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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. 30 OF 53 VOLS.
January 8, 1997
Wednesday

Sandra M. Halsey, CSR, Official Court Reporter

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C A P T I O N

BE IT REMEMBERED THAT, on Wednesday, the 8th day of January, 1997, in the District Court 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, with 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:

21

22

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Sandra M. Halsey, CSR,
Official Court Reporter

538

1

A P P E A R

A N C E S

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4

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

11

12

AND:

13

HON. JOHN GRAU

14

Assistant

District Attorney

15

Dallas County,

Texas

16

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

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1 ADDITIONAL APPEARANCES:

2

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4 Attorney at Law

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Tower

6 717 N. Harwood

7 Dallas, TX 75201

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10 Attorney at Law

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6 ALL ATTORNEYS REPRESENTING

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APPEAL

9 AND:

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14 APPEARING FOR: Witness-

15 Detective Jimmy

Patterson

16 only on one date in

trial

17 AND:

18 HON. STEVEN J. PICKELL

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22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

25

Reporter Sandra M. Halsey, CSR, Official Court

541

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P R O C E E D I N

January 8th, 1997
Wednesday
9:00 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 panel, as follows:)

THE COURT: All right. We're

back on

20 the record in the Darlie Routier matter.

21 Are both sides ready to bring the
jury

22 back and resume?

23 MR. GREG DAVIS: Yes, sir, the

State

24 is ready.

25 MR. DOUGLAS MULDER: Yes, sir, we
are

1 ready.

2 THE COURT: All right, bring the
jury

3 in, please.

4

5 (Whereupon, the jury

6 Was returned to

the

7 Courtroom, and

the

8 Proceedings

were

9 Resumed on the

record,

10 In open court, in

the

11 Presence and

hearing

12 Of the defendant,

13 As follows:)

14

15 THE COURT: Let the record

reflect all

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

17 And Mr. Mulder, I believe you
will do
18 cross-examination?
19 MR. DOUGLAS MULDER: Yes, sir.
Thank
20 you.
21 THE COURT: All right.
22
23
24
25

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1 Whereupon,

2

3 LT. MATT WALLING,

4

5 Resumed the stand as a witness, for the State of
Texas,

6 having been previously duly sworn by the Court, to
speak

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

8 was examined and testified further in open court, as

9 follows:

10

11

12 CROSS EXAMINATION

13

14 BY MR. DOUGLAS MULDER:

15 Q. Lieutenant Walling, you
understand, of

16 course, that you're still under oath?

17 A. Yes, sir.

18 Q. And, you were, I believe way back
on

19 Monday placed under the Rule of Evidence?

20 A. Yes, sir.

21 Q. You've heard that when the

prosecutor

22 asked that all the witnesses be placed under the Rule
of

23 Evidence?

24 A. Yes, sir.

25 Q. Of course, you haven't, I take it

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1 then, talked with the other witnesses about your
2 testimony and no witness has discussed his testimony
with

3 you?

4 A. No, sir.

5 Q. That's the purpose of the Rule,
isn't

6 it?

7 A. Yes, sir, it is.

8 Q. So the witnesses don't get
together

9 and all cook up a story. Correct?

10 A. Yes, sir.

11 Q. And, of course y'all didn't need
to do

12 that, because you have had a, -- you kind of had a
dress

13 rehearsal, didn't you? Weren't you involved in the
dress

14 rehearsal?

15 A. With the district attorneys?

16 Q. Yes, sir.

17 A. Yes, sir. We had gotten together
18 before.

19 Q. You got together in the courtroom?

20 A. Yes, sir.

21 Q. And everybody kind of sat around
and

22 listened to the other witnesses as they went through
23 their part of the testimony?

24 A. Yes, sir.

25 Q. Okay. It's looks better, I guess,
for

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1 the conductor, if everybody's on the same sheet of
music,

2 doesn't it?

3 A. Yes, sir, I guess it does.

4 Q. But, I mean, it helps you if
you're

5 able to, for example -- and I'm not suggesting that
you

6 would change your testimony, but, I mean, it helps
to

7 refresh your memory and it looks better if
everybody's

8 consistent, doesn't it? It makes sense.

9 A. Well, it does refresh your
memory,

10 yes, sir.

11 Q. And, of course, it looks better
if

12 everybody's consistent, doesn't it?

13 A. Well, sir --

14 Q. Don't you think?

15 A. Well --

16 Q. You don't know?

17 A. Well, I'm talking -- as long as
you

18 tell the truth it doesn't really matter. That's not
what

19 we're here for is to make things look better.

20 Q. Well, let's talk about -- and
when you

21 say "as long as you tell the truth" of course you
mean

22 the whole truth, don't you?

23 A. Yes, sir.

24 Q. And nothing but the truth?

25 A. Yes, sir.

1 Q. And you've been under oath before
in
2 this matter and testified, have you not?

3 A. Yes, sir, I have.

4 Q. And at that time you took an oath
to
5 tell the truth, the whole truth, and nothing but the
6 truth, didn't you?

7 A. Yes, sir.

8 Q. Okay. Let me -- Mr. Walling --
9 Sergeant Walling -- Lieutenant Walling, on the
evening
10 of, or the early morning hours of June the 6th, of
1996,

11 you told us that you were on Highway 66 and got this
12 dispatch; is that right?

13 A. Yes, sir.

14 Q. I believe your response time was
15 something like two or three minutes. Is that fair
to
16 say?

17 A. Approximately three minutes.

18 Q. Okay. At any rate, you were
some, as

19 I recall, some 3.1 miles away at that time.

Right?

20 A. Approximately, yes, sir.

21 Q. You were on Highway 66, which
is a

22 main artery through Rowlett; is it not?

23 A. Yes, sir, it is.

24 Q. I have my finger on 66. It's
this red
25 thing?

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Reporter

1 A. Yes, sir.

2

3 MR. DOUGLAS D. MULDER: Can
you-all

4 see that?

5 THE JURORS: Yes.

6

7 BY MR. DOUGLAS MULDER:

8 Q. Now another artery that is
close to

9 Rowlett is Interstate 30, isn't it?

10 A. Yes, sir, it is.

11 Q. Runs from Dallas, basically, to
12 Texarkana, doesn't it?

13 A. Yes, sir.

14 Q. It runs almost parallel, does it
not?

15 A. Yes, sir, it does.

16 Q. Big divided highway?

17 A. Through Rowlett it runs parallel.

18 Q. All right. And that's Interstate
30?

19 A. Yes, sir.

20 Q. Of course, you were coming from
the

21 opposite direction, but somebody at 2:31 or 2:32, at
or
22 about the time that you got your dispatch, somebody
could
23 have gone down Dalrock Road to Interstate 30 and by
the
24 time you got to Eagle been well on their way to
Dallas,
25 if they made a right turn and --

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1 A. Yes, sir, that's correct.

2 Q. And through Rockwall if they
made a
3 left turn?

4 A. Yes, sir, that's correct.

5 Q. And that's a big divided -- is
it four
6 lanes on each side, or in some places it is, I
guess?

7 A. Are you talking about Dalrock?

8 Q. No, we're talking about --
Dalrock is

9 a main artery as well, is it not?

10 A. Yes, sir.

11 Q. Okay. And on the interstate, of
12 course, is a divided highway with several lanes on
each
13 side?

14 A. Yes, sir.

15 Q. All right. Now, your response
time is
16 about three minutes. Right?

17 A. Yes, sir, approximately.

18 Q. Okay. And you heard in the --
matter

19 of fact, you were down here Sunday, were you not?

In

20 this very courtroom?

21 A. Yes, sir.

22 Q. And you listened to the 911

tape, and

23 you realized from that that your patrolman, Officer

24 Waddell, had been at the residence during the 911

call;

25 is that right?

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1 A. Yes, sir.

2 Q. Matter of fact, the officer,
when

3 she's told to let the officer in, that's you, isn't
it?

4 A. I'm assuming it is, but I don't
5 believe the dispatcher knew that the officer,
Officer

6 Waddell was in the house at the time.

7 Q. Well, at any rate you arrived
there

8 shortly after that 911 call, didn't you?

9 A. Yes, sir.

10 Q. And as I understood your
testimony

11 yesterday, you rendezvoused with Waddell to have
him

12 bring you up to date on what he knew at that point;
is

13 that right?

14 A. Yes, sir.

15 Q. And then without talking to
Darlie or

16 her husband, who were also present, weren't they?

17 A. Yes, sir.

18 Q. As I understood your testimony
19 yesterday, you and Waddell went and went directly to
the
20 garage; is that right?

21 A. After we talked?

22 Q. Yes, sir.

23 A. Yes, sir.

24 Q. All right. And I believe that you
25 said that your route to the garage --

1 A. Sir, what are those first two
words on

2 that line?

3 Q. Right here?

4 A. Yes, sir.

5 Q. It says "met with."

6 A Okay.

7 Q. That's just a W, slash.

8 A. Okay.

9 Q. Met with Waddell and went directly
to
10 the garage?

11 A. Yes, sir.

12 Q. And I think you said at that time
you

13 stepped into the garage, didn't remember whether the
14 lights were on or not, had a flashlight with you, saw
the

15 window open with the screen cut; is that right?

16 A. Yes, sir.

17 Q. And satisfied yourself that there
was

18 no one there in the garage from your vantage point,
which

19 was just inside -- as I understood your testimony,

y'all

20 were just inside the garage, like you were right
there

21 and Waddell was covering your back, still standing in
the

22 utility room?

23 A. I believe that he was a step or
two in

24 the garage. I'm not sure exactly where he was. I
25 stepped in a couple of feet. There was, --I believe
it

1 was either a refrigerator, or a freezer or something.
If

2 you're standing in the doorway looking into the
garage to

3 the left, to the left of me, and I had to go around
it,

4 to look around it to see all the way to the wall.

5 Q. Well, at any rate, you satisfied
6 yourself that there was no one in the garage, and
then

7 you exited the garage and came out, as I understood
your

8 testimony, into the dining room?

9 A. Yes, sir.

10 Q. You had gone in through the
kitchen

11 past the wine rack and on this side of the island; is
12 that right?

13 A. Yes, sir, it is.

14 Q. And I think you told the jury
15 yesterday at that time you didn't see an overturned
16 vacuum cleaner in this area?

17 A. I don't recall seeing it at that
time.

18 Q. And we can take that as a definite

19 then that you did not see an overturned vacuum
cleaner in

20 this area at that time?

21 A. I don't recall seeing it at that
time.

22 I remember seeing one there, but I don't remember
whether

23 or not if I noticed it the first time through or when
I

24 went through later with the crime scene.

25 Q. Okay. Would you quarrel with me -
-

1 you've been over your testimony, have you not? Your
2 previous testimony?

3 A. Yes, sir.

4 Q. Okay. You know that you testified
5 back then that you did not see it when you initially
went

6 through the kitchen. Is there anything that's going
to
7 change that?

8 A. No, sir.

9 Q. Okay. Fair enough for me to write
on
10 here that Lieutenant Walling, or Sergeant Walling, at
the
11 time, Walling did not see vacuum cleaner when first
went

12 through kitchen. Is that fair?

13 A. Sir, I don't recall seeing it at
that
14 time.

15 Q. All right. Walling does not
recall

16 seeing vacuum cleaner when first went through
kitchen.

17 Fair enough?

18 A. Yes, sir. I don't remember if I
19 actually saw it at that time or when I was in the
house

20 later. I don't remember when I first saw it.

21 Q. Well, just so that we don't --
your

22 memory would have been better in August than it is
today,

23 would it not? If it was that much closer?

24 A. Well, on some things.

25 Q. Okay. Well, I mean, we can go
back

1 and I can, if you prefer -- let me hand you what has
been

2 marked for identification record purposes as
Defendant's

3 Exhibit No. 15. And I'll ask you to just page
through

4 that briefly in the privacy of the witness box and
tell

5 me whether or not that is your --

6 A. Yes, sir, it is.

7 Q. -- prior sworn testimony?

8 A. Yes, sir, it is.

9 Q. All right. Were you asked -- if
you

10 would turn to page 179, line 10. Were you asked:
Was

11 the vacuum cleaner there in the kitchen when you
went

12 through that first time, and did you answer, "No,
sir, I

13 don't remember at that going-through"?

14 A. Yes, sir, I don't recall. That's
what

15 I'm telling you now that I don't recall.

16 Q. You don't remember it when you

went

17 through it at that time. Is that fair to say?

18 A. Yes, sir.

19 Q. All right. Now, you went back in
and

20 made a thorough search of the residence, did you
not?

21 A. Yes, sir.

22 Q. Okay. But that was after you had
gone

23 out to the backyard; is that not right?

24 A. Yes, sir.

25 Q. Now, once you --

1 A. Of the upstairs part.
Downstairs, I
2 searched on my way out to the backyard.
3 Q. Okay. You went through the
dining
4 room and living room?
5 A. Yes, sir.
6 Q. Satisfied that there wasn't
anybody
7 there?
8 A. Yes, sir.
9 Q. And then you searched the
outside; is
10 that right?
11 A. Yes, sir.
12 Q. And so after -- would it be fair
to
13 say that after you had searched the first floor you
then
14 searched the backyard?
15 A. Yes, sir.
16 Q. Okay. All right. And you have
told
17 us how you got into the backyard by opening the
gate.

18 And I think you showed us how you even had to push a
19 little bit with your foot on the gate to open it up.

But

20 you were able to open it up, weren't you?

21 A. Yes, sir.

22 Q. I mean, you didn't have any

trouble --

23 that wasn't a difficult maneuver, was it?

24 A. Well, it was pretty hard to get

it

25 open.

1 Q. But you managed, didn't you?

2 A. Yes, sir.

3 Q. And you're talking about a matter
of
4 seconds that it took you to --

5 A. Yes, sir.

6 Q. All right. You told us
yesterday,
7 that you didn't know whether the lights in the
backyard
8 were on or off at that time, didn't you?

9 A. No, sir.

10 Q. Were the lights off?

11 A. The lights in the backyard?

12 Q. Uh-huh. (Nodding head
affirmatively).

13 A. Yes, sir, they were off.

14 Q. Okay. And when you walked from
the
15 gate of the backyard over to the window that you had
seen
16 from where you were in the garage, the lights did
not
17 come on, did they?

18 A. Well, I didn't go there first.

19 Q. Okay.

20 A. In fact, I walked first to the
spa,

21 and past the spa and around the corner, I looked
over at

22 the window as I was going through.

23 Q. Did the lights ever go on?

24 A. Yes, sir.

25 Q. While you were in the backyard?

1 A. Yes, sir.

2 Q. Okay.

3 A. The flood lights mounted on the
spot

4 did.

5 Q. All right. Those are motion
6 detectors, are they not?

7 A. Yes, sir.

8 Q. Okay. Do you know where you were
when

9 you set the motion detector light off?

10 A. I was approximately around the
door of

11 the spa.

12 Q. The door of the spa?

13 A. Yes, sir.

14 Q. Okay. The spa is toward the back
of

15 the lot, is it not?

16 A. Yes, sir, it is.

17 Q. And on this State's Exhibit 8-A,
this

18 would represent the spa, I assume?

19 A. Yes, sir.

20 Q. And you were back in here when

you set

21 the -- when the light turned on?

22 A. I would have to see a front view
of

23 the spa to see where the door was.

24 Q. Well --

25 A. I really don't remember. Right
along

Sandra M. Halsey, CSR, Official Court Reporter

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1 in the center of the building, yes, sir.

2 Q. And it would follow, would it
not,

3 that the door would be somewhere at the end of this
4 cement sidewalk?

5 A. Yes, sir.

6 Q. It didn't set the light off when
you

7 came in through the gate, did you?

8 A. No, sir.

9 Q. Okay. Later on some experiments
were

10 done. Were you there when those were done?

11 A. Yes, sir.

12 Q. And you were able to -- or the
police

13 officer conducting it, was able to run in this area
to

14 the window back and forth and not set off the alarm
--

15 set off the lights, was he not?

16 A. The only thing that I did when
the

17 light came on, I stayed out of -- or at the
entrance to

18 the yard. When the lights came on, I timed it to
see how

19 long they were on.

20 Q. Okay. Were you there when the
21 experiment was conducted?

22 A. Yes, sir, I was.

23 Q. Okay. Well, you know then that
he was

24 able to walk from the window, and run from the
window --

25 both run and walk from the window to the gate
without

1 setting off the light?

2 A. I'm not sure what path that he
took.

3 Q. Okay. But you were there when
that

4 experiment was conducted?

5 A. Yes, sir, I was. I timed it.

6 Q. Did you make any notes of that,
or did

7 you just relay the timing to somebody?

8 A. I just relayed it to somebody.

9 Q. Matter of fact, the only note
that you

10 made out there was -- you carry a little whip-out
book,

11 don't you?

12 A. Yes, sir, I do.

13 Q. Could we see that?

14 A. Yes, sir.

15 Q. Okay. You had a book similar
to that,

16 did you?

17 A. No, sir, I had this book.

18 Q. You had that particular book?

19 A. Yes, sir.

20 Q. Okay. Did you -- but you
didn't note

21 the time; is that correct?

22 A. Concerning the yard?

23 Q. Yes, sir.

24 A. No, sir, I didn't. Now, I

didn't have

25 this book, or I don't know if I had this book or
not when

Sandra M. Halsey, CSR, Official Court
Reporter

1 you're talking about the experiment with the
light. I

2 had this book the night that I was dispatched to
5801

3 Eagle Drive.

4 Q. Oh, okay. But you went out
there

5 later on, with respect to the experiment with the
light?

6 A. Yes, sir.

7 Q. That happened a day or two later?

8 A. Something like that.

9 Q. Several days later, whatever?

10 A. Yes, sir.

11 Q. You didn't make any notes at that
12 time, you just relayed your information to someone
there

13 who was taking notes?

14 A. Yes, sir.

15 Q. All right. Now, when you went to
the

16 backyard to search and secure the backyard area, the
17 paramedics had gone in through the front door and
were

18 endeavoring to give aid to the children and to Ms.

