehicle, what did
you

11 do with them?

12 A. I released them.

13 Q. All right. And, once you released
14 that vehicle then -- let me just ask you: How long
have

15 you been out here at 5801 Eagle before you see this
car

16 coming down Eagle, going -- I suppose east on Eagle?

How

17 long had you already been there by this time?

18 A. It was approximately between 10
and 30

19 minutes, I'm not exactly sure.

20 Q. And that's how much time had
passed

21 before you stopped it?

22 A. Yes, sir.

23 Q. After you had already searched
them,

24 you released the vehicle, what's the next thing that
you
25 did?

1 A. I started stringing up crime scene
2 tape, positioning the crime scene tape around the
scene

3 to keep any other vehicles out, and to secure it from
4 anybody walking up.

5 Q. All right. Now where is Officer
6 Waddell during the time that you're doing this?

7 A. When I initially exited the house
from

8 the upstairs' search, I told Officer Waddell to
remain on

9 the front door and not let anybody in the crime
scene.

10 Q. Okay. Let me just ask you: Were
11 there ambulances out here at 5801 Eagle?

12 A. Yes, sir, there were.

13 Q. Had any of the ambulances left by
the

14 time you started stringing this security tape up?

15 A. One had.

16 Q. All right. How about the others,
17 still there?

18 A. I believe it was still there.

19 Q. All right. Officer Walling, I'm
going

20 to show you a clear overlay that's been marked as
State's

21 Exhibit 8-A and ask you whether or not you see a red
and

22 yellow line on this overlay.

23 A. Yes, sir.

24 Q. Is that a true and accurate

depiction

25 of where you strung the outside perimeter tape that

1 morning?

2 A. Yes, sir, the red line is.

3 Q. And do you see a single yellow
line on

4 this overlay also?

5 A. Yes, sir.

6 Q. Is that an accurate depiction of
7 another set of tape that you had strung later that
8 morning on June 6, 1996?

9 A. Yes, sir, it is.

10

11 MR. GREG DAVIS: Your Honor, at
this

12 time we'll offer State's Exhibit No. 8-A.

13 MR. DOUGLAS MULDER: No objection.

14 THE COURT: State's Exhibit Number
8-A

15 is admitted.

16

17 (Whereupon, the item

18 heretofore mentioned

19 was received in

evidence

20 as State's Exhibit No.

8-A

21 For all purposes,

1 Q. And again, as we're looking here
on
2 this diagram, Officer, the yellow and the red, when
did
3 you string that tape?

4 A. Approximately 10 minutes after
we
5 arrived at the residence.

6 Q. All right. Is this the line
that
7 you're stringing while Officer Waddell is at the
front
8 door?

9 A. Yes, sir, it is.

10 Q. Once this one got strung, were
any
11 vehicles allowed inside that perimeter?

12 A. No, sir.

13 Q. What's the purpose of putting
this
14 line up?

15 A. To keep vehicles -- to preserve
the
16 integrity of the crime scene. To keep vehicles and
17 persons on the other side of it from entering in.

18 Q. This single yellow line that we

see

19 around 5801 Eagle, what does it represent?

20 A. It is the interior crime scene
tape

21 that was put up maybe an hour or two later. It
condensed

22 the crime scene area to the house itself and the
yard.

23 Q. Okay. Now, if you know, how long
did

24 the outside perimeter remain up? Once you strung it
25 there in the morning of June the 6th, do you know
how

1 long this outside perimeter remained there?

2 A. It still remained up for several
3 hours.

4 Q. All right. Into the later
portions of

5 June 6th?

6 A. Yes, sir, I believe so.

7 Q. All right. This inside perimeter
with

8 the single yellow line, was it removed on June 6th
also?

9 A. No, sir, it remained for several
days.

10 Q. Several days? Was this area --
did it

11 remain secure for several days?

12 A. Yes, sir, approximately two
weeks.

13 Q. All right. And during that
period of

14 time, this line was up. Correct?

15 A. Yes, sir.

16 Q. Were civilians allowed to enter
17 through this tape during those several days that

Rowlett

18 continued to have possession of this house?

19 A. No, sir, they weren't.

20 Q. In the photograph, can you see a
21 vehicle here parked on the front portion of the
house?

22 A. Yes, sir.

23 Q. What is that?

24 A. That's a Rowlett police car. An
25 officer was stationed in this area each -- for 24
hours a

1 day, for every day that we held the crime scene.