19 Routier, weren't they?

20 A. No, sir. When I exited the
house to

21 begin the search -- to go around to the backyard,
the

22 paramedics, -- we both arrived at the same time. I

23 followed the ambulance in. When I exited the house
to go

24 around to the backyard, I told the paramedics that
the

25 scene was secure downstairs so that they could go
in.

1 Q. Okay. I thought that's what I
said.

2 But, when you left them and went to search the
backyard,

3 they went in, didn't they?

4 A. Yes, sir.

5 Q. Okay. And administered whatever
aid

6 they could administer?

7 A. Yes, sir.

8 Q. Now, you don't instruct them,
with

9 respect to the crime scene, do you? In other words,
you

10 don't tell them, "don't touch anything, don't do
this or

11 that and the next thing."

12 They're in there -- their purpose
is

13 totally different from yours, is it not?

14 A. Yes, sir, it is.

15 Q. Okay. And --

16 A. At points, during -- if they're
in for

17 an extended period or something, and I'm in there,
I have

18 in the past made comments to tell them to be
careful

19 about certain things, but that night, no, sir.

20 Q. Okay. So they went in, they
were at

21 leave to do whatever they deemed necessary?

22 A. Yes, sir.

23 Q. They could move things, they
could

24 touch things, they could do whatever was necessary?

25 A. Whatever.

1 Q. And I would assume, and you were
2 there, so I will just ask you. But I would assume
they
3 would get blood on their hands, would they not?

4 A. Yes, sir, I would think so.

5 Q. I mean, it would be hard not to,
6 wouldn't it?

7 A. Yes, sir.

8 Q. You saw Darin Routier that
night, he

9 had blood on his hands, didn't he?

10 A. No, sir, he didn't -- well, when
I
11 checked his hands at that time he didn't have blood
on
12 his hands.

13 Q. Did he have blood on his hands
later
14 on?

15 A. No, sir, I never saw him with
blood on
16 his hands.

17 Q. You never did? Are you sure about
18 that?

19 A. Yes, sir.

20 Q. Okay.

21 A. I know he had blood on his shirt.

22 Let's see, give me just a second.

23 Q. I'm going to give you your report

and

24 let you refresh your memory.

25 A. Okay.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Did you refresh your memory before
you
2 came in here yesterday?

3 A. With my reports, no, sir.

4 Q. Well, again, I don't know, but I
would

5 think that the purpose of making a report is so that
6 later on you can look at your report and refresh
your

7 memory from that report so that your testimony is
as

8 accurate as it can be.

9 A. Yes, sir, that's correct.

10 Q. As you sit here right now,
you're

11 telling the jury, I don't know whether it's important
or

12 not, but you're telling the jury that Darin Routier
did

13 not have blood on his hands and palms when you looked
at

14 them?

15 A. Well, I'm not sure.

16 Q. Well, now you're saying you're not
17 sure.

18 A. Well, I need to refer to my
report.

19

20 MR. DOUGLAS MULDER: Would you
mark

21 this, please.

22

23

24 (Whereupon, the following
25 mentioned item was

1 marked for
2 identification only
3 as Defendant's Exhibit 16,
4 after which time the
5 proceedings were
6 resumed on the record
7 in open court, as
8 follows:)

9
10

11 BY MR. DOUGLAS MULDER:

12 Q. Let me hand you what's been marked
13 for
14 identification and record purposes as Defendant's
15 Exhibit

16 No. 16. I'll direct your attention to this.

17 A. Yes, sir.

18 Q. Did he have blood on his hands?

19 A. Yes, sir, and on his shirt.

20 Q. Okay. I don't know that that's
21 even

22 important, but, I mean, nobody has a perfect memory,
do
they?

A. Well, I don't.

Q. All right. Now, I'm going to

write

23 down here so we don't forget it again that Darin

Routier

24 had blood on his hands and palms?

25 A. Yes, sir. And on his shirt.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. All right. Now, after you
searched
2 the backyard and determined that the backyard was
secure,
3 you and Waddell then searched the upstairs; is that
4 right?

5 A. Yes, sir.

6 Q. And at that time the paramedics
were,
7 and the firemen and all of those folks were beginning
to
8 arrive, were they not?

9 A. Well, there was the one ambulance
unit

10 that I followed in. And another one had been
dispatched
11 at that particular time. I'm not sure if the second
12 ambulance was there yet or not. And I believe an
engine
13 was dispatched. And, as we were going upstairs, I'm
not
14 sure if that one had arrived or not.

15 Q. Could you tell me again, I was at
a
16 vantage point where I couldn't see, but did you say
that

17 you parked over in this area?

18 A. No, sir.

19 Q. You didn't park here, did you?

20 A. No, sir.

21 Q. Okay. Your partner was parked -

- see

22 this vehicle where it looks like the mowing may

have

23 overlapped?

24 A. Yes, sir.

25 Q. Do you see that stripe down
there?

1 A. Yes, sir.

2 Q. Your partner, or Waddell, was
parked

3 in this vicinity, was he not?

4 A. No, sir. He was on -- I believe
he

5 was on the same side of the street that I was.

6 Q. Okay. Would you step down off
the

7 witness stand, and with this marker -- I don't want
to

8 mark up their exhibits, but if you'll mark on the

9 overlay. If you'll just mark where Waddell was
parked.

10 Of course, part of your training
is to

11 observe these sort of things, isn't it? Waddell was
12 parked there?

13 A. Right along in there.

14 Q. If you will put a -- all right.

15 A. Yes, sir.

16 Q. Will you show the jury where you
were

17 parked.

18 A. Yes, sir.

19 Q. Okay. Anybody who thinks the
second
20 squad car was parked over here is just mistaken, are
they
21 not?
22
23 MR. GREG DAVIS: I'm going to
object
24 to that, it's comparison of testimony.
25 THE COURT: Sustained.

1

2 BY MR. DOUGLAS MULDER:

3 Q. At any rate, are you certain
about

4 this where you were parked?

5 A. Yes, sir, I am.

6 Q. And you're certain about where
Waddell

7 was parked?

8 A. Yes, sir.

9 Q. All right. And you're sure you
10 weren't parked over here?

11 A. Yes, sir.

12 Q. And you're sure Waddell wasn't
parked

13 here?

14 A. Yes, sir.

15 Q. Okay. If you will just take the
16 witness stand again. Thank you.

17

18 (Whereupon, the witness

19 resumed the witness

20 stand, and the

21 proceedings were

resumed

22

On the record, as

23

follows:)

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. DOUGLAS MULDER:

2 Q. Do you have any idea, Lieutenant
3 Walling, how many paramedics and police officers
were in
4 and out of that residence?

5 A. I can tell you how many police
6 officers were.

7 Q. Okay.

8 A. And that's -- at what point?

9 Q. Well, I guess before you put up
the
10 tape and attempted to keep the scene -- attempted to
11 limit the contamination of the scene?

12 A. Well, before 6:00, or around,
13 approximately 6:00 o'clock in the morning, myself
and
14 Officer David Waddell were the only two police
officers
15 that entered the residence.

16 Q. Of course, while you were
checking the
17 backyard, your main concern was to secure the
backyard
18 and not to count the paramedics going in and out of
the
19 house, isn't it?

20 A. Yes, sir.

21 Q. And, suffice it to say, you don't
know

22 how many paramedics were in and out of that house
when

23 you weren't there, do you?

24 A. No, sir.

25 Q. And, you don't know what they
did, do

1 you?

2 A. No, sir.

3 Q. You don't know what conversations
4 Darlie and her husband may have had with those
5 paramedics, do you?

6 A. No, sir.

7 Q. All right. And if you're seeking
8 medical information, it makes sense to talk to the
9 paramedics, as opposed to talking to the police
officers,

10 doesn't it? If you're seeking medical information?

11 A. If who is?

12 Q. Anyone.

13 A. Yes, sir.

14 Q. Okay. Doesn't matter -- I mean,
me or

15 the jury or anybody.

16 A. I mean, if that's your choice, I
would

17 ask a paramedic, yes, sir.

18 Q. Sure. Okay. You had -- did you
--

19 was it your idea to set up a canvas?

20 A. I mean -- well, yes, that was one
of

21 the things that we were going to do. I didn't
instruct

22 the canvas to be done, it was another sergeant that
23 instructed that the canvas be done.

24 Q. Okay. Who was the sergeant that
gave
25 that instruction?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Well, it might also have been, I
2 believe it was either Sergeant Ward or Lieutenant
Grant.

3 We all three were conversing, and about the time
when we

4 were going start that. And it was Sergeant Ward
that

5 delegated the officers to start the neighborhood
canvas.

6 Q. Okay. And that would be in an
effort

7 to learn what any of the people in the neighborhood
may

8 have seen that was suspicious?

9 A. Yes, sir.

10 Q. Is that correct?

11 A. Yes, sir.

12 Q. Did they talk to -- as far as you
13 know, did they talk to all of the neighbors in the
14 immediate area, that is, in this area?

15 A. I don't know exactly who they
did talk

16 to.

17 Q. Okay. Have you had a chance to
review

18 those, the results of the canvas?

19 A. No, sir.

20 Q. Let me ask you this: Did you
go to

21 the cemetery --

22 A. Well --

23 Q. -- when the Routier children
were

24 buried?

25 A. No, sir, I didn't.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Do you know who did?
2 A. No, sir.
3 Q. Okay. Y'all had people out
there,
4 though, didn't you?
5 A. That went to the funeral?
6 Q. Yes.
7 A. I know some people went to the
8 funeral.
9 Q. Do you know if they videotaped
the
10 funeral?
11 A. I don't think -- I don't know.
12 Q. You don't know whether Rowlett
P.D.
13 videotaped people coming and going from the
funeral?
14 A. I don't know if they did or
not.
15 Q. If they did,
they didn't discuss it
16 with you?
17 A. No, sir.
18 Q. Who would
know that?

19 A. Probably the
lead investigator in the
20 case, Jimmy Patterson.

21 Q. Jimmy
Patterson would? Okay. Who
22 else would know that?

23 A. I don't know

--

24 Q. Who was his
lieutenant?

25 A. His
lieutenant was Lieutenant Grant

Sandra M. Halsey, CSR,
Official Court Reporter

1 Jack.

2 Q. Okay. I
guess the lieutenant would

3 know, wouldn't he?

4 A. Yes, sir, I'm
sure he would.

5 Q. That's
something that you would clear
6 with your lieutenant if you were
somebody in Jimmy

7 Patterson's position, isn't it?

8 A. To go to the
funeral?

9 Q. And to
videotape the people coming and
10 going from the funeral?

11 A. If they had
decided to do that, I'm
12 sure it was discussed.

13 Q. Okay. Have
you seen Patterson today?

14 A. No, sir.

15 Q. You don't
know whether he's here in
16 town or not?

17 A. Yes, sir, I
do know he's here in town.

18 Q. He's here in
town but you just haven't
19 seen him today?

20 A. Yes, sir.

21 Q. When did he
get in, do you know?

22 A. I believe
they got in Monday night.

23 Q. All right.
You have -- maybe I took
24 it back from you -- I showed you
Defendant's Exhibit No.
25 16. It contained a Xeroxed page
from a whip-out book?

 Sandra M. Halsey, CSR,
Official Court Reporter

1 A. Yes, sir.

2 Q. Is that the
only note that you took
3 while you were out there at the
scene?

4 A. Yes, sir, it
is.

5 Q. That's the
only thing that you wrote
6 down?

7 A. Yes, sir.

8 Q. And do you
remember what that said?

9 A. Yes, sir. It
said, "white male, dark
10 colored ball cap, black T-
shirt."

11 Q. Well, let me
just give it to you so we
12 don't have to -- I don't want to
split hairs with you,
13 but exactly what you wrote down
there.

14 A. Okay. W
slash M for white male, dark

15 ball cap, blue jeans and BLK
shirt.

16 Q. Would that be
black shirt?

17 A. Yes, sir.

18 Q. Did you know
whether that was a

19 T-shirt, or just a black shirt
or a long sleeved shirt or

20 just a black shirt?

21 A. It was just a
black shirt.

22 Q. That's all
you knew at that time?

23 A. Yes, sir.

24 Q. Okay. Now,
you had -- and I think you
25 testified yesterday that you had
a conversation with

Sandra M. Halsey, CSR,
Official Court Reporter

1 the -- with Darlie; is that
correct?

2 A. Yes, sir, I
did.

3 Q. Okay. And that was not in the
family

4 room or in the kitchen or in the house, was it?

5 A. No, sir. Well, no, sir, it was
on the

6 front porch.

7 Q. All right. It was on the front
porch.

8 And at that time she was being attended to by the
9 paramedics; is that correct?

10 A. Yes, sir.

11 Q. And they were getting ready to
12 transport her to a hospital, were they not?

13 A. Yes, sir, they were.

14 Q. Okay. She had a severe gash to
her

15 neck, did she not?

16 A. She had a wound to her neck,
yes, sir.

17 Q. And did you see any other wounds
on

18 her?

19 A. No, sir, I didn't.

20 Q. Okay. Anything to prevent you

from

21 seeing her arms?

22 A. No, sir.

23 Q. Okay. But you're telling the

jury

24 that you saw no injury to either of her arms?

25 A. Well, I don't recall if there
was. I

1 know she received some other injuries, but I don't
recall

2 where they were.

3 Q. Okay. But I think you said that
she

4 was extremely bloody.

5 A. Yes, sir, extremely.

6 Q. And was she hysterical?

7 A. No, sir.

8 Q. Was she upset?

9 A. Yes, sir.

10 Q. Understandably so?

11 A. Yes, sir.

12 Q. Okay. Your conversation -- you
were

13 asked, Lieutenant, under oath, how long your
conversation

14 with her took. Do you remember that?

15 A. Remember what I was asked?

16

17

18 (Whereupon, the following

19 mentioned item was

20 marked for

21 identification only

22 as Defense Exhibit No. 15,

23

after which time the

24

proceedings were

25

resumed on the record

Sandra M. Halsey, CSR, Official Court Reporter

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1 in open court, as
2 follows:)

3

4 BY MR. DOUGLAS MULDER:

5 Q. Let me, again, I'll favor you
with

6 Defendant's Exhibit No. 15. I don't want the
advantage

7 on you. And direct your attention to page 179.

8 A. Yes, sir.

9 Q. Let me take this and get it out
of

10 your way. Do you have 179?

11 A. Yes, sir, I do.

12 Q. 180?

13 A. Yes, sir.

14 Q. And

181?

15 A. Yes,

sir.

16 Q. Okay. Do you see at the bottom,
line

17 24 of page 180, when you were under oath, and you
were

18 asked approximately how long you talked with Mrs.
Routier

19 on that occasion, line 24 on page 180?

20 A. Oh, page 180, I'm sorry. Yes,
sir.

21 Q. All right. No one suggested an
answer

22 to you, did they?

23 A. No, sir.

24 Q. But you were asked how long on
this

25 occasion you talked to her; is that right?

1 A. Yes, sir.

2 Q. And what was your response then
and
3 what is your response now?

4 A. My actual conversation lasted
less
5 than 30 seconds.

6 Q. Less than 30 seconds. That's
less
7 than a half a minute.

8 A. Yes, sir.

9 Q. Could have been 15 seconds, could
have
10 been 20 seconds?

11 A. It was less than 30 seconds. It
was
12 enough time to ask her as far as description goes.

13 Q. You had to get your whip-out book
out
14 and write it down, I assume?

15 A. Yeah, I had it, yes, sir.

16 Q. Okay. You were asked,
Lieutenant, the
17 substance of that conversation, were you not?

18 A. Well --

19 Q. Line 10 on 180?

20 A. Yes, sir.

21 Q. You said you had a conversation
with

22 her. You said it lasted less than 30 seconds and
you

23 were asked the substance of that conversation; is
that

24 correct?

25 A. Yes, sir.

1 Q. Okay. And what was your answer
under

2 oath at that time?

3 A. I had asked her for a description
of

4 the suspect.

5 Q. Okay. And did she give you one?

6 A. Yes, sir.

7 Q. Okay. And do you recall what
that

8 was?

9 A. White male, possibly wearing dark
10 colored ball cap, black shirt and blue jeans.

11 Q. Okay. If my watch is right our
12 exchange there took a little over, approximately

25

13 seconds. Was that about the length of your
conversation

14 with her?

15 A. No, sir. I also asked her
what

16 happened.

17 Q. Um-hum. (Nodding head
affirmatively).

18 A. And --

19 Q. I understand that's what you

said

20 yesterday. But when you were asked -- was there

21 something you didn't understand about the

question back

22 in August? You were asked the substance of the

23 conversation, were you not?

24 A. Yes, sir, I was.

25 Q. And that means, in plain old
ordinary

Reporter Sandra M. Halsey, CSR, Official Court

1 English words, that means, "What did you talk
about?"

2 A. Yes, sir.

3 Q. In this less than 30 second
4 conversation, and you said, "I asked her
for a

5 description;" is that right?

6 A. Yes, sir.

7 Q. And you didn't say any of this
other

8 stuff back then, did you?

9 A. As far as asking her about what
10 happened?

11 Q. Yes, sir.

12 A. No, sir.

13 Q. You just forgot that back then?

14 A. Yes, sir.

15 Q. Okay.

16 A. That's when I was being asked -- I
17 thought I was being asked about --

18 Q. I'll accept forgot. I'm not here
19 to --

20

21 MR. GREG DAVIS: I'm sorry.

Please,

22 again, I've got to ask we end these sidebar comments
by

23 Mr. Mulder.

24 MR. DOUGLAS MULDER: I was talking

to
25 the witness.

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. GREG DAVIS: Can I have a
ruling,
2 please?

3 THE COURT: Gentlemen, sustained.
And

4 I'm telling both attorneys, no more sidebar. We're
not
5 going to put up with that. Let's ask the questions,
get
6 the answer, and no comments.

7 Your next question, please.

8

9 BY MR. DOUGLAS MULDER:

10 Q. The only substance was the
11 description, dark colored ball cap, black shirt and
blue
12 jeans, and forgot other. Right? Is that fair?

13 A. About when they asked me the last
14 time?

15 Q. Yeah, when you were asked in
August

16 under oath --

17 A. Yes, sir.

18 Q. About this less than 30 second
19 conversation.

20 A. Yes, sir.

21 Q. Okay.

22 A. Actually, sir, I didn't forget the
23 other, how the question was phrased, I didn't think
that

24 that's what -- at the time when I was thinking, you
know,
25 I didn't think that that's what -- that I was going
into

Sandra M. Halsey, CSR, Official Court Reporter

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1 the rest of that.

2 Q. Oh. When they asked you the
substance

3 of the conversation, do you understand -- you
understood

4 at that time that meant what did you talk about,
didn't

5 you?

6 A. Well, I think I just
misunderstood.

7 Q. Oh, now your explanation is that
you

8 misunderstood?

9 A. Yes, sir.

10 Q. Did you misunderstand when you
wrote

11 your report initially? Was there something you

12 misunderstood?

13 A. No, sir. Did I misunderstand
what?

14 Q. Well, you initially made a
report

15 about this incident, didn't you?

16 A. Yes, sir, I did.

17 Q. Okay. And in the report you

initially

18 made you were there for sometime, weren't you, at
the

19 scene?

20 A. Yes, sir.

21 Q. Okay. And, I mean, if I had
you list

22 what you did, step-by-step, you probably did some
15 or

23 20 steps while you were there, did you not,
different

24 procedures and things?

25 A. I would say 70 to 200
different steps

Sandra M. Halsey, CSR, Official Court
Reporter

1 or more.

2 Q. Okay. All right. So it would
be easy

3 to confuse somebody, I guess, as to what was step
number

4 79 and what was step number 92?

5 A. Yes, sir. I couldn't recall
6 specifically the order that I did a lot of the
things in.

7 Q. Okay. But I would think that
8 everybody would remember the first thing they did
when

9 they got there, wouldn't you?

10 A. Yes, sir.

11 Q. Okay. But you didn't, did
you?

12 A. Yes, sir.

13 Q. Oh, you did?

14 A. Yes, sir.

15 Q. Okay. Didn't you tell the
other folks

16 out there that the first thing you did was go to
the

17 front door and get the information from Officer
Waddell,

18 and then immediately exit and go to the back and

check

19 the backyard?

20 A. No, sir.

21 Q. You didn't do that, did you?

22 A. No, sir. We --

23 Q. And that you saw, once you

were in the

24 backyard, that's when you saw that the screen to

the

25 window was cut?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. No, sir.

2 Q. Okay. Let me hand you what's
been

3 marked for identification and record purposes as
4 Defendant's Exhibit No. 15.

5 A. Yes, sir.

6 Q. What's the
verdict?

7 A. Well, as far as

--

8 Q. Did you not -- why don't you go
ahead

9 and read the second -- I marked it for you, so you
can

10 find it a little easier.

11 A. Okay.

12 Q. Lieutenant, isn't it a fact that
your

13 first story was that you went to the door and talked
to

14 Waddell?

15 A. No, sir.

16 Q.

Briefly?

17 A. No,

sir.

18 Q. Exited immediately, went out in
back

19 and it was from back here that you first noticed
the

20 garage?

21 A. Yes, sir. I left out a step of
22 checking the garage in that initial report.

23 Q. Left out the first step, didn't
you?

24 A. Well, the first step was talking
to
25 Officer Waddell.

1 Q. Okay. Well, but instead of going
back

2 through the kitchen into the garage and noticing the
cut

3 mark -- do you want to read your report again?

4 A. I'll keep it up here if you want
me --

5 if you're going to be referring to it.

6 Q. Well, I don't need to refer to it.

7 A. Okay.

8 Q. I mean, would you feel more
9 comfortable if you had it up there with you?

10 A. Well, if you ask me questions that
I

11 am going to have to quote from it. I don't have it
12 memorized.

13 Q. Well, the bottom line, the first
story

14 was that you came to the entry, made an -- once you
found

15 out what had happened, you made an immediate exit,
went

16 around to the backyard, and it was from this point
that

17 you noticed the window, wasn't it?

18 A. No, sir, that's not what it says.

19 Q. It's not?

20 A. No, sir.

21 Q. Okay.

22 A. It says: "I went to the front
door,"

23 and by that I was referring to that's how I got in
the

24 house. Then it says, "I went around and checked --
after

25 conferring with Waddell, I went around and checked
the

1 backyard." I did leave out the step of going through
and
2 checking the garage on that initial report. It was
made
3 at around 11:30 AM that morning, and I had been up
just
4 about a little over 24 hours that day. So, I
forgot.

5 Q. I forgot. All right.

6 A. I left that step out.

7 Q. Yeah, you did. And, in fact,
your

8 initial report you don't say anything about going
inside,

9 you don't say anything about going back to the
garage or

10 anything here, do you?

11 A. No, sir, I don't think there is.

12 Q. Matter of fact, in your initial
13 report, you say that you noticed the cut screen from
the

14 backyard, don't you?

15 A. Well, I don't say I noticed it
for the

16 first time there.

17 Q. Well, "once inside the yard I
observed
18 a window on the south side of the garage open and
that
19 the nylon screen had cut open -- had been cut open
and
20 two large slashes."

21 A. Uh-huh. (witness nodding head
22 affirmatively.)

23 Q. Well, you're saying it here, are
you

24 not?

25 A. I'm saying that I observed it
from the

1 garage and went back around and located which window
it
2 was from the backyard.

3

4 MR. DOUGLAS MULDER: Okay. I'm
going

5 to offer into evidence what has been marked and
6 identified as Defendant's Exhibit No. 14.

7 MR. GREG DAVIS: No objection.

8 THE COURT: Defense Exhibit 14 is
9 admitted.

10

11 (Whereupon, the item
12 Heretofore mentioned
13 Were received in

evidence

14 As Defense Exhibit
No. 14

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

resumed

18 As follows:)

19

20 BY MR. DOUGLAS MULDER:

21 Q. Suffice it to say, Lieutenant,

there

22 was a lot going on in a hurry out there, wasn't
there?

23 A. Yes, sir, there was.

24 Q. And even a trained police

officer

25 under fire can make some mistakes, can't he?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, sir.

2 Q. And none of our memories are
perfect,
3 are they?

4 A. Mine's not.

5 Q. Okay.

6

7 MR. DOUGLAS MULDER: I believe
that's
8 all I have.

9 THE COURT: Mr. Davis.

10

11

12 REDIRECT EXAMINATION

13

14 BY MR. GREG DAVIS:

15 Q. Lieutenant Walling, let me ask
you:

16 You had mentioned during your testimony that you
were

17 present during the testing of the security light of
the

18 backyard; is that correct?

19 A. Yes, sir, it is.

20 Q. And I believe you testified that
your

21 job that night was to determine how long that
security

22 light --

23

24 THE COURT: All right.

Gentlemen, no

25 stage whispers, please.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Thank you. We'll continue.

Let's

2 calm the stage whispers down.

3 Mr. Davis. Go ahead.

4 MR. GREG DAVIS: Yes, sir.

5

6 BY MR. GREG DAVIS:

7 Q. Now, did you, in fact, on the
date

8 that you went out there to the residence, determine
how

9 long that security light would remain on, once it
was

10 activated?

11 A. Yes, sir.

12 Q. Could you tell the members of the
jury

13 how long that light will stay on once it's activated
out

14 there at 5801 Eagle Drive?

15 A. Approximately 18 minutes.

16 Q. Okay. And it took you
approximately

17 how long from the time you got that call that
evening to

18 the time that you entered the backyard? Was it less
than

19 18 minutes?

20 A. Yes, sir, a great deal less.

21 Q. Just a couple of questions about
the

22 interior of the house. The family room, where the
23 children were initially, is that carpeted?

24 A. Yes, sir.

25 Q. Okay. How about the flooring in
the

1 kitchen and the utility room. Are they also
carpeted or

2 do they have a different flooring?

3 A. No, sir, it was vinyl flooring.

4 Q. Some sort of linoleum?

5 A. Yes, sir.

6 Q. During the time that you were
having

7 this conversation with the defendant on the porch,
did

8 you have any difficulty understanding what she was
trying

9 to say to you?

10 A. No, sir, I didn't.

11 Q. Did it appear to you that she was
12 having any problems understanding what information
you

13 wanted from her?

14 A. No, sir.

15 Q. Was there any hesitation on her
part

16 in providing the information that you asked for out
there

17 on the porch?

18 A. Well, no, sir, other than she was

19 being seen by the paramedics and I was getting in
when I

20 could.

21 Q. Okay. You asked a question and
she

22 gave you the information?

23 A. Yes, sir.

24 Q. The den -- the family room that
you

25 went into initially, Lieutenant Walling, when you
went

1 back, did you go back into that room sometime after
6:00

2 AM with the crime scene team?

3 A. Yes, sir.

4 Q. Lieutenant Walling, let me use
this

5 pointer. Looking at State's Exhibit No. 11-B, do
you

6 recognize that to be a photograph of the family
room?

7 A. Yes, sir.

8 Q. Okay. There's an object up
here

9 toward the top of the photograph that appears to be
10 sitting sort of between this sofa here and the big
screen

11 television. Do you see this, sir?

12 A. Yes, sir, I
do.

13 Q. What is
that?

14 A. It's a large metal cat cage.

15 Q. Okay. Now, when you went in there
to

16 do the walk-through of that residence, was there

anything

17 in that cage?

18 A. There was a large cat.

19 Q. Did you have any opportunity that

20 morning to go anywhere over there near this cat

cage,

21 sir?

22 A. Yes, sir, I did.

23 Q. Tell the members of the jury

what

24 happened when you went over into the area of the

room

25 close to this cat cage.

Sandra M. Halsey, CSR, Official Court Reporter

1 A. When I got within three to four
feet

2 from the cage the cat came to life and started
bouncing

3 off the walls, the sides of the cage. It scared
me.

4 Q. Okay.

5 A. I didn't know there was a cat in
there

6 at the time.

7 Q. Okay. When it was bouncing, could
you

8 hear it?

9 A. Yes, sir.

10

11 MR. GREG DAVIS: I'll pass the
12 witness, your Honor.

13 MR. DOUGLAS MULDER: I just have
one

14 last thing.

15

16

17 RE CROSS EXAMINATION

18

19 BY MR. DOUGLAS MULDER:

20 Q. Is it your testimony today under
oath
21 that the only notes that you took out there that were
in
22 the whip-out book page that I showed you, is it just
a
23 coincidence that those notes correspond with what
you
24 said under oath, the gist of your conversation was,
or
25 the substance of your conversation was in August?

1 Is that just a coincidence?

2 A. No.

3

4 MR. DOUGLAS MULDER: Do you want
me to

5 ask that again?

6 MR. GREG DAVIS: Ask that again,
7 please.

8

9 BY MR. DOUGLAS MULDER:

10 Q. Okay. You were asked the
substance of

11 your conversation and you said, "I asked for a
12 description, and she told me dark colored ball cap,
black

13 shirt and blue jeans, and the conversation lasted
less

14 than 30 seconds."

15 Is it -- my question to you now:

Is

16 it just a coincidence that that corresponds with the
17 notes that you took in your whip-out book? Is that
just

18 a coincidence?

19 A. Well --

20 Q. I mean, that's your whip-out
book.
21 You didn't say anymore at the time when you were
asked
22 the substance of the conversation and your whip-out
book
23 doesn't show anymore than that. Is that just a
24 coincidence? If it is, I'll write it down. If it's
25 not --

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1 A. Well, is it a coincidence that --
I'm
2 not quite sure that I follow you. I mean, is it a
3 coincidence that I -- at the time that I didn't tell
4 about my conversation with her about asking her
what
5 happened?

6 Q. Yes. Is that just a
coincidence?

7 A. No, I forgot that.

8 Q. Okay. And you forgot to make
any
9 notes of that, too, didn't you?

10 A. About what now?

11 Q. That you asked her anything
else. You

12 didn't make any other notes about that in your
whip-out
13 book?

14 A. No, those are the only notes I
made,
15 yes, sir.

16 Q. In your whip-out book?

17 A. Yes, sir.

18 Q. Okay.

19

20

MR. DOUGLAS MULDER: I believe

that's

21 all.

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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REDIRECT EXAMINATION

BY MR. GREG DAVIS:

Q. Lieutenant Walling, just a couple of things. Do you recall Mr. Mulder asking you about whether in your initial report that you had noted that you had gone through the house with Officer Waddell to check the garage before exiting to go around to the backyard?

A. Yes, sir, I do.

Q. Sir, in this case did you prepare a supplemental report?

A. Yes, sir, I did.

Q. Is that an unusual procedure?

A. No, sir.

MR. GREG DAVIS: May I approach your Honor?

THE COURT: You may.

21 BY MR. GREG DAVIS:

22 Q. Let me show you one of the pages

that

23 was marked for identification purposes only as

24 Defendant's Exhibit No. 16. If you would, if you

will

25 review the first paragraph of that supplemental
report.

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Okay.

2 Q. First of all, when did you make
this

3 supplemental report. Do you recall?

4 A. Either a day or two later. The
date

5 will be on the second sheet.

6 Q. Okay.

7 A. I believe it was two days later.

8 Q. All right. And let me just ask
you

9 whether or not in this supplemental report that you
10 prepared -- let me just show you another -- this is
11 investigator supplemental report. That may refresh
your

12 memory as to the date that you prepared the
supplement.

13 A. This is the first one.

14 Q. All right. That's the first one?

15 A. Yes, sir.

16 Q. All right. So sometime after
June

17 6th, you prepared a supplemental report. Correct?

18 A. Yes, sir.

19 Q. Tell the members of the jury

whether

20 or not in your supplemental report whether or not
you

21 noted that you and Officer Waddell checked the
garage for

22 the suspect.

23 A. Yes, sir, I did.

24 Q. Okay. And would you tell the

members

25 of the jury whether or not you noted in your
supplemental

1 report that you noticed the tear in the window
screen as

2 you were checking the garage before going outside.

3 A. Yes, sir. That's what this
4 supplemental report says.

5 Q. Isn't that the purpose of the
6 supplemental report?

7 A. Yes, sir, to correct anything
that I

8 might have forgot or got out of place.

9 Q. Okay.

10

11 MR. GREG DAVIS: No further
questions.

12 MR. DOUGLAS MULDER: I believe
that's

13 all we have too. Thank you.

14 THE COURT: You may step down.
15 Your next witness.

16 MR. GREG DAVIS: Yes, sir. At
this

17 time we'll call Sergeant Dean Poos.

18 MR. DOUGLAS MULDER: We have no
19 objection to Lieutenant Walling --

20 MR. GREG DAVIS: Waddell also.

If you

21 have a problem, we can get him back if you need him.

22 THE COURT: All right.

23 MR. DOUGLAS MULDER: I agree that
they

24 may be excused if they need to be back.

25 THE COURT: Excused. Subject to

Sandra M. Halsey, CSR, Official Court Reporter

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1 recall.

2 All right. Have a seat right
there,

3 please, sir.

4 All right, Mr. Davis.

5

6

7 Whereupon,

8

9 SERGEANT DEAN POOS,

10

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

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

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

14 open court, as follows:

15

16 DIRECT EXAMINATION

17

18 BY MR. GREG DAVIS:

19 Q. Sir, would you please tell the
members

20 of the jury your full name.

21 A. Sergeant Dean Poos.

22 Q. How are you employed?

23 A. I'm the communications and records

24 supervisor, the computer system administrator and

public

25 information officer for the Rowlett Police
Department.

Sandra M. Halsey, CSR, Official Court Reporter

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1

2 THE COURT: Would you spell your
last
3 name?

4 THE WITNESS: P, as in Paul, O-O-
S, as
5 in Sam.

6

7 BY MR. GREG DAVIS:

8 Q. Okay. Sergeant Poos, how long
have

9 you been a member of the Rowlett Police Department?

10 A. Approximately seven years, sir.

11 Q. Directing your attention back to
June

12 the 6th of 1996. What were your duties at that time?

13 A. As stated, I was a public
information

14 officer, communications and record supervisor and
15 computer system administrator.

16 Q. Are you familiar with an
individual by

17 the name of Janis Brooks Bloom?

18 A. Yes, sir, I am. She's a
19 communication's officer that works for me.

20 Q. Okay. Does she work as a
dispatcher

21 there?

22 A. Yes, sir. We call them
communication

23 officers.

24 Q. All right. In your capacity over
the
25 communication's division, do you have care, custody
and

1 control of certain tapes that are made by dispatchers
2 there?

3 A. I do, sir.

4 Q. If you could, just in general, if
you

5 could, describe for the members of the jury how the
6 communications are recorded out there in Rowlett.

7 Let's say, if I'm a dispatcher and
I

8 need to call the fire department on an emergency, or
if I

9 need to talk with the police officers in the field,
how

10 would that be done in Rowlett and how would you
record

11 those conversations?

12 A. At that time we had what's called
a

13 10-channel Dictaphone play-back unit. It's just a
big

14 tape recorder. In fact, the 10 channels that were
15 recorded were all of the 911 phones that came into
the

16 dispatch center, the business phones and the police
and

17 fire radio channels. Those tapes were active and
live,
18 if you will, 24 hours a day. So, any calls coming
across
19 on any of those phone circuits or radio channels
would
20 have been recorded on to the tapes.

21 Q. Are you familiar with the 911
call
22 that was received by the Rowlett Police Department
from
23 Darlie Lynn Routier?

24 A. Yes, sir, I am.

25 Q. And, is it your understanding
that

1 Janis Brooks Bloom was the communications officer at
that
2 time?

3 A. That's correct, sir.

4 Q. Was she working by herself or
with
5 someone else that morning?

6 A. She was the only communications
7 officer on duty at that time. There was a jailer in
the
8 communications area that was trying to assist her as
9 needed.