2 Q. Do you know the last day that
Rowlett

3 actually had possession there?

4 A. No, sir, I don't.

5 Q. Several days though?

6 A. Several days.

7 Q. Okay. Officer, once you
completed

8 stringing this outside perimeter, just tell us the
next

9 thing that you remember doing.

10 A. I made several other
transmissions or

11 talking on the radio to the officers in the area, to
find

12 out their status and where they were and see if they
had

13 found anything during the search.

14 At one point the defendant was
sitting

15 on the front porch, I went up and asked her if she
could

16 tell me what happened and talked to her for a few
17 minutes.

18 Q. All right. Can you please tell
the
19 members of the jury what the defendant told you out
there
20 that morning?

21 A. She had told me that she was
asleep on
22 the couch and that she had been awakened and felt
23 somebody standing over her. Then she realized that
she
24 had been stabbed and she began struggling with the
25 person. And that they had ran out through the
kitchen

1 door into the garage.

2 Q. And when she told you that she
had a

3 struggle with the individual, did she indicate to
you

4 that morning where that struggle had taken place?

5 A. Yes, sir, at the couch.

6 Q. At the couch?

7 A. Yes, sir.

8 Q. Are you sure that she didn't tell
you

9 that the struggle occurred between the kitchen and
the

10 family room?

11 A. No, sir. She said that when she
woke

12 up, the person was standing over her, and that she
was

13 laying on the couch, and that she began struggling
with

14 him.

15 Q. Okay. And, that he ran through
the

16 garage; is that right?

17 A. Yes, sir.

18 Q. Did she give you a description of
that

19 person at that time?

20 A. Yes, sir, it was a white male,
wearing

21 a dark-colored ball cap, a black T-shirt and blue
jeans.

22 Q. Okay. She didn't say it was
either a

23 black or white man?

24 A. No, sir, she said a white male.

25 Q. And, how long had you been at this

1 residence when you had this conversation with the
2 defendant?

3 A. It was within, probably within the
4 first ten minutes. When I talked to her, it was
prior to
5 me stopping the car.

6 Q. All right. Go ahead and have a
seat
7 back there.

8
9 (Whereupon, the witness
10 Resumed the witness
11 Stand, and the
12 Proceedings were resumed
13 On the record, as
14 Follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Lieutenant Walling, let me ask
you:

18 Once that area was taped off, and once an officer
was

19 posted on that door, did you ever reenter that
house?

20 A. Yes, sir, I did.

21 Q. And can you tell the members of

the

22 jury what time it was that you reentered 5801

Eagle

23 Drive?

24 A. A few minutes after 6:00 o'clock

that

25 morning, on June the 6th.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. All right. Was there still an
officer
2 posted on the front door when you entered the house?
3 A. Yes, sir, there was.
4 Q. Do you remember his name by any
5 chance?
6 A. Officer Steve Ferrie.
7 Q. Is he a member of the Rowlett
Police
8 Department?
9 A. Yes, sir, he is.
10 Q. Had you given him any
instructions, or
11 had anyone given him any instructions about sealing
off
12 that area?
13 A. Yes, sir. He was told not to
allow
14 anybody into the residence.
15 Q. Do you know whether or not someone
had
16 been on the front door before Officer Ferrie took
over?
17 A. Yes, sir. There was Officer Steve
18 Wade.
19 Q. Is he also a member of the Rowlett

20 Police Department?

21 A. Yes, sir, he is.

22 Q. Had anyone given him instructions
23 about limiting the access to that house?

24 A. Yes, sir.

25 Q. And who had given him those

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1 instructions?

2 A. I had. I advised him not to let
3 anybody into the house unless he heard something from
me.

4 Q. Okay. Now, at anytime while
Officer

5 Waddell, Officer Wade and Officer Ferrie were on the
6 front door, did you ever authorize them to let anyone
in

7 that house before you came into the house a little
bit

8 after 6:00 a.m.?

9 A. No, sir.

10 Q. When you went into the house
there,

11 Officer, a little after 6:00 a.m., did anyone go into
the

12 house with you?