10 Q. Do you remember what his name
was?

11 A. Clint Praslicka.

12

13 THE WITNESS: And I can't spell
that

14 for you, ma'am, I'm sorry.

15

16 BY MR. GREG DAVIS:

17 Q. All right. Was a recording made
of
18 that 911 call, sir?

19 A. It was, sir.

20 Q. And, was that recording preserved
by

21 the Rowlett Police Department?

22 A. Yes, sir.

23 Q. Have you had that recording in
your

24 possession since that date?

25 A. Yes, sir, I took custody of it
and

Sandra M. Halsey, CSR, Official Court Reporter

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1 handled it as evidence.

2

3 MR. GREG DAVIS: May I approach,
your

4 Honor?

5 THE COURT: You may.

6

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

17

18

19 BY MR. GREG DAVIS:

20 Q. Sergeant Poos, I'm going to show
you

21 what has been marked as State's Exhibit 18, ask you
22 whether or not you recognize this to be the original
23 recording of the 911 tape that came to Rowlett from
the

24 defendant in this case, sir?

25 A. Yes, sir, it appears to be.

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1 Q. This is on a -- I take it on some
sort

2 of reel to reel basis; is that correct?

3 A. Correct, sir.

4

5 MR. GREG DAVIS: Your Honor, at
this

6 time we'll offer State's Exhibit No. 18.

7 THE COURT: Any objection?

8 MR. RICHARD C. MOSTY: No, your
Honor.

9 THE COURT: State's Exhibit No. 18
is

10 admitted.

11

12 (Whereupon, the item
13 Heretofore mentioned
14 Was received in

evidence

15 As State's Exhibit
No. 18

16 For all purposes,
17 After which time, the
18 Proceedings were

resumed

19

As follows:)

20

21

22 BY MR. GREG DAVIS:

23

Q. Just so I'm clear on that

evening,

24 were you on duty up there at the police station at

2:30

25 a.m.?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. No, sir, I was at home. I was
called
2 by Communications Officer Brooks when the situation
broke
3 and I came in shortly thereafter.

4 Q. But as far as taking part in any
of
5 the recordings that are on that tape 18, on the 911,
you
6 didn't actually, personally take part in any of the
7 recordings yourself, did you?

8 A. No, sir. The machine is
automated, it
9 was running. My voice may be on there as I got there
10 shortly thereafter and began working on the
telephones.

11 So, that was my involvement.

12 Q. All right.

13

14 MR. GREG DAVIS: No further
questions.

15 THE COURT: Anything?

16

17

18 CROSS EXAMINATION

19

20 BY MR. RICHARD MOSTY:

21 Q. Mr. Poos, you say that you have a
22 10-channel communications system. What does that
tell
23 me?

24 A. At the time that this happened,
we had
25 a 10-channel Dictaphone tape logger unit, that would
be,

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1 I guess, the technical term model number. That
means we

2 had 10 available channels for recording. Some of
those

3 channels were telephone lines. Some of them were
911

4 phone lines, which are separate and distinct from
the

5 business lines in our building. And then, some of
them

6 were radio channels for our police and fire units.

7 Q. Okay. So, for instance, if you
had

8 two or three 911 calls come in at once, you had the

9 capacity to take all of them?

10 A. Yes, sir.

11 Q. Okay. And, it sounds like a
fairly

12 sophisticated system?

13 A. No, sir. As a matter of fact,
that

14 particular unit was over 10 years old, and we had

15 problems with it at some point, and it's been
replaced.

16 Q. But it is able to pick up the

17 communications from the other end, from the caller?

18 A. Yes, sir.

19 Q. And, as a matter of fact it was

20 sensitive enough to pick up communications of a
person

21 other than the person on the phone. If there are
other

22 people in the background, it picks up those as well,

23 doesn't it?

24 A. You can telephone off hook,

whatever

25 the microphone there would pick up could get to the
tape

1 if it was loud enough.

2 Q. Okay. So anybody who's standing
3 around talking while the person is on the phone
could

4 also be picked up?

5 A. Correct, sir.

6 Q. And, in fact, in this case they
were,

7 weren't they?

8 A. Yes, sir.

9 Q. So all the communications of the
10 person that's actually on the phone are on the tape.
11 Correct?

12 A. Yes, sir. Whatever would get to
the
13 microphone, that was sensitive enough or strong
enough to

14 get on the tape, would have made it across the open
line.

15 Q. In fact, on this tape you have had
it

16 enhanced, haven't you?

17 A. I haven't done anything to it,
sir. I

18 don't know.

19 Q. You don't know what's happened to
it?

20 A. I've had -- it's been turned into
21 evidence. How it was processed prior to this trial,
I'm
22 not really aware of.

23 Q. Well, have you reviewed the
transcript
24 of it?

25 A. I made a transcript myself of it,
sir.

1 Q. Okay. Have you reviewed the
latest

2 enhanced transcript of it?

3 A. I have seen it. The transcript.

4 Q. Then you know that there are other
5 people on that tape, don't you?

6 A. Yes, sir.

7 Q. And you know, for instance, the
8 officers are on the tape?

9 A. Yes, sir.

10 Q. And the instructions that they're
11 giving to Darlie Routier are on that tape?

12 A. Yes, sir.

13 Q. And, matter of fact, the tape has
14 Darlie Routier having conversations with her husband,
and
15 having conversations with the officer, talking to her
16 children, and talking to the communications
officer.

17 She's talking to all four of those people at the
same

18 time, isn't she?

19 A. I don't recall her talking to
the

20 children. Again, I don't recall is my statement to

that,

21 but that may be correct. She's talking to several
people

22 at the same time, yes, sir.

23 Q. Well, for instance, did she say,

24 "Devon, no. Oh my God." Do you remember her

saying

25 things like that?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. There was a whole lot of that
going

2 on, sir, I can't remember that specific comment.

3 Q. She was talking about, "Hold on,
baby.

4 Baby, hold on"?

5 A. Yes, sir.

6

7 MR. GREG DAVIS: I'm sorry. I'm
going

8 to have to object to that being read, it's not in
9 evidence.

10 THE COURT: Sustained.

11 MR. RICHARD C. MOSTY: Well, I'm
12 asking him if he remembers that on the tape.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. You remember that on the tape,
don't

16 you?

17 A. I remember comments to that
effect,

18 yes, sir.

19 Q. Her saying, "Oh my God, my
children

20 are dying."

21 A. Correct.

22 Q. "Hang on baby"?

23 A. Yes, sir.

24 Q. Okay. "Hold on baby."

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. GREG DAVIS: I'm sorry, I've
got
2 to object again, he's clearly reading the document.

3 THE COURT: Sustained. Let's
--

4

5 BY MR. RICHARD MOSTY:

6 Q. Well, I'm asking: Do you
remember

7 that? Do you remember, "Hold on, baby"? Her
saying,

8 "Hold on, baby"?

9 A. Well, there was a lot of stuff on
that

10 tape, sir, as you're well aware. And without the
11 transcript in front of me that I made, there were
12 comments similar to that made, sir, yes.

13 Q. And do you remember comments like,
"My

14 God, when's the ambulance going to get here"?

15 A. Again, specifically I'm not going
to

16 be able to answer that. Comments similar to that
were

17 made, yes, sir.

18 Q. Okay. I'm just asking you
similar.
19 There's questions of talking about my baby and
there's
20 screaming and there's, "When is the ambulance
going to
21 get here?" All of those things are on the tape
that Miss
22 Routier is doing, isn't it?
23 A. Yes, sir.
24 Q. So it's fair to say she was
talking to
25 her children, wasn't she?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. I don't know who she's talking
to,
2 sir, but there was a lot of conversation going
on.

3 Q. And matter of fact, the
dispatch
4 officer, during this same time, she's having
several
5 conversations with not only Mrs. Routier, but
various,
6 either paramedics or police officers who are in
route to
7 the scene?

8 A. Yes, sir.

9 Q. Okay.

10

11 MR. RICHARD C. MOSTY: That's
all.

12 MR. GREG DAVIS: No further
questions,

13 your Honor.

14 THE COURT: All right. You may
step

15 down.

16 Your next witness.

17 MR. GREG DAVIS: The State will
call

18 Barry Dickey.

19 THE COURT: Barry Dickey.

20 Were you sworn in yesterday,
sir?

21 THE WITNESS: Yes, sir.

22 THE COURT: Have a seat right
here,

23 please.

24

25

1 Whereupon,

2

3

4 BARRY DICKEY,

5

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

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

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

9 open court, as follows:

10

11

12 DIRECT EXAMINATION

13

14 BY MR. GREG DAVIS:

15 Q. State your name.

16 A. My name is Barry Gene Dickey,
17 D-I-C-K-E-Y.

18 Q. Okay. Sir, how old a man are
you?

19 A. 32 years old.

20 Q. Married?

21 A. Yes, I

am.

22

Q.

Children?

23

A.

Yes, I have.

24

Q.

How many children?

25

A.

One.

Reporter Sandra M. Halsey, CSR, Official Court

1 Q. Okay. What's the child's
age?

2 A. Five years old.

3 Q. Boy or girl?

4 A. Boy.

5 Q. All right. Let me ask you:
How are

6 you employed at this time?

7 A. I'm president of Graffiti
Productions

8 Incorporated.

9 Q. All right. Can you tell us
what does

10 Graffiti Productions do?

11 A. Well, we specialize in the
production,

12 engineering, composition of music, of audio
recordings.

13 Q. Okay. If I'm a musical
artist then, I

14 come into your studio, and you do the
recording for me?

15 A. Yes, sir.

16 Q. All right. Are there other
things

17 that you do there besides just record music?

18 A. Yes. We produce jingles
for music.

19 Like you would see Burger King's jingles,
industrial

20 spots, short film clips like you would see on
the

21 Discovery Channel, and so forth like that.

22 Q. Can you tell us a little
bit about

23 your educational and your professional
background before

24 you started up Graffiti Productions?

25 A. Yes. Basically, graduated
from high

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Reporter

1 school, received the physics award. Attended
University

2 of Texas at Arlington for two years under
electrical

3 engineering degree. And basically, after
that, worked

4 under a company called Sound Concepts, in
which I

5 produced, arranged, composed, processed, and I
think at

6 that time I was responsible for some business
activities.

7 After that, I was with True
Colors

8 Recording Studios. This was from -- I was
with Sound

9 Concepts from '84 until '86. From the years
of '86 until

10 '89 I was with True Colors Recording Studios,
basically

11 doing the same thing.

12 Q. Okay. Then, have you been
in the

13 recording business then around 12 years?

14 A. Yes, I have.

15 Q. Now, at Graffiti
Productions, would it
16 be fair to say that you have -- you have a lot
of
17 equipment out there I take it?

18 A. Yes, sir.

19 Q. Okay. Do you have a sound
board where
20 you control the sound for the recordings?

21 A. Yes. We have a variety of
gear for
22 not only processing, but for maintaining a
clear and
23 consistent signal that doesn't degrade any of
the
24 original recordings in anyway.

25 Q. Do you have a computer
system out

Sandra M. Halsey, CSR, Official Court
Reporter

1 there also?

2 A. Yes. We have several
different

3 digital audio work stations. These are used
for a

4 variety of purposes. But basically what it is,
they

5 maintain audio in its purest form so that
there's no

6 degradation. No matter how many times you
listen to

7 something, it does not wear down.

8 Whereas, with analog tape, any
time

9 that you listen to it, as the heads contact the
tape,

10 they wear off part of the surface of the tape.

And it

11 will degrade the recording after listening to it
for a

12 certain amount of time. Whereas with the digital
work

13 stations, there's none of this.

14

15 MR. GREG DAVIS: Let me approach,

if I

16 may, your Honor.

17 THE COURT: You may.

18

19 BY MR. GREG DAVIS:

20 Q. Mr. Dickey, let me show you what

has

21 been admitted into evidence as State's Exhibit No.

18.

22 Do you recognize this,

sir?

23 A. Yes, I

do.

24 Q. Okay. Did I ask you to make a

copy of

25 State's Exhibit 18 at some point?

1 A. Yes, you did.

2 Q. Now, State's Exhibit 18, does
that use

3 certain equipment that's produced by Dictaphone?

4 A. Yes, it is.

5 Q. All right. When you made your
copy,

6 did you use Dictaphone equipment, or did you make a
copy

7 that could be listened to, or analyzed on different
8 equipment?

9 A. I used Dictaphone's equipment to
10 actually play back the tape, and it was actually
11 transferred to a DAT tape, which is a digital audio
tape.

12 It's newer technology.

13 Q. Okay. So, I mean, I take it,
there's

14 kind of two worlds. You've got this analog world.

15 Right?

16 A. Yes, sir.

17 Q. Which is kind of the old world?

18 A. Yes.

19 Q. But State's Exhibit 18, is that
20 analog?

21 A. Yes, it is.

22 Q. All right. And then you've got
this

23 newer world, which is digital. Correct?

24 A. Yes, sir.

25 Q. And digital, you can play it a
million

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1 times and the millionth time it sounds just as good
as
2 the first time. Right?

3 A. Yes, sir.

4 Q. Analog, if you play it over and
over,

5 I guess, it deteriorates with use. Right?

6 A. Yes. Each time that you run the
tape

7 past the head, you have some degradation of the
tape.

8 Q. Okay. Now, at the time that I
first

9 contacted you in this case, had you and I ever
spoken

10 with each other before?

11 A. No, we hadn't.

12 Q. Had you ever done any work for
the

13 Dallas County District Attorney's Office before?

14 A. No, I have not.

15 Q. All right.

16 A. Nor has my company.

17 Q. All right. Do you have
experience in

18 making DAT copies of audio tapes?

19 A. Yes. We have used -- we have
20 transferred and saved libraries. Digital libraries
that

21 we have made for other companies. Since the year 19
-- I

22 guess, '89, to 1990. We have preferred this format.

23 Q. Okay.

24

25 MR. GREG DAVIS: May I approach
again,

Sandra M. Halsey, CSR, Official Court Reporter

615

1 your Honor?

2 THE COURT: You may.

3

4 (Whereupon, the following

5 mentioned item was

6 marked for

7 identification only

8 as State's Exhibit 18-B,

9 after which time the

10 proceedings were

11 resumed on the record

12 in open court, as

13 follows:)

14

15

16 BY MR. GREG DAVIS:

17 Q. Mr. Dickey, let me show you what

has

18 been marked as State's Exhibit 18-B. If you would,

take

19 a look at that and tell us whether or not you

recognize

20 that, sir.

21 A. Yes. This is the tape that I

made

22 from the Rowlett Police Department, which I

transferred

23 it from the analog deck into a Sony deck that we
use.

24 And it has my handwriting, signifying that it
is the 911

25 call from the Rowlett Police Department.

Reporter Sandra M. Halsey, CSR, Official Court

616

Honor, at

19 this time we'll offer into evidence State's Exhibit
18-B.

20 MR. RICHARD C. MOSTY: No
objection.

21 THE COURT: State's Exhibit 18-B
22 is
23 admitted.

24 (Whereupon, the
above
25 mentioned item
was

Reporter Sandra M. Halsey, CSR, Official Court

1 received in evidence
2 as State's Exhibit Number
3 18-B, for all purposes
4 after which time,
5 the proceedings were
6 resumed on the record,
7 as follows:)

8

9 BY MR. GREG DAVIS:

10 Q. Now, Mr. Dickey, in order to
play

11 State's Exhibit 18-B, would you have to have what
you
12 call a DAT player?

13 A. Yes, you would.

14 Q. So, this isn't something we just
put

15 into a cassette player like we might have. You have
to

16 have a special machine for that. Right?

17 A. Yes, sir.

18 Q. All right. Now, did I ask you
after

19 you had made your DAT copy, State's Exhibit 18-B, did
I

20 ask you to analyze the content of the conversation of

the

21 911 call that is contained on State's Exhibit 18-B?

22 A. Yes, you did.

23 Q. All right. And, did I ask you to
24 attempt to pull up any and all conversations that may

be

25 contained on 18-B?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, you did.

2 Q. And, did you, in fact, do that?

3 A. Yes, I did.

4 Q. Now, if you could, if you could
5 briefly describe for the members of the jury how you
went
6 about analyzing State's Exhibit 18-B. What equipment
did
7 you use, the process, just as briefly as you can, how
you
8 went about that analysis, sir?

9 A. Okay. Basically, there are
several
10 different software programs, software combined with
11 hardware that conform to a variety of computers out
12 there.

13 Now, what we use is called the
Sonic
14 Solution System. It is a very high-quality-end
system.

15 It actually -- let me put it this way: It measures
the
16 noise -- one of the things I did was, you can measure
the
17 noise. If you've ever recorded like on just a
handheld

18 recorder or something, and you played it back, you're
19 familiar with the hiss that comes off of the tape.

20 What our software does is, it
analyzes

21 this hiss, this exterior noise that is just part of
the

22 recording, and it will actually remove that without
23 changing any of the material, the information that
is

24 contained on that tape. Therefore, lowering the
noise

25 floor makes sounds that were covered up in the noise

Sandra M. Halsey, CSR, Official Court Reporter

1 floor all of a sudden hearable, so that you can --
2 they're audible to you. And, when you play it back
you
3 can hear things that normally you would not hear on
the
4 analog recording.

5 Q. Okay. So, do I understand you to
say

6 basically you're trying to eliminate the background
noise

7 to get down to the conversations; is that right?

8 A. Yes, sir. And --

9 Q. Okay.

10 A. And, on top of that, there are
several

11 other applications that we do. There's an
application

12 called band-stop filters, in which we eliminate a
whole

13 spectrum of frequencies in order to isolate where
the

14 voice is focused at.

15 In other words, most of the
telephone

16 lines focus the voice at about one kilohertz, 1-K,

and

17 that's what the phone system actually operates at,

as far

18 as the human voice. That's what gets transferred

the

19 most of.

20

So, the more of that you have

compared

21 to the other frequencies, the less background noise

you

22 pick up.

23

Q. Okay. And, let me just ask you a

24 couple of questions here: You, in fact, did that,

and

25 did you, after you had run this DAT tape through the

1 computer and the software programs that you had, did
you

2 then transfer that to another medium?

3 A. Yes.

4 Q. And did you, in fact, transfer
what

5 you had been able to filter through to a laser disk?

6 A. Yes.

7 Q. Okay.

8 A. Yes, I did.

9

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

20

21

22 BY MR. GREG DAVIS:

23 Q. And let me just show you then
State's

24 Exhibit 18-C and ask you whether or not State's

Exhibit

25 18-C is, in fact, the laser disk that you produced
after

Sandra M. Halsey, CSR, Official Court Reporter

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1 running that tape through your computer using your
2 software?

3 A. Yes, it is.

4 Q. And let me just make sure it's 18-
C.

5 Did it alter any of the contents of that DAT tape?

6 A. No, it did not. There is the
original

7 recording on there, and there is also a very, very
8 slightly processed recording. But in both cases
we

9 checked for what would be referred to as
artifacts.

10 Which artifacts are something that if we use too
much

11 processing, it might generate some audible or
unheard

12 noise that wasn't generally there. And we have
to

13 reference that against the original recordings.

14 Q. Okay. So, you didn't change
the

15 conversations? You didn't add to the
conversations; is

16 that correct?

17 A. No. Not in any form or any

way.

18 Q. Even in the processed portion;
is that
19 right?

20 A. Yes, sir, that is right.

21 Q. Okay. So this, just to make it
clear,
22 we have a purely audio version of that 911 tape on
this;
23 is that correct?

24 A. Yes, sir.

25 Q. Then we have a processed audio
version

Sandra M. Halsey, CSR, Official Court
Reporter

1 that also has a video transcript of that
conversation.

2 Is that also correct?

3 A. Yes, you do.

4 Q. And they're both true and
correct

5 copies of this DAT tape; is that also correct, sir?

6 A. Yes, sir, they are.

7

8 MR. GREG DAVIS: Your Honor, at
this

9 time we'll offer State's Exhibit 18-C

10 MR. RICHARD C. MOSTY: No
objection.

11 THE COURT: State's Exhibit 18-C
is

12 admitted.

13

14 (Whereupon, the item
15 Heretofore mentioned
16 Was received in evidence
17 As State's Exhibit No. 18-C
18 For all purposes,
19 After which time, the
20 Proceedings were resumed
21 As follows:)

22

23

THE COURT: Ladies and

gentlemen, by

24 agreement, we're going to begin by breaking about

this

25 time for lunch for reasons already explained to
the jury.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 If you'll be back at 10 minutes after 1:00,
please.

2

3

(Whereupon, a short

4

recess was

taken,

5

after which

time,

6

the proceedings were

7

Resumed on the

record,

8

in the presence and

9

hearing of the

defendant

10

but outside the

presence

11

of the jury,

12

as follows:)

13

14

15

THE COURT: All right. Let the

record

16 reflect that these proceedings are being held outside
the

17 presence of the jury and all parties in the trial are

18 present.

19 MR. RICHARD C. MOSTY: The video
20 portion of this does not have a complete statement
21 of
22 everyone who's talking. For instance, it does not
23 have
24 the operator on it, who is the communications
25 officer,
26 who says, for instance, "Don't touch anything."
27 She said, "I touched a knife."
28 And we
29 don't think that that's a fair portrayal when they've

Sandra M. Halsey, CSR, Official Court Reporter

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1 only taken half of the conversation, or the responses
2 that are coming from the other end without having all
of
3 the transcript.

4 In the transcript we have, which
the
5 State provided, and appears to follow this, has
6 everything in it and not just Mrs. Routier.

7 THE COURT: All right. So you're
8 objecting to this being shown to the jury.

9 MR. RICHARD C. MOSTY: I'm
objecting
10 to the video transcript being shown to the jury. The
11 State has a written transcript, which I presume that
they
12 will also offer, and we could have the jury -- if the
13 question is, to make sure the jury does it, the jury
can
14 follow along with the written transcript which has
15 everything on it and is a complete rendition.

16 THE COURT: All right. Overruled.
Be
17 seated, please.

18 MR. RICHARD C. MOSTY: Mr. Hagler
19 might want to add something.

20 THE COURT: Oh, by all means.

21

MR. JOHN HAGLER: All right.

Judge, I

22 have one thing to add. The transcript, which is a
23 complete transcription of the tape, as opposed to the
24 video, which takes out portions of it, which places
undue
25 emphasis on certain portions of the statements made

Sandra M. Halsey, CSR, Official Court Reporter

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1 during the tape is misleading, and potentially
confusing

2 to the jurors, as the true nature of the 911
3 conversation.

4 For that reason we would ask that
the

5 testimony be limited to the transcript itself, as
opposed

6 to the confusing and unduly prejudicial video.

7 THE COURT: All right. Overruled.

We

8 will show the video to the jury.

9 Is the jury ready to come in,
Bailiff?

10 THE BAILIFF: Yes.

11 THE COURT: All right. Let's
bring

12 the jury in, please.

13

14 (Whereupon, the jury

15 Was returned to

the

16 Courtroom, and

the

17 Proceedings

were

18 Resumed on the
record,
19 In open court, in
the
20 Presence and
hearing
21 Of the defendant,
22 As follows:)
23
24 THE COURT: All right. Let the
record
25 reflect that all parties in the trial are present and
the

Sandra M. Halsey, CSR, Official Court Reporter

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1 jury is seated.

2 All right, Mr. Davis, you may
3 continue.

4 MR. GREG DAVIS: Thank you.

5

6

7 DIRECT EXAMINATION (Resumed)

8

9 BY MR. GREG DAVIS:

10 Q. Sir, again, your name is Barry
Dickey.

11 Correct?

12 A. Yes, sir, it is.

13 Q. And you were testifying before
lunch

14 before we took the break; is that right?

15 A. Yes, I was.

16 Q. Mr. Dickey, let me talk to you
again

17 about the laser disk just for a moment, some of the
18 things we're going to see on that laser disk.

Now,

19 there's a portion of that disk which contains a
video

20 transcript of the 911 call; is that correct?

21 A. That's correct.

22 Q. Now, on that do we identify
who is

23 speaking by certain abbreviations?

24 A. Yes, there are.

25 Q. All right. For instance, do
we have

 Sandra M. Halsey, CSR, Official Court
Reporter

1 the female caller identified as FC?

2 A. Yes, it is.

3 Q. And do we have a male caller
4 identified as MC?

5 A. Yes, he is.

6 Q. Do we have background voice
identified

7 by BV?

8 A. Yes, it is.

9 Q. Do we have police officer at
the scene

10 identified by PO?

11 A. Yes, he is.

12 Q. And lastly, do we have sounds
13 individually defined shown by the abbreviation
SND?

14 A. Yes, it is.

15 Q. And as we watch this video
tape, these

16 voices, and let me just ask you: Are they color
coded

17 also?

18 A. Yes, they are.

19 Q. For instance, as the female
caller is

20 speaking, will we see her dialogue highlighted in
green?

21 A. Yes, it is.

22 Q. All right. So female caller
will be

23 green?

24 A. Green.

25 Q. The male caller, will his
dialogue be

Sandra M. Halsey, CSR, Official Court
Reporter

1 highlighted by the color orange?

2 A. Yes, it is.

3 Q. The background voice, will
that be

4 shown as red?

5 A. Yes, it is.

6 Q. The police officers, will that
be

7 shown in blue?

8 A. Yes, it is.

9 Q. And finally, will the sounds
10 individually defined be shown in the color purple?

11 A. Yes, they are.

12 Q. Now, there are other voices that
13 you'll hear on this video transcript in addition;
is that

14 right?

15 A. Yes, you will.

16 Q. Will that be the communications
17 officer 1, the communications officer 2 and the
police

18 and fire radio channels?

19 A. Yes.

20 Q. Will their dialogue actually be
shown

21 on the video transcript?

22 A. No, the dialogue does not
appear.

23 Q. All right. The dialogue that we
will

24 actually see on the screen, will that be then the
sounds

25 and the voices that are coming from 5801 Eagle
Drive?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, they are.

2 Q. Although we'll still be able to
hear

3 the dispatcher, radio traffic, et cetera. Correct?

4 A. Yes, sir.

5 Q. Now, let me just ask you: On
this

6 laser disk, in order to access this information,
have we

7 prepared some bar codes like you might see at the

8 Albertsons or HEBS?

9 A. Yes, they are.

10 Q. Same kind of thing found on a
can of

11 tomatoes, and you scan over that and it reads it.
Right?

12 A. Yes. As you scan it, it scans
the

13 beginning of each bar code section that has been
marked.

14 Q. Okay. And we've got bar codes,
do we

15 not, for the portion of this laser that just simply
has

16 sound, correct?

17 A. Yes.

18 Q. So that if anyone wanted to play
just

19 the portion that has the sound without the video
20 transcript, they could just simply read off of that
bar

21 code. Right?

22 A. Yes, they could.

23 Q. Then do we not have another bar
code

24 where if somebody wanted to see the entire video
25 transcript with the sound, they just simply read
that bar

1 code. Right?

2 A. Yes, they would, and they are
marked

3 on the bar codes.

4 Q. Right. And then do we not have
1, 2,

5 3, 4, 5, 6, 7 other bar codes that go to certain
portions

6 of the video transcript that have the dialogue on
the

7 screen?

8 A. Yes, there are.

9 Q. Okay. And these are necessary
in

10 order to play this thing. Right?

11 A. Yes, they are.

12

13 MR. GREG DAVIS: May I approach,
your

14 Honor?

15 THE COURT: You may.

16

17 (Whereupon, the following

18 mentioned item was

19 marked for

20 identification only

21 as State's Exhibit 18-D,
22 after which time the
23 proceedings were
24 resumed on the record
25 in open court, as

Sandra M. Halsey, CSR, Official Court Reporter

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1 follows:)

2

3 BY MR. GREG DAVIS:

4 Q. Let me show you, Mr. Dickey,
State's

5 Exhibit 18-D, and ask you whether or not those are,
in

6 fact, the bar codes that allow us to read the laser
disk.

7 A. Yes, they are.

8

9 MR. GREG DAVIS: Your Honor, at
this

10 time we'll offer State's Exhibit 18-D

11 MR. RICHARD C. MOSTY: No
objection.

12 THE COURT: State's Exhibit 18-D
is

13 admitted.

14

15 (Whereupon, the
item

16 heretofore

mentioned

17 was received in evidence

18 as State's Exhibit No. 18-D

19 for all purposes,
20 after which time, the
21 proceedings were resumed
22 as follows:)

23

24 BY MR. GREG DAVIS:

25 Q. Very briefly, can you explain why

Sandra M. Halsey, CSR, Official Court Reporter

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1 we've limited the video dialogue on the screen to
persons

2 in 5801 Eagle Drive?

3 A. Well, there were a couple of
reasons.

4 The times were allotted, because of the fact that
it's

5 very hard to keep up with -- there are certain sounds
and

6 so forth that happen within one second of each other.

7 And so, it's very confusing.

8 The other thing is, it was my
charge

9 to isolate what was coming from inside the house, not
10 necessarily in background traffic or so forth in
those

11 manners from the fire or police radios. I merely

12 isolated what was coming from the house so that the

13 actions that took place in the house could

therefore be

14 deciphered.

15 Q. Okay.

16

17 MR. RICHARD C. MOSTY: Your

Honor,

18 prior to the State playing this, may I take the

witness

19 on voir dire?

20

THE COURT: You may indeed.

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1

VOIR DIRE EXAMINATION

2

3 BY MR. RICHARD MOSTY:

4

Q. Mr. Dickey, if I understand
what

5 you're proposing to show the jury is not a
complete

6 transcript of what happened on this tape?

7

A. It is -- the sound is a
complete

8 transcript of the tape.

9

Q. Well, the sounds. But the video,
the
10 wording -- the wording that is on this screen, that
would

11 appear on the screen, is not a complete transcript?

12

A. That is correct.

13

Q. And it doesn't have the officer,
for

14 instance, talking to Darlie Routier?

15

A. No, it does not have the
officer's

16 written response, but you can hear the audible --

17

Q. Well, I understand that, but what
the

18 jury is going to be able to see does not have Darlie

19 Routier on it, does it? Does not have the officer
on it,

20 does it?

21 A. Yes, it does contain a police
officer.

22 Q. It has that written on the
screen?

23 A. It has PO, which is the
abbreviation

24 in the transcript.

25 Q. Okay. And what about the

1 communication's officer. Is that on there?

2 A. No, CO1 or CO2 does not appear on
3 there.

4 Q. But you could do that, couldn't
you?

5 You could have done that?

6 A. Well, it would have been -- it
would

7 have scaled past at such a rate that would have not
been

8 able to be followed.

9 Q. Mr. Dickey, that's not my
question.

10 You could have done it, couldn't you? You could
have

11 brought the jury a complete transcript of everything
on

12 that screen.

13

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

I

15 ask: What's the purpose of voir dire? This sounds
like

16 cross. What is the purpose of this voir dire?

17 THE COURT: Well, what is

it?

18

MR. RICHARD C. MOSTY: Over

the

19 admissibility of the document.

20

THE COURT: Okay. Well, answer

the

21 question if you know it.

22

THE WITNESS: Could you repeat

it,

23 please.

24

MR. GREG DAVIS: Excuse me, if

I'm not

25 mistaken, this exhibit was admitted into evidence
prior

1 to us going to lunch.

2 THE COURT: It is.

3 MR. GREG DAVIS: Okay.

4 THE COURT: I'll let you ask this
one

5 question, and then let's get on with it, please.

6 THE WITNESS: Could you repeat
it,

7 please.

8

9 BY MR. RICHARD C. MOSTY:

10 Q. You could have put every person
on

11 there, on the written word, couldn't you?

12 A. That was not my
charge.

13 Q. Could you have done
it?

14 A. That was not my
charge.

15 Q. Do you understand
the --

16

17 THE COURT: This is more in the
nature

18 of cross-examination. Let's get on with it, you
can

19 cover that in cross.

20

21 BY MR. RICHARD C. MOSTY:

22 Q. Well, whose suggestion was it?

Whose

23 suggestion was it that you only put Mrs. Routier
and what

24 was happening at the house? Was that your idea?

25

Sandra M. Halsey, CSR, Official Court
Reporter

1 THE COURT: All right. Thank
you.

2 Please be seated. We have gone through this.
This is

3 not voir dire. This is cross-examination. We will
go on

4 with the tape.

5 MR. RICHARD C. MOSTY: We would
renew

6 our objections that we previously made and would like
to

7 go on with voir dire to develop those objections.

8 THE COURT: Thank you. Overruled.

9 Let's go ahead. Someone has got
to

10 start it.

11

12 DIRECT EXAMINATION (Resumed)

13

14 BY MR. GREG DAVIS:

15 Q. Mr. Dickey --

16

17 MR. GREG DAVIS: If I may

approach,

18 Your Honor.

19 THE COURT: Yes, sir.

20 MR. GREG DAVIS: Briefly.

21 THE COURT: Yes, sir.

22

23 BY MR. GREG DAVIS:

24 Q. Mr. Dickey, you did produce a

written

25 transcript of what's contained on State's Exhibit 18-
C;

Sandra M. Halsey, CSR, Official Court Reporter

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1 is that correct?

2 A. Yes, I did.

3 Q. So if anybody wanted to read, or
4 wanted to follow along as they go along with this,
and

5 actually see what is being said by CO1 or CO2 or the
6 radio, they could do that. Right?

7 A. Yes, they could, as well as the
exact

8 times they happened from the beginning of the phone
call.

9 Q. And if you would, if you'll just
look
10 at State's Exhibit 18-E, please, and tell me whether
or
11 not that is the written transcript that you,
yourself,
12 produced in this case.

13 A. I just want to make sure all the
pages
14 are here.

15 Q. Okay.

16 A. Yes, it is, in complete.

17 Q. Okay.

18

19 MR. RICHARD C. MOSTY: I'm sorry,

did

20 you say incomplete?

21 THE WITNESS: No, it is in -- it

is

22 complete.

23 MR. RICHARD C. MOSTY: Your Honor,

we

24 would like for the jury to go ahead have that during

this

25 transcription.

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. GREG DAVIS: Well, we have one
2 copy. I don't know how 12 people will read it.

3 MR. RICHARD C. MOSTY: I think
it's --

4

5 BY MR. GREG DAVIS:

6 Q. Let me just ask you, Mr. Dickey -

-

7

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

18

19 MR. GREG DAVIS: Well, first of
all,

20 is it admitted? I'll offer it at this time, as
State's

21 Exhibit 18-E.

22

MR. RICHARD C. MOSTY: Is that the

23 same one you've given us previously?

24 MR. GREG DAVIS: Yes, it has bar

codes

25 on there also so that they can play with both
portions

Sandra M. Halsey, CSR, Official Court Reporter

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1 there with the video.

2 MR. RICHARD C. MOSTY: We have no
3 objection to that, your Honor.

4 We would like to go ahead and make
16

5 copies of that so the jury can follow along with
that.

6 THE COURT: That's fine. I'll do
7 that. All right. Let's go in order. You have no
8 objection to 18-E?

9 MR. RICHARD C. MOSTY: No, Your
Honor.

10 THE COURT: 18-E is admitted.

11

12 (Whereupon, the item
13 Heretofore mentioned
14 Was received in evidence
15 As State's Exhibit No. 18-E
16 For all purposes,
17 After which time, the
18 Proceedings were resumed
19 As follows:

20

21 BY MR. GREG DAVIS:

22 Q. Mr. Dickey, again, if the jury

wants

23 to look at this in the jury room, for instance --

24

25

how

THE COURT: Well, we can break --

Sandra M. Halsey, CSR, Official Court Reporter

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1 long will it take to get copies of this made? Do you
2 have -- why don't you have Ms. Henderson come in.

3 MR. RICHARD C. MOSTY: It will
just

4 take a couple of minutes to make copies of this.