13 A. Yes, sir. On my initial entry
into

14 the house the Routiers had a dog, a small dog, and
we

15 were concerned about it and wanted to get it out of
the

16 house. It was upstairs, along the upstairs railing,

and

17 it was barking. I entered the house, Officer David
18 Mayne, a crime scene officer, entered the house, and
a

19 neighbor -- I believe her name was Karen Neal --
entered

20 the house.

21 Myself and Mrs. Neal went up the
22 stairs and she picked up the dog and brought it out.
She

23 exited the house.

24 Q. All right. Let me ask you first:
25 Concerning the bottom portion of the house, the
first

1 floor, what area of the first floor did Ms. Neal go
to
2 while she was with you?

3 A. From the front door directly up
the
4 stairway.

5 Q. All right. So she went through
the
6 entry; is that right?

7 A. Yes, sir.

8 Q. To the stairs?

9 A. Yes, sir.

10 Q. All right. Now, once she got up
to
11 the second floor, where did she go to?

12 A. She was able to talk to the dog.
The
13 dog knew her, and she picked it up right there on
the
14 landing.

15 Q. All right. Did she ever go into
16 either the playroom, the master bedroom, the boy's
17 bathroom or the boy's bedroom?

18 A. No, sir.

19 Q. Okay. Was she always in your

sight

20 while she was upstairs?

21 A. Yes, sir, she was.

22 Q. And, once she got the dog on the
23 landing, where did she go to?

24 A. We both walked back downstairs and
she
25 exited the front door the same way she came.

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1 Q. All right. Now when she came down
the
2 stairs, what portion of the first floor did she go
to?

3 A. Just directly from the landing of
the
4 stairs to the front door.

5 Q. Was Mrs. Neal always in your sight
6 while she was going down the stairs and while she
was
7 exiting from the stairs out the front door?

8 A. Yes, sir, she was.

9 Q. Do you know approximately how
long
10 Mrs. Neal was inside that house retrieving the dog?

11 A. Approximately 30 seconds to a
minute.

12 Q. What kind of dog was this, if you
13 know?

14 A. It was a small dog.

15 Q. Okay. Do you remember how he was
16 acting?

17 A. He was barking.

18 Q. Okay. Now, when Ms. Neal exited
the

19 house, did you and Officer Mayne leave with her or
did

20 you remain in the house?

21 A. We remained right inside the
doorway.

22 At that time Officer -- I'm sorry, Sergeant Nabors
and

23 Lieutenant Cron entered the house.

24 Q. David Nabors, is he a sergeant
with

25 the Rowlett Police Department?

1 A. Yes, sir, he is.

2 Q. And you referred to a Lieutenant
Cron,

3 is he a retired lieutenant with the Dallas
Sheriff's

4 Office?

5 A. Yes, sir, he is.

6 Q. Okay. And does he consult with
7 Rowlett from time to time?

8 A. Yes, sir.

9 Q. And did you accompany Sergeant
Nabors,

10 Lieutenant Cron -- and was David Mayne also with
you?

11 A. Yes.

12 Q. And David Mayne is who?

13 A. He's a crime scene officer also.

14 Q. And did you and these other
gentlemen

15 go through the house again then?

16 A. Yes, sir, we did.

17 Q. And did you go through all the
bottom

18 floors?

19 A. Yes, sir, we --

20 Q. Did you go --

21 A. I'm sorry. I walked through and
22 pointed out different things to them that I had
seen when

23 I was in the house, both upstairs and downstairs.

24 Q. Okay. And you went upstairs

also

25 then?

1 A. Yes, sir.

2 Q. Did you have a chance to go in
the
3 backyard?

4 A. Yes, sir.

5 Q. All right. And, was Lieutenant
Cron

6 and David Nabors and David Mayne also with you when
you
7 went back there?

8 A. Yes, sir.

9 Q. Do you have any, just an
estimate of

10 the amount of time that the four of y'all spent in
the
11 house making that initial walk-through?

12 A. Approximately 10 to 20 minutes.

13 Q. Okay. Now, at that time you
were a

14 sergeant. Were you associated with the physical
evidence

15 section at Rowlett?

16 A. No, sir, I wasn't.

17 Q. Were you in the patrol division
then?

18 A. Yes, sir.

19 Q. Sergeant Nabors and David Mayne,
they

20 were assigned physical evidence; is that correct?