5 THE COURT: Just a minute. I
think we

6 can have Ms. Henderson come in. Just a minute.

7 How long would it take to get 16
8 copies of this made?

9 MS. HENDERSON: About 5 minutes.

10 THE COURT: All right.

11

12 BY MR. GREG DAVIS: Okay. Mr. Dickey --

13

14 THE COURT: All right. If we can,
by

15 agreement, ask some questions not germane to this,
can we

16 go ahead with the witness?

17 MR. GREG DAVIS: Yes, sir. What I
18 thought I would do is I could go ahead -- we can show
19 this once and then we can show it a second time when
they

20 have the transcript.

21 THE COURT: Does that meet with

both

22 sides' agreement?

23 MR. RICHARD C. MOSTY: Why don't

we

24 just do it one time when they have got the

transcripts?

25 There's no sense in redoing it.

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1 THE COURT: Well, we're going to
have
2 it in 5 minutes. Mr. Davis will show it once now and
3 we'll reshow it with the transcript. Thank you.

4 MR. GREG DAVIS: Thank you, your
5 Honor.

6 THE COURT: All right. Go ahead
with
7 it now and when the copies get in, the jury will have
8 them and we'll show it over again.

9 MR. GREG DAVIS: All right. Yes,
sir.

10

11

12 BY MR. GREG DAVIS:

13 Q. Mr. Dickey, if you don't mind, if
you
14 can step down here and just make sure that everything
is
15 running properly.

16

17 (Whereupon, the witness

18 Stepped down from

the

19 Witness stand, and

20 Approached the jury

rail

21

And the proceedings

were

22

Resumed as follows:)

23

24

THE COURT: All

right.

25

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1 (Tape played for the jury)

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. Mr. Dickey, let me ask you --

while

12 we're waiting for the copies of the transcript, let

me

13 just ask you a couple of questions. Prior to the

jury

14 coming back into the courtroom this afternoon, did

we

15 witness this video transcript here in this

courtroom?

16 A. Yes, we did.

17 Q. Okay. And was the defendant

present

18 in the courtroom during the time that you showed

that

19 video transcript?

20

21 MR. RICHARD C. MOSTY: Excuse me,

Your

22 Honor. We're going to object to what was done

outside

23 the presence of the jury. That's why it was done

outside

24 the presence of the jury.

25 THE COURT: Overruled. Go ahead.

1 MR. RICHARD C. MOSTY: May we
approach

2 the bench on this, your Honor.

3 THE COURT: You may.

4

5 (Whereupon, a short

6 Discussion was held

7 Off the record, after

8 Which time the

9 Proceedings were resumed

10 As follows:)

11

12 MR. RICHARD C. MOSTY: Your
Honor, I

13 understand our objection is sustained.

14 THE COURT: It is sustained.

15

16 BY MR. GREG DAVIS:

17 Q. Mr. Dickey, let me ask you
again,

18 before we view some individual portions of that
video

19 transcript again, let me ask you about a couple of
terms

20 that we may be using. The first one is going to be
the

21 term ambiance, or ambiance.

22 A. Yes.

23 Q. Okay. Can you just explain to us
what

24 is ambiance?

25 A. Well, in general terms, ambiance
would

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1 be the difference between, as if you were talking in
say

2 a living room that is carpeted, or as you walk into
your

3 bathroom and you hear multiple reflections, almost
as if

4 you're singing in what would be referred to as
reverb.

5 That would be two different examples of ambiance.

6 Q. Okay. When we talk about a room
--

7 let's say a family room is carpeted. Is that --
what

8 kind of ambiance is that kind of room going to
have?

9 What would you call that?

10 A. It is going to have more of a
dampened

11 ambiance. It will have less reflections.

12 Q. Noise is not going to bounce
around as

13 much?

14 A. Yes, sir.

15 Q. What about if we take a kitchen,
for

16 instance, that's got a linoleum floor instead of

carpet.

17 Is that going to be dampened, or is that going to
have

18 more of the noise bouncing around the room?

19 A. You're going to have more
reflections

20 in the harder surfaces.

21 Q. And as you were listening to this
tape

22 of this 911 call, is that something that you can
look

23 for, or listen for on this tape?

24 A. Yes, it is. We have the ability
to do
25 that.

1 Q. Okay. And is that something you
2 actually did with certain portions of this tape?

3 A. Yes, it is.

4 Q. Okay. Now, well, we hope this
works.

5 But I want to go to a portion of the video script
here,

6 Mr. Dickey, that begins at 43 seconds and 15. And
as we

7 time it, what is it 43, and then you've got a dot,
15.

8 How do you break down time on this tape?

9 A. On the transcript it will be
written.

10 You will have, the first two digits will designate
11 minutes, the second two digits will designate
seconds,

12 and the fifth and sixth digits will be what is
referred

13 to as subframes. It is partials of a second.

14 Q. Okay. So --

15

16 THE COURT: May we -- I have
these

17 transcripts back now. I believe that they are to

be

18 given to the jury. Here they are.

19 Will you pass those out,

please, Ms.

20 Biggerstaff.

21 There should be 16. Just take

one and

22 pass it on.

23 All right. Let the record

reflect

24 that the members of the jury now have a copy of

State's

25 Exhibit 18-E, the transcript of the 911 call at
5801

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1 Eagle Drive, on June the 6th, 1996.

2 THE WITNESS: As soon as it
comes up
3 to speed, you should be able to scan and it should
go
4 right back to it.

5 MR. GREG DAVIS: Okay. Again,
if the
6 jurors will look now to the portion of the
transcript
7 that begins at 43.15, with the female caller.

8
9 BY MR. GREG DAVIS:
10 Q. Would that be the first
individual
11 clip that we're looking at here?

12 A. Is there anyway I could have a
copy of
13 it?

14
15 THE COURT: Here, I have given
him the
16 Court's copy right there.

17 THE WITNESS: At 43.15?
18

19 BY MR. GREG DAVIS:

20 Q. Yes.

21 A. Yes, it would be.

22 Q. All right. Okay. Again, if
you would

23 step down here one more time.

24

25 (Whereupon, the
witness

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Reporter

1 stepped down from
the
2 witness stand, and
3 approached the jury
rail
4 and the proceedings
were
5 resumed as follows:)

6

7 BY MR. GREG DAVIS:

8 Q. Okay. Again if you will look
at
9 43.15.

10 A. Okay.

11 (Tape played for jury.)

12

13 BY MR. GREG DAVIS:

14 Q. Okay. So, as we see on the
first
15 clip, then we started with the female caller's first
line
16 at 49 seconds is "Who was breathing?" And then
there's
17 the male caller, unintelligible; is that right?

18 A. Yes, sir.

19 Q. And then the female caller's next

20 response is unintelligible. "Are they still laying
21 there, unintelligible." Correct?

22 A. Yes, sir.

23 Q. All right. Now, as you looked at
this

24 sequence here, when the female caller was making this
25 statement, "Who was breathing?" Did you try to make
a

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1 determination of whether that person was in a
dampened

2 room or a room that has more bounce to it?

3 A. Yes, I did, and let me explain a
4 little bit about that.

5

6 MR. RICHARD C. MOSTY: Excuse me,
your

7 Honor, I'm going to object to that. The question
was:

8 "Did he make a determination?" The answer was "yes"
9 That's it.

10 THE COURT: Overruled. Go ahead.

11 BY MR. GREG DAVIS:

12 Q. That means you can answer.

13 A. Yes. The explanation in addition
to

14 that would be: You have to compare one ambiance to
15 another. It wouldn't be appropriate to just take an
16 ambiance from any situation and designate it a
certain

17 area. So, you have to take certain reflective
surfaces

18 and relate them to a certain area, and then you can
make

19 a judgment from that point. Okay?

20 In other words, you have to
designate

21 what could be referred to as the dampened area
before you

22 can make a determination of a more reflective
area.

23 Q. All right. And when it comes
to this

24 line: "Who was breathing?" What was your
opinion? Was

25 this statement being made in a dampened room or
in a more

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Reporter

1 reflective room?

2

3

MR. JOHN HAGLER: Excuse me,

your

4 Honor, we'd object to this line of testimony to

this

5 particular question. The fact that it hasn't

been

6 established that he either has the factual basis to

make

7 such an opinion or that this so-called expert opinion

is

8 based on any type of accepted scientific theory under

the

9 Rule 702.

10

THE COURT: Overruled. Answer the

11 question.

12

THE WITNESS: Yes. My

determination

13 was it was in a slightly dampened area.

14

15 BY MR. GREG DAVIS:

16

Q. All right. And the type of room

that

17 would be dampened, would that be with carpeting?

18

A. It would be consistent with a room

of

19 carpeting.

20

21 MR. JOHN HAGLER: Could we have a
22 running objection to this line of testimony?

23 THE COURT: You may have a running
24 objection. Thank you.

25

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1 BY MR. GREG DAVIS:

2 Q. Okay. Now, this first segment
then

3 ends with the line, "Are they still laying there?
4 Unintelligible." And again, that's on Page 2, at 51
5 seconds and 15; is that correct?

6 A. Yes, it is.

7 Q. All right. Now, for the jury's
8 benefit, the second series that we're going look at
will

9 begin at the same 51.15 on Page 2, and it will run
10 through 1 minute and 2 seconds and 13. So,
essentially,

11 Mr. Dickey, what we're going to do is we're going to
pick

12 up from this and we're going to go right on through;
is

13 that right?

14 A. Yes, sir.

15 Q. Okay.

16 (Tape played for jury.)

17

18 BY MR. GREG DAVIS:

19 Q. Okay. Now, again, looking at this
20 sequence, we actually begin with 55 seconds and 6
with

21 the statement, "Oh my God. What do we do?" Is that
22 correct?

23 A. I think it actually --

24

25 (Tape played for jury)

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1 THE WITNESS: Actually it starts
at
2 51.15 again and picks up.

3

4 BY MR. GREG DAVIS:

5 Q. The first line now shown on the
screen

6 is, "Oh my, what do we do?"

7 A. Yes, sir.

8 Q. And that is at 55 seconds and 6.

9 Correct?

10 A. That's correct.

11 Q. So we're talking approximately
four

12 seconds after the statement, "Are they still laying
13 there." Correct?

14 A. That's correct.

15 Q. And the person talking is the
female

16 caller again; is that right?

17 A. That is correct.

18

19 (Tape played for jury.)

20

21 BY MR. GREG DAVIS:

22 Q. Okay. We'll pull it up here on
the
23 screen and I would like to ask you a question.
24 Mr. Dickey, on this screen we now
see
25 the statement, "Oh my God, what do we do?" Now, did
you

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1 try to make a determination, sir, of whether this
2 statement, "Oh my God, what do we do," whether that
3 statement was made in a dampened or a more
reflective
4 room?

5 A. This statement that begins, "Are
they
6 still laying there," as the progression of the
7 conversation moves from 51 to 55. The female caller
8 moves from a slightly dampened area into a more
9 reflective, very reflective in relationship to the
10 dampened.

11 Q. And --

12

13 MR. JOHN HAGLER: Your Honor, so
we're
14 clear on this. Again, our objection is that there
is
15 no -- as far as this testimony coming in, under Rule
702,
16 we're saying again that there's not an evidentiary
basis
17 for such an opinion, and there has been no showing
on the
18 part of the State that this type of opinion
testimony is

19 accepted and valid under Rule 702. We want the
record to

20 be clear that we have a running objection to each
and

21 every reference.

22 THE COURT: That's right. You do
have

23 a running objection.

24 MR. JOHN HAGLER: Thank you.

25

1 BY MR. GREG DAVIS:

2 Q. Can you tell the members of the
jury
3 how you determined that beginning at 51 and going to
55,
4 that this female caller was moving from a more
dampened
5 room to a more reflective room? Did you do that
just on
6 your own or did you use equipment? What did you
do to do
7 that?

8 A. Yes. It's a measurement of the
9 equipment. It's actually the decay time that
comes as
10 the female caller stops speaking and the decay
time
11 stops. In a more dampened area you don't have as
long a
12 reflection. It does not have as long a trail
coming off
13 of it. And as you move into a more reflective
area, of
14 course the trail is longer. It seems to put more
depth
15 to the words. And that is the measurement that

you take.

16 It's referred to as the decay time.

17 Q. Okay. How about if I'm sitting
at the

18 bottom of a well and I'm talking. Is there going
to be a

19 lot of decay in that kind of situation?

20 A. Yes, there would be.

21 Q. All right. Now, in a more
reflective

22 room, would that be consistent with a room that
has

23 linoleum flooring as opposed to carpeting?

24 A. Yes, it would be.

25 Q. And at the time that this
statement is

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1 made, "Oh my God, what can we do," was that made
in a
2 more reflective room consistent with having a
linoleum
3 floor?

4 A. Yes, it would.

5 Q. How about the statement that
follows,

6 "Oh my God. Oh my God" Are they made in a more
7 reflective room also or are we back to a dampened
room at
8 that point?

9 A. By the second "Oh my God," we are
back
10 to a more of a dampened room.

11 Q. Okay. Now, if we can, if we can
go
12 forward in this tape to the third segment which will
be
13 at 1 minute, 55 seconds, and that's going to be on
Page 5
14 of the transcript. And I believe, Mr. Dickey, at
that
15 point the first statement that we should see up on
the

16 screen -- on the transcript we have the
communications

17 officer saying, "What is going on;" is that
correct?

18 A. Yes.

19 Q. And actually the first statement
that

20 we will see is made by the female caller; is that
21 correct?

22 A. Yes, it is.

23

24 (Tape played for jury.)

25

1 BY MR. GREG DAVIS:

2 Q. Okay. Again, the first line that
we

3 see on the screen is the female caller saying,
"Somebody

4 came in while I was sleeping. Me and my little boys
were

5 sleeping downstairs;" is that correct?

6 A. Yes, it is.

7 Q. The next statement by the female
8 caller is, "Some man came in, stabbed my babies,
stabbed

9 me. I woke up. I was fighting. He ran out through
the

10 garage. Threw the knife down. My babies are dying.
11 They're dead. Oh my God;" is that correct?

12 A. That is correct.

13 Q. Now, this statement, do you
recall, as

14 you sit there now, whether you made a determination
15 whether the female caller was in a more dampened or a
16 more reflective room at this point?

17 A. Those are both consistent with
just

18 slightly dampened.

19 Q. More consistent with or being back
in

20 a carpeted room as opposed to a linoleum floor room?

21 A. Yes.

22 Q. Okay. Now, the fourth clip that
we're

23 going to look at, Mr. Dickey, that will begin on Page
7,

24 and that's going to begin at 3 minutes and 44
seconds.

25 With the communication's officer statement, "You
don't

1 know who did this;" is that correct?

2 A. Yes, it is.

3 Q. And so the first line of dialogue
that

4 we'll see on the screen will be by police officer at
5 3:45, "Look for a rag;" is that correct?

6 A. Yes, it would be.

7 Q. Okay.

8

9 (Tape played for jury.)

10

11

12 BY MR. GREG DAVIS:

13 Q. Okay. Again, the blue represents
the

14 police officer; is that right?

15 A. Yes, it would.

16 Q. And his first statement is, "Look
for

17 a rag." Correct?

18 A. Yes, it is.

19 Q. The response by the female is,
"They

20 killed our babies." Right?

21 A. Yes, it is.

22 Q. And his next statement as shown on
the

23 screen is, "Lay down. Okay. Just sit down.

24 Unintelligible." Correct?

25 A. Yes, it is.

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1 Q. And the female caller's response
that
2 follows is, "No, he ran out, or they ran out in the
3 garage. I was sleeping;" is that correct?

4 A. Yes, it is.

5 Q. In that last statement actually,
is it
6 true, Mr. Dickey, that the female caller first uses
the
7 word he and then in mid-sentence changes it to they;
is
8 that right?

9 A. Yes, that is correct.

10 Q. Now, the fifth clip that we will
11 listen to will begin on Page 9, and it will begin at
4
12 minutes and 26 seconds --

13

14 MR. RICHARD C. MOSTY: Your Honor,
I'm
15 going to object. That last one, we don't need Mr.
Dickey
16 to interpret what the transcript read. He didn't say
17 anything about dampening, which is his alleged area
of

18 expertise which we objected to.

19 We object to him simply reading

for

20 the jury, his interpretation of what this says. They

can

21 do that.

22 THE COURT: Well, I'll let him

read.

23 I'm going to let him read. Overrule the objection.

24 Go ahead, please.

25 Listen to the question.

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1 BY MR. GREG DAVIS:

2 Q. All right. At 4:26, Mr. Dickey,
as we

3 pick that up, will we begin on the screen with the
female

4 caller's comment; is that right?

5 A. Yes, you would.

6

7 MR. RICHARD C. MOSTY: Excuse me.

8 What page again?

9 MR. GREG DAVIS: Page 9 at 4.26,
the

10 female caller.

11 THE WITNESS: Actually you will
begin

12 with the last part of that sentence at 4 minutes and
26

13 seconds.

14 MR. GREG DAVIS: Right. Okay.

15 THE COURT: That's 4:24?

16 THE WITNESS: 4:24 is the previous
17 statements.

18 MR. RICHARD MOSTY: Then it goes
to

19 4:31.

20 MR. DOUGLAS MULDER: Judge, we'd

just

21 like to have the same one the jury has got so we can
mark

22 it accordingly.

23 THE COURT: Can we get the same
copy?

24 I thought we had -- we have 16 copies to the jury.

We

25 can share.

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1 THE JUROR: If you need a copy, we
can

2 look together.

3 MR. DOUGLAS MULDER: I don't mind.

4 Let's just make another copy.

5 MR. RICHARD C. MOSTY: We don't
have

6 one that says 4:26.

7 THE COURT: Well, I would like for
8 them to have that.

9 THE JUROR: May I offer this one
here,

10 Judge?

11 THE COURT: Well, okay. Let Mr.
12 Mulder have it.

13 MR. GREG DAVIS: I guess that is
14 another one.

15 MR. RICHARD C. MOSTY: Do I have a
16 different version?

17 MR. DOUGLAS MULDER: Apparently
so.

18 MR. GREG DAVIS: They have two
copies.

19 THE COURT: Is that the original
copy

20 you just gave to the defense?

21 MR. DOUGLAS MULDER: I will go
make a

22 copy.

23 THE COURT: Well, just have a
seat.

24 We'll get it made.

25 MR. GREG DAVIS: If I could please

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1 present my testimony I'd appreciate it.

2 THE COURT: You can present your
3 testimony. While you're waiting we'll have a copy
made.

4 MR. RICHARD C. MOSTY: And since I
5 don't have a copy could I get one made?

6 THE COURT: We will get one made.

All

7 right.

8

9

(Tape played for jury.)

10

11 BY MR. GREG DAVIS:

12 Q. Again, as we look through the tape
13 here, again, the blue will be the police officer; is
that

14 right?

15 A. Yes.

16

17

(Tape played for jury.)

18

19 BY MR. GREG DAVIS:

20 Q. Okay. On the screen right now do
we

21 see a statement made by a police officer in blue,

22 "Nothing's gone, Ms. Routier?"

23

A. Yes, you do.

24

(Tape played for jury.)

25

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1 BY MR. GREG DAVIS:

2 Q. Okay. And then do we continue on
here

3 as the screen rolls with another police officer's
4 statement of, "Unintelligible, the problem, Mrs.
5 Routier"?

6 A. Yes, you do.

7 Q. All right. Now, the sixth
individual

8 clip should begin at 5 minutes and 1 second,
9 communication officer statement, "You need to let
the
10 police officers in the front door."

11

12 (Tape played for jury.)

13

14 BY MR. GREG DAVIS:

15 Q. The only comments we see up on
the

16 screen are made by the female caller; is that right?

17 A. That's right.

18 Q. And throughout here, we just have
one

19 female caller. Right?

20 A. Yes, that is correct.

21 Q. Okay. And the last individual
clip,
22 Mr. Dickey, I show to begin on Page 10, at 5 minutes
and
23 18 seconds with the dispatcher saying, "Ma'am, hang
on.
24 Hang on a second."
25

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1 (Tape played for jury.)

2

3 BY MR. GREG DAVIS:

4 Q. So on this last individual clip,
what

5 we see on the screen are actually four statements by
the

6 female caller, followed by an unintelligible
statement by

7 the police officer; is that right?

8 A. That's correct.

9 Q. Okay. And that's the last
individual

10 clip that's going to be shown on the bar code
exhibit; is

11 that right?

12 A. Yes, it is.

13 Q. Okay. So, again, on the bar code,
we

14 have the sound only, we have the entire video script
and

15 then we have the seven individual clips that we've
now

16 shown to the jury; is that
right?

17 A. That's
right.

18

19 MR. GREG DAVIS: Do you want to
use
20 this?

21 MR. RICHARD C. MOSTY: I doubt
very

22 seriously that I'm qualified to operate it.

23 MR. GREG DAVIS: Well, you see
I'm

24 not.

25 MR. RICHARD C. MOSTY: Let's
push it

1 back.

2 MR. GREG DAVIS: Okay.

3 THE COURT: All right. That's
all?

4 MR. GREG DAVIS: I'll pass the
5 witness, your Honor.

6 THE COURT: Mr. Mosty.

7

8 CROSS EXAMINATION

9

10 BY MR. RICHARD MOSTY:

11 Q. Mr. Dickey, when were you first
12 contacted by the District Attorney's Office to
assist?

13 A. Sometime in September, I think
it was.

14 Q. All right. When did you
complete your

15 work?

16 A. Sometime in December. I would
say

17 middle to late December.

18 Q. Okay. Did you participate in
this

19 trial that they had up in Dallas, up at the

courtroom?

20 A. No, I didn't.

21 Q. Did you go up and practice with
the
22 other officers?

23 A. No, I did not.

24 Q. Okay. When you get a job like
this,
25 do you -- I guess you do a work order or something?

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1 A. You could call it that.

2 Q. All right. And I guess part of
the

3 time is you're sitting there and just listening to
this

4 stuff?

5 A. That's true.

6 Q. Back and forth through it?

7 A. Yes.

8 Q. And you're taking notes of what
you

9 hear or see or important things you want to take
down?

10 A. Well, I don't know exactly what
you're

11 getting at.

12 Q. Well, what notes did you take in,
you

13 know, you sat there and described all of this stuff
on

14 this tape, and what notes do you take, or what
reports

15 did you make?

16 A. The conclusions that were drawn --

17 Q. No, no. I'm interested in what

notes

18 did you take.

19 A. The notes, there are no notes,
20 supposed notes.

21 Q. Well, what do you mean "supposed
22 notes"? Did you --

23 A. Well, you're asking me about notes
24 that weren't taken.

25 Q. Well, that's all I was asking you.

1 Did you take one note whatsoever to remember and
document

2 what you just testified here?

3 A. All the measurements were done on
the

4 computer.

5 Q. Well, where is that computer print
6 out?

7 A. There is no computer printout, it
is

8 on the computer.

9 Q. Well, for instance, on this part
you

10 say here in this one part that at a certain time it's
11 dampened, what note -- how did you remember that?

You

12 didn't take any notes to tell you what part was
dampened

13 or what wasn't?

14 A. That's easily detectable for me.

15 Q. Well, but -- and you can remember
16 that?

17 A. Yes, I can.

18 Q. At what point in the tape, for
19 instance, did the dog bark?

20 A. Well, I would have to see the
tape.

21 If you're talking about a timeline, but if you're
asking

22 me about ambiance, that's a whole 'nother (sic)
question.

23 Q. Okay. But you didn't take any
notes

24 to tell me what the difference in that ambiance
was?

25 A. The notes that were taken on
the

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1 timeline, you have a copy of it.

2 Q. No, I'm talking about your
notes.

3 A. Those are my notes.

4 Q. Where on here does the word
ambiance

5 appear on quote your notes?

6 A. The ambiance -- there is no
word

7 ambiance on there.

8 Q. Now, what reports did you
write?

9 A. I gave no report as such, as
far as

10 what you're asking a written report on ambiance.

11 Q. And we've already -- you've
already

12 told us, have you not, that this transcript, this
part of

13 this, that is Mr. -- it only has one side of a

14 conversation, or the house side of the
conversation on

15 it. That was done at Mr. Davis's request?

16 A. The charge was given to try to
isolate

17 and focus upon the actions and the sounds that
were

18 inside the residence --

19 Q. Mr. Dickey, my question was
simple:

20 Who made the --

21 A. I'm trying to answer that.

22 Q. No. Listen to the first part
of it.

23 The question is who. Who told you what to put on
that

24 tape?

25 A. That was the consideration
between

Sandra M. Halsey, CSR, Official Court
Reporter

1 myself and Mr. Davis.

2 Q. All right. And that was the
sole

3 charge was to identify what happened at the
house; is

4 that right?

5 A. That is correct.

6 Q. And as a matter of fact, it's
sort of

7 hard, is it not, to sit with the jury transcript
that

8 they've got over there that you prepared that.
Right?

9 A. Yes, I believe so. It's, in fact,
a
10 copy of what has been given to the Court.

11 Q. And it's really a little bit hard
to

12 try to be reading on this and be reading on the
screen at

13 the same time, isn't it? Going back and forth?

14 A. I would say to do both, that would
be

15 correct.

16 Q. It's hard. It would be a lot

easier

17 to either read the transcript by itself or read the
18 screen by itself, wouldn't it?

19 A. Yes, that would be correct.

20 Q. Okay.

21 A. May I --

22 Q. No, sir. Now, as I understand it,
you

23 have gone through and picked out seven particular
parts

24 of this tape?

25 A. There were seven parts of the tape

1 that were bar coded.

2 Q. And by bar coded, that's what we
saw

3 on the screen?

4 A. Yes.

5 Q. Okay. And who chose those seven
parts

6 of the tape?

7 A. That was a collaboration between
8 myself and Mr. Davis of collected evidence.

9 Q. So you and Mr. Davis as a team are
10 deciding what evidence you want to present to the
jury?

11 A. That is not correct.

12 Q. Well, was it a collaboration?

13 A. Well, what -- let me clarify
myself.

14 Q. Was it a collaboration between you
and
15 Mr. Davis?

16

17 THE COURT: Let him speak and
answer

18 the question. Answer the question.

19 THE WITNESS: To clarify myself, I

20 would say that those are the points that I felt
strongest

21 about. They are not the points that Mr. Davis told
me to

22 pick and leave others out.

23

24 BY MR. RICHARD MOSTY:

25 Q. Okay. Did you come up -- when you

Sandra M. Halsey, CSR, Official Court Reporter

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1 started your work, what were you given?

2 A. What was I given?

3 Q. Right.

4 A. I was given nothing. I was asked
to

5 make a copy of the tape.

6 Q. Well, were you given a copy of the
7 tape?

8 A. No, I was not given a copy, I made
the

9 copy at the Rowlett Police Department.

10 Q. I'm not trying to be picky with
you.

11 Did you have possession of a tape ever that you used
to

12 make a copy of it? That's correct, isn't it?

13 A. That is correct.

14 Q. Okay. Did anybody ever give you a
15 transcript of the 911 --

16 A. No.

17 Q. -- conversation?

18 A. No.

19 Q. The State never gave you one of
what

20 they thought was on the 911 tape?

21 A. No, they didn't.

22 Q. So this creation, State's Exhibit

23 18-E, is solely yours?

24 A. Yes, it is.

25 Q. And I take it that you never have

Sandra M. Halsey, CSR, Official Court Reporter

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1 created a complete transcript of the 911 call that
shows

2 all of the words and all of the sounds together?

3 A. The most complete transcript that
I

4 completed, you have a copy of it.

5 Q. No, I'm talking about the laser
disk

6 that has the sounds from the laser plus the screen.

Is

7 that the most complete one you've ever done?

8 A. As far as what was -- the
transcript

9 being transferred to laser disk?

10 Q. To the screen.

11 A. Yes, that is correct.

12 Q. I don't understand laser disks.

So,

13 when I talk about it, I talk about sound and
screen.

14 A. Okay. I would agree with that.

15 Q. The most complete one that has
ever

16 been done is the one the jury saw?

17 A. I would agree with that.

18 Q. And there's never been any
attempt

19 made to do a complete one that had all of the
words on

20 the screen?

21 A. Are you referring to the words
marked

22 unintelligible?

23 Q. No, I said words.

24 A. Well, I don't know what you're
25 referring to.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. You don't?

2 A. No, I don't.

3 Q. For instance, the
communications

4 officer, her words.

5 A. It is complete on there. It is
6 complete as I could render it.

7 Q. Mr. Dickey, maybe you and I are
having

8 trouble communicating. I'm talking about what
appeared

9 on this screen. Has there ever been a full
transcript of

10 Exhibit 16-E (sic) that has appeared on this
screen or

11 any other screen that you have prepared?

12 A. Not in the fashion as you have
it on

13 paper.

14 Q. All right. Why -- I guess
that's

15 because you and Mr. Davis collaborated on what
would be

16 put on the screen?

17 A. No, that would not be true.

That

18 would probably be more to my discretion that I
felt that

19 that was a better portrayal of the sounds and the
actions

20 and the words that came out on 5801 Eagle Drive.

21 Q. Even though you've already told
us

22 that we're trying to read this transcript and
trying to

23 follow that screen is confusing?

24 A. What I told you was either or
would

25 not be, but both at the same time would probably
be

Sandra M. Halsey, CSR, Official Court
Reporter

1 confusing for myself.

2 Q. Now, I guess what -- there are
two

3 times in this tape that you were able to testify
about

4 the ambiance; is that right?

5 A. I would agree with that.

6 Q. Okay. All right. Have you ever
been

7 out to the house?

8 A. No, I have not.

9 Q. Has it been described to you?

10 A. I did ask for general proportions
of

11 the floorplan.

12 Q. What's the wall material, for
13 instance? Is it rock, these interior walls?

14 A. I thought that the room was wood.

15 Q. Wood?

16 A. I thought that there was at least
one

17 wall of wood. There might have been some brick, if
I

18 understood correctly. There's also carpet on the
floors.

19 It's also connected to an adjoining room.

20 Q. Okay. And what is between the
rooms?

21 A. From what I understand a slight
22 island-bar type, I guess you would refer to it.

23 Q. Okay.

24 A. Counter maybe.

25 Q. Now, were you able to detect when
she

1 was standing on a carpet runner?

2 A. Could I --

3 Q. I'll ask the questions.

4 A. Okay.

5 Q. Can you detect when someone is
6 standing on, for instance, a carpet runner?

7 A. Not for what you're --

8 Q. Could you detect -- go ahead,
finish.

9 A. I would say no, not from just
that

10 amount of information and nothing to compare it to.

11 Q. Well, if this -- if this is a
12 depiction -- and if you would like to look at this,
13 you're welcome to, if you can't see it.

14 A. Just so I can answer correctly.

15 Q. All right. If this is a
depiction of

16 the house and this family room is carpeted, you had
at

17 least one of your sessions that was consistent with
this

18 person being in the carpeted area?

19 A. Yes, that is true.

20 Q. Okay.

21 A. At least.

22 Q. And you had another that was

23 consistent with a more reflective --

24 A. A very reflective area.

25 Q. Okay. Like a kitchen?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes, more like a kitchen.

2 Q. Okay. So, what you've got -- and
how

3 far apart were those in time frame?

4 A. In time I think the movement was
5 between 4 to 6 seconds, something like that.

6 Q. Okay. So, that would be
consistent

7 with, if I were standing in a carpeted room and I
walk to

8 a sink quickly to get a towel, and I were talking on
the

9 phone while I was doing that, I would move to the
10 reflective room, for instance? It doesn't take me
but

11 about a couple of seconds to walk that far, does it?

12 A. Not if you walked at a brisk
pace, I

13 guess.

14 Q. Well, you would suspect that a
person

15 that was talking, as you heard on this tape, would
be

16 walking at a brisk pace, wouldn't you?

17

18

MR. GREG DAVIS: I'm going to

object

19 to that. It calls for speculation on the part of

this

20 witness.

21

THE COURT: Sustained. Move on.

22

23 BY MR. RICHARD MOSTY:

24

Q. Assume with me that someone does

walk

25 briskly. That would be consistent with the
conversation

1 going in a period of seconds from a slightly dampened
2 room, from a carpeted room, into a more reflective
room

3 like a kitchen?

4 A. What I observed on the tape was
more

5 of a movement into the complete kitchen. Not
necessarily

6 just to the edge of the kitchen, or so forth. And I
7 don't -- what I see is a sink on the very edge of
the

8 kitchen there. Am I correct?

9 Q. Right here?

10 A. No.

11 Q. Well, no, that is a
sink.

12 A. Okay. That's the
range.

13 Q. I'm sorry, this is the sink, it's
14 closer.

15 A. That would be my point.

16 Q. Okay. So, that -- but this matter
of

17 a few seconds is consistent with someone walking from
a

18 dampened room into an undampened room. Right?

19 A. That is correct.

20 Q. Okay. And if this is linoleum in

21 here, that would be consistent with an undampened,
more

22 reflective room, in the kitchen?

23 A. That is correct.

24 Q. And if this is carpet over here,

25 that's a more dampened room?

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1 A. That is correct.

2 Q. Okay. And then those are the only
two
3 you're able to detect in this tape?

4 A. To be completely sure, yes, sir.

5 Q. Okay.

6 A. And that is all I have testified
to.

7 Q. Okay. And so, during -- how many
8 times -- that was -- this whole tape is how long?

9 A. It's 5 minutes 44 seconds and some
10 frames.

11 Q. Okay. And you identified how many
12 seconds? There were two sequences right behind
each
13 other where you testified about dampened room,
more
14 reflective room. Right?

15 A. Yes.

16 Q. Okay. And how long is that
sequence?

17 A. As I answered before, I think
it's a 4
18 to 6 second span.

19 Q. Well, I'm talking about the
whole time

20 that you played the tape, where you were able --
out of

21 this whole tape, you were only able to find 4 to 6
22 seconds where you could determine dampened or
undampened?

23 A. As a professional, to make that
24 opinion clarified, what I would say is it was the
only
25 for sure dampening that I could find. In the other

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1 circumstances, there were the possibilities of a
person

2 facing a certain way, or the volume in which they
were

3 speaking, which is also directly relative to the
amount

4 of reflection that you get.

5 Q. Okay.

6 A. So there were a lot of
circumstances

7 in which there were other ambiences, however they
weren't

8 conclusive.

9 Q. Well, Mr. Dickey, is the answer
to my

10 question that out of this 5 and a half, or 5-45
tape, you

11 were able to find 4 to 6 seconds in which you could
12 determine the difference in ambiance?

13 A. That wouldn't be absolutely
true.

14 Q. Well, how many seconds does that
15 exchange take?

16 A. Are you talking about that one
17 particular spot?

18 Q. I'm talking about the two

exchanges

19 when you talked about ambiance.

20 A. Okay. That I was asked about.

21 Q. How long is that span?

22 A. It's 4 to 6 seconds, that you're
23 speaking of.

24 Q. Okay. So, 4 to 6 seconds, out

of this

25 5 minute and 45 tape, you have found something
consistent

1 with a person moving from a dampened to an
undampened

2 room; is that right?

3 A. That's correct.

4 Q. Okay.

5 A. And if I'm following you
correctly,

6 back to a dampened room.

7 Q. Well, I'm not interested in you
8 following me correctly, I'm interested in me
following

9 you correctly.

10 A. Okay.

11 Q. So this 4 to 6 second period is
12 dampened, undampened, dampened?

13 A. It's more slightly dampened, to
very

14 reflective, to slightly dampened.

15 Q. Okay. Slightly dampened, to
very

16 reflective, to what is the next one -- from
slightly

17 dampened, to very reflective to dampened?