21 A. Yes, sir.

22 Q. Once y'all had made that initial
23 walk-through did you kind of hand the baton off to
them

24 concerning the crime scene?

25 A. Yes, sir, I did.

1 Q. Lieutenant, do you have any idea
about

2 how long you remained at the scene that day?

3 A. I was there until approximately
11:30.

4 Q. 11:30 in the morning?

5 A. Yes, sir.

6 Q. And at that time did you then go
back

7 to the station?

8 A. Yes, sir, I did.

9 Q. And did you prepare a report once
you

10 got back to the station?

11 A. Yes, sir, I did.

12 Q. Okay.

13 A. It was approximately 10:30 to
11:30

14 that I left.

15 Q. Now, while you had been at the
16 residence, had you made any notes?

17 A. Yes, sir, I had.

18 Q. And what notes had you made while
you

19 were out there before going back?

20 A. The notes I took were when I was
21 talking to the defendant and she gave me the physical
22 description of the suspect.

23 Q. Okay. Dark ball cap. Correct?

24 A. Yes, sir. White male, dark

colored

25 ball cap, black shirt and blue jeans.

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21 moment, your Honor?

22 THE COURT: You may.

23

24 BY MR. GREG DAVIS:

25 Q. Lieutenant Walling, prior to your

Sandra M. Halsey, CSR, Official Court Reporter

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1 testifying today, did I ask you to tell me whether or
not

2 the sheets I'm holding before you represent the
report

3 that you prepared in this case, as well as a copy,
it

4 looks like a faxed copy of your whip-out sheet?

5 A. Yes, sir.

6 Q. Okay. Are they, in fact, your
notes?

7 A. Yes, sir, they are.

8

9 MR. GREG DAVIS: Your Honor, at
this

10 time, I am going to tender to Mr. Mulder a copy of
the

11 whip-out sheet and the report prepared by Lieutenant

12 Walling, and I'll pass the witness for cross-
examination.

13 THE COURT: All right.

14 MR. DOUGLAS MULDER: Judge, I'm
going

15 to need a minute to read this.

16 THE COURT: That will be fine.

17

18 (Whereupon, a short

19

Discussion was

held

20

Off the record,

after

21

Which time the

22

Proceedings were resumed

23

As follows:

24

THE COURT: All right. Ladies

and

25 gentlemen, in view of the weather situation outside,

Sandra M. Halsey, CSR, Official Court Reporter

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1 we're going to terminate the proceedings for today.

And

2 we'll resume tomorrow morning at 9:00 o'clock if we
can

3 get in. And do your best. And, if you can't,
please

4 telephone, to let us know. If you're still
struggling,

5 let us know that too, we'll wait. That will be
fine.

6 Same instructions as always. No
7 investigation on your own. Don't talk about the
case

8 among yourselves yet. We will see you tomorrow
morning.

9 If all members of the audience
will

10 remain seated, please, until the jury has left.

11 Ms. Reynolds -- what jurors need
a

12 room?

13 You are all set? Okay.

14

15 (Whereupon, the

16 Proceedings were

20
21
22
23
24
25

Wednesday,
January 8, 1997
at 9:00 o'clock,
in open court, as
follows:)

534 Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, Official Court Reporter
of
Criminal District Court Number 3, of Dallas County,
Texas, do hereby certify that I reported in
Stenograph

notes the foregoing proceedings, and that they have
been
edited by me, or under my direction and the foregoing
transcript contains a full, true, complete and
accurate
transcript of the proceedings held in this matter, to
the
best of my knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the
exhibits, if
any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this _____ day of
_____, 1997.

Sandra M. Day Halsey, CSR
Official Court Reporter
Criminal District Court

No. 3

21

Dallas County, Texas

22

Phone, (214) 653-

5923

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR,

Official Court

Reporter

1 STATE OF
TEXAS)
2 COUNTY OF
DALLAS)

3

4

JUDGES CERTIFICATE

5

6

7

8 The above and foregoing transcript, as
certified

9 by the Official Court Reporter, having been
presented to

10 me, has been examined and is approved as a true and
11 correct transcript of the proceedings had in the
12 foregoing styled cause, and aforementioned cause
number

13 of this case.

14

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MARK TOLLE, JUDGE

20

Criminal District Court Number 3

21

Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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