18 A. To slightly dampened.

19 Q. Back to slightly dampened.

20 A. Yes.

21 Q. Okay. And that's in a 4 to 6
second

22 time frame?

23 A. Yes. That time frame right there
that

24 you're speaking of.

25 Q. And as to the rest of the tape,
you

1 weren't able to draw any conclusions about dampened,
2 reflective, slightly dampened?

3 A. Not as conclusive as that, no.

4 Q. Okay. Well, you wouldn't be --
those

5 are the only ones you feel comfortable, as a
6 professional, to testify about?

7 A. Yes, that is correct.

8 Q. And anything else would not be,
in
9 your opinion, reliable?

10 A. That's correct.

11 Q. Okay. How should I say this:

Could

12 not detect?

13 A. Well, those would not be my
words.

14 Q. Tell me what your words would
be.

15 That you're unable to draw a conclusion?

16 A. Right.

17 Q. Okay. Unable to draw

conclusion as to

18 rest of 911 call. Is that fair?

19 A. That is fair.

20 Q. Okay. Now, do you have a copy

of the

21 transcript up there.

22 A. No, I don't. But I have been
given

23 one.

24 Q. Well, you might have to bear
with me
25 because I ended up taking notes on two different
ones. I

Reporter Sandra M. Halsey, CSR, Official Court

1 just wanted to ask you about a couple of the
sections

2 that -- now, did you have a copy of this that had
the

3 sections that Mr. Davis was going to point out to
you?

4 A. Repeat that one more time.

5 Q. Have you ever had a copy of
yours,

6 like a work copy, that said, you know, from one point
two

7 five, to -- we're going to talk about this section,
if

8 this is section 1, section 2 and section 3?

9 A. No.

10 Q. Okay. Is that shown on this
exhibit?

11 Is this the exhibit? I'm looking for the bar code
12 exhibit.

13 A. All of individual sections were
drawn

14 from a complete transcript.

15 Q. Okay. All right. Let's just talk
16 about some of the sections that you and Mr. Davis
talked

17 about real quickly. Let's see if I got them right.

18 Okay. What I wrote down -- at 344.05. Now
that's my

19 version. Let me see, I'm sure there's a more
modern

20 version.

21 I see it. 345.19, that's the
section

22 that you testified about?

23 A. That was the section that was
bar

24 coded.

25 Q. Okay. And is that the fourth
section

Sandra M. Halsey, CSR, Official Court
Reporter

1 that was bar coded or the third?

2 A. I couldn't tell you.

3 Q. Okay. Don't remember that?

4 A. Well, I can't recall which one
was bar
5 coded.

6 Q. Did it begin with "look for a
rag," I
7 believe?

8 A. I think it began with, "You
don't know
9 who did this?"

10 Q. All right. And the section
that you
11 and Mr. Davis chose to put on the screen that
y'all
12 collaborated on was at 352.13? It says, "No, he
ran out
13 of the garage. They ran out of the garage"?

14 A. Well, I don't know that you're
15 entirely correct in that you keep repeating that
you and
16 Mr. Davis, this was of my choosing of the parts
that I
17 felt comfortable with, not just Mr. Davis.

18 Q. Well, you didn't testify about
19 ambiance on this one, did you?

20 A. No, I did not.

21 Q. So, you felt comfortable
pointing out

22 the section that says, "No, he ran out -- they ran
out of

23 the garage. I was sleeping." You felt
comfortable for

24 you to point that out?

25 A. Yes, I did.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. And what -- did that indicate
2 something important to you, I take it?

3 A. I felt it did.

4 Q. All right. Now let's go on
after that

5 and go down to 401.28.

6 A. Okay.

7 Q. Okay. Now, you know, because
you

8 listened to this tape very carefully --

9 A. Yes, I did.

10 Q. 401.28, the police officer is
there.

11 Correct?

12 A. Yes, I do.

13 Q. Okay. But there's only one
police

14 officer there. Right?

15 A. I haven't testified to that.

16 Q. Can you tell us?

17 A. I would not -- I would not --
that

18 would be a conclusive statement on my part.

19 Q. Okay. But what she says there
is,

20 "Y'all go look out in the garage." Y'all refers
to more

21 than one person, doesn't it?

22 A. Yes, I would -- well, in normal
23 discourse I would agree with that.

24 Q. Where did you grow up, Mr.

Dickey?

25 A. In Grand Prairie, Texas.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Okay. So you're familiar with
the
2 term "y'all"?

3 A. Yes, I am.

4 Q. And that's more than one, isn't
it?

5 A. I would say that. I don't know
who

6 she's referring to y'all as. It could be
her husband and

7 the policeman. It could be two policemen.
It could

8 be -- I have no way of knowing. I have
made no

9 determination.

10 Q. So your idea is that
what she's saying

11 is y'all, and telling her husband, who is
attending to

12 one of her dying children, "Y'all get up.
Darin,

13 y'all -- you and the police officer, y'all
get up and go

14 look in the garage for them"? That's what
you were

15 thinking?

16 A. No. I made no

determination of that,

17 period.

18 Q. So "y'all" might refer

to one police

19 officer?

20 A. If you would like to say

that, yes.

21 Q. So some people mess up

in their

22 syntax, don't they, in their English?

23 A. I would agree with that.

24 Q. For instance, have you

ever seen

25 presidential candidates? They never say,
"Would you --

Sandra M. Halsey, CSR, Official Court
Reporter

1 that I appreciate your vote," do they?

They always say,

2 "We appreciate the vote."

3 A. I think I've heard it
both ways,

4 but --

5 Q. They usually say, you
know, "vote for

6 us."

7 A. I can't make a
determination on what

8 you're saying.

9 Q. Well, you've heard
presidential

10 candidates say that kind of thing, haven't
you?

11 A. Well, I've heard a lot
of things said.

12 I don't know that.

13 Q. "We're so happy we won
the

14 presidency."

15 A. Maybe referring to their
family, I'm

16 not sure.

17 Q. Well, how many
presidents do we have?

18 A. Well, we have one
president.

19 Q. And one vote, don't you?

20 A. One first family.

21 Q. One vote for one person,
don't you?

22 A. Well, one vote per
person who is
23 voting, yes.

24 Q. Anyway, Darlie Routier
says, "Y'all
25 look out in the garage. Look out in the
garage," does

Sandra M. Halsey, CSR, Official Court
Reporter

1 she not?

2 A. Yes, that is what is
spoken.

3 Q. And I guess you didn't
feel

4 comfortable suggesting that this phrase be put up on
your

5 screen?

6 A. I did not feel that there was any
7 inconsistency in it.

8 Q. Okay. Let's talk about your --

9

10 THE COURT: I think right now,
11 gentlemen, we'll take a 10 minute break.

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
defendant

Hearing of the

20
presence.

But outside the

21
follows:)

Of the jury, as

22

23
both sides

THE COURT: All right. Are

24 ready to bring the jury back?

25
State

MR. GREG DAVIS: Yes, sir, the

Reporter Sandra M. Halsey, CSR, Official Court

1 is ready.

2 MR. DOUGLAS MULDER: The
defense is
3 ready.

4
5 (Whereupon, the jury
6 Was returned to

the
7 Courtroom, and

the
8 Proceedings

were
9 Resumed on the
record,

10 In open court, in
the

11 Presence and
hearing

12 Of the defendant,
13 As follows:)

14
15 THE COURT: Let the record
reflect

16 that all parties in the trial are present and the
jury is

17 seated.

18 Mr. Mosty, you may continue.

19

20

21 CROSS EXAMINATION (Resumed)

22

23 BY MR. RICHARD MOSTY:

24 Q. All right. Mr. Dickey, I just

have a

25 couple of more things I wanted to cover with you.

Again,

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Reporter

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1 do you have this transcript up there in front of
you?

2 A. Yes.

3 Q. These seven excerpts, are all
those

4 the ones that you felt -- how did you say that --
that

5 you felt comfortable with?

6 A. Yes.

7 Q. All right. Now, your charge
was to

8 enhance this tape? To enhance it and make it the
highest

9 quality?

10 A. Well, to interpret what was being
said

11 through whatever means. Not necessarily just
enhancing

12 it, because that wouldn't be my procedure.

13 Q. Okay. By interpret it, you took
that

14 as your charge to decide what you thought might be
15 important or not important?

16 A. No. No.

17 Q. That's not part of your
job?

18 A. No, that would not be
correct.

19 Q. Okay. So you aren't -- when you
20 enhance something, or when you pick out these
sections,

21 you weren't worried with whether or not they were
22 consistent with some side of the story, or
inconsistent,

23 or whether they were an inconsistency or consistency,
24 that wasn't part of your idea?

25 A. No.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. Let's --

2 A. If what you're saying is my
transcript

3 was developed around one side of the story, that's
4 completely incorrect.

5 Q. That's not what I'm talking about.

6 I'm talking about the excerpts from your
transcript, 1

7 through 7. These excerpts that you put on this
screen.

8 A. Yes, sir.

9 Q. And I pointed out that one a
minute

10 ago where you -- where you did not include the part
about

11 "Y'all go search the kitchen." Is that part of your
12 interpretation to determine whether to include that
13 y'all?

14 A. No, that didn't even enter my
mind.

15 Q. I thought you, a minute ago, told
me

16 that you didn't think that was inconsistent.

17 A. I didn't think there was any
18 inconsistency in the sentence itself.

19 Q. Okay. Well, were you looking --
when

20 you were choosing these seven sections, were you
looking

21 for inconsistencies?

22 A. Yes, at certain times I was.

23 Q. Okay. So you were doing a little
bit

24 more than just listening to the words and bringing
us the

25 words, you were doing some interpretation as well,

1 weren't you?

2 A. I pointed out several sections
that I

3 thought would be important.

4 Q. Pointed it out to Mr. Davis?

5 A. Yes, I did.

6 Q. Okay. Let's go to section --
what I

7 call section 6, bottom of page 9. It starts with,
"You

8 need to let the officer in the front door. The knife
was

9 laying over there and I already picked it up."

10 "Okay. It's all right. It's
okay.

11 "God, I bet if we could have
gotten

12 prints maybe." Correct?

13 A. Yes.

14 Q. And that's one of the sections
that

15 you and Mr. Davis chose?

16 A. That was something that I
thought was

17 important.

18 Q. Okay. And did you suggest to
Mr.

19 Davis it was important?

20 A. I pointed it out.

21 Q. Okay. Now, you don't know who
she's

22 talking to there, do you? "The knife was lying
over

23 there and I already picked it up."

24 A. I wouldn't make a determination
on
25 that.

1 Q. Okay. By this time the
arresting

2 officer is there, isn't he?

3 A. Yes, the officers are there.

4 Q. And the very first time the
knife ever

5 comes up, going back in the transcript, is when the
911

6 operator says, "Don't touch anything." Isn't that
right?

7 A. I wouldn't --

8 Q. You don't remember that?

9 A. Well, let me just look at it.

10 Q. Why don't you look at it. You
see --

11 A. I think that the actual first
time the

12 knife is mentioned was a sequence of events in
which she

13 describes to the operator something about a knife
was --

14 he threw the knife down.

15 Q. Okay. What did the operator say
back?

16 A. She --

17 Q. She said, "Don't touch
anything,"

18 didn't she?

19 A. No, I think this is at two
minute and

20 14 seconds and 23 frames. The operator responds,
"Okay.

21 Stay on the phone with me."

22 Q. Okay.

23 A. She just explained to the
operator,

24 "Some man came in and stabbed my babies, stabbed

me. I

25 woke up. I was fighting. He ran out through the
garage

1 and threw the knife down."

2 Q. Okay. Look at 408. 405.03,
pick up

3 there. That's my phrase, "Y'all look out in the
garage."

4 A. Yes.

5 Q. And CO1, "There's a knife.
Don't

6 touch anything." And the response, "I already
touched it

7 and picked it up."

8 A. Yes, I see that.

9 Q. So the first time anybody talks
about

10 touching a knife is when the CO, the communications
11 officer says, "Don't touch anything"?

12 A. Could you repeat that.

13 Q. First time there is any
reference

14 about touching evidence, and I'm not talking about
the

15 description of somebody being stabbed, about
touching the

16 knife is when communication officer says, "Don't
touch

17 anything. There's a knife, don't touch anything"?

18 A. Okay.

19 Q. The female caller answers, "I
already

20 touched it and I picked it up." Isn't that right?

21 A. Looking through the transcript
of what

22 I have interpreted, yes, if you're speaking
specifically

23 of touching the knife, yes.

24 Q. Okay. That's what I'm speaking
of.

25 A. Okay.

1 Q. And then when you go to -- then
when

2 you go to section 6, that we're just starting to
talk

3 about 501.15.

4 A. Yes, sir.

5 Q. The 911 operator says, "You need
to

6 let the police officers in the door."

7 The female caller, "The knife
was

8 laying over there and I already picked it up." She
could

9 have been talking to the police officer there,
couldn't

10 she?

11 A. Yes, she could have.

12 Q. Matter of fact, that's what it
sounds

13 like on the tape, doesn't it?

14 A. As I recall, she could have been
15 speaking to somebody in the room.

16 Q. Okay.

17 A. I couldn't make a determination
of who

18 was in the room that she was speaking to.

19 Q. Okay. Now, then, let's go to
frame 7.

20 And there's the statements in there about female
caller,

21 "There's nothing touched. There's nothing
touched," in

22 that phrase. Now the police officer had already
told her

23 that a good bit earlier, hadn't he? They didn't
touch

24 anything?

25 A. I think the police officer told
her

1 that "Nothing was gone. Nothing's gone." I don't
think

2 he said, "Nothing is touched."

3 Q. Does that make any difference?

I

4 mean, that's the same phraseology, isn't it?

"Nothing's

5 gone. Nothing's touched. They didn't take
anything"?

6 A. No, I wouldn't agree with that.

7 Q. You don't agree that those are
the

8 same things?

9 A. Nothing is gone would -- my
10 interpretation would be maybe, "Nothing was stolen.
11 Nothing was taken from the house valuable."

12 Q. You don't think you would walk
in your

13 house and say, "There's nothing touched?" That's
not the

14 same thing as saying "Nothing is taken." "They
didn't

15 touch a thing."

16 A. I think the police officer's
words

17 were, "Nothing is gone, Mrs. Routier."

18 Q. But in any event, the first
reference

19 to touching the knife, "Don't touch the knife,"
comes

20 from the communication's officer, doesn't it?

21 A. That I can detect on the tape.

22 Q. And the first reference to
"Nothing's

23 stolen," comes from the police officer. Or
"Nothing is

24 gone," or whatever it was he said. That also came
from

25 the police officer, didn't it?

1 A. Yes, I would agree with that.

2 Q. Okay.

3 A. As the transcript is written.

4 Q. If I understand your -- how much
did
5 all this stuff cost?

6 A. Is that -- do I have to answer
an
7 exact figure?

8 Q. Well, I mean --

9 A. Because I haven't finished
billing.

10 Q. Okay. You're still -- you're not
home
11 yet, huh?

12 A. No.

13 Q. Okay. Well, give me what you
know
14 then. How much are you charging for your testimony
here
15 today?

16 A. I'm not being paid for my
testimony
17 today. I'm being paid for the work previous.

18 Q. Okay. Well, what was that -- how
much

19 did all that cost?

20 A. It will run about \$10 thousand,
with

21 all of the prep, with the laser disks, with
everything

22 else.

23 Q. Okay. Now, and you said that the
only

24 thing you were given was, I think it's maybe 18-A --

or

25 did -- that's right, you started with the big tape.

1 Right? That's called a Dictaphone tape?

2 A. Yes, I did.

3 Q. And that was the only thing you
were

4 given?

5 A. Yes, it is.

6 Q. How did you identify the voices?

7 A. Just -- I did not identify the
voices

8 as particular people, I identified them as male or
9 female, very generic terms.

10 Q. Well, how did you identify the
11 difference between a male caller and a police
officer?

12 They're both males, aren't they?

13 A. Yes, they are.

14 Q. How did you know which one was
which?

15 A. There is one that is texture in
voice.

16 Q. Okay. So --

17 A. There's a thing called thermal
18 imaging, in which you compare the voice prints.

19 Q. Okay. And so you did that on
Officer

20 Waddell to determine which one was him and which one

was

21 Darin Routier?

22 A. Yes.

23 Q. And you got a voice sample from

24 Waddell?

25 A. No, I did not.

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1 Q. Did you get a voice sample from
Darin

2 Routier?

3 A. No, I did not

4

5 MR. RICHARD C. MOSTY: I'll pass
the

6 witness.

7 THE COURT: Anything else, Mr.
Davis?

8 MR. GREG DAVIS: Yes, sir.

9

10 REDIRECT EXAMINATION

11

12 BY MR. GREG DAVIS:

13 Q. Mr. Dickey, I have a couple of
14 questions for you. If we could, let's go to that
part of

15 the tape where the female caller is saying, "Who is
16 breathing," and then, "Are they still laying
there?"

17 Do you recall that portion of
the

18 tape?

19 A. Yes, I do.

20 Q. And as I recall, you testified,
those

21 are made in the slightly dampened room. Correct?

22 A. Yes.

23 Q. And then by the time the female
caller

24 is saying, "Oh my God. What do we do? Oh my God,"
that

25 she has now moved into a very reflective room; is
that

1 right?

2 A. That is true.

3 Q. Now, looking at the floorplan that
Mr.

4 Mosty was showing to you, let me just ask you, sir,
if

5 that would be consistent with the female caller
being

6 initially in the family room when she was making
the

7 statement, "Who is breathing? Are they still
laying

8 there?"

9 And then moving deep into the
kitchen

10 when she is saying, "Oh my God, what do we do? Oh
my

11 God." Would that be consistent with what you
heard on

12 that tape?

13 A. Yes, it would be.

14 Q. Let me ask you too, during that
15 portion of the tape, where we have the female caller
16 going into that reflective room, and saying, "Oh my
God,

17 what do we do? Oh may God. Oh my God." While
she's in
18 this very reflective portion of the house, sir, do
you
19 hear any sound on that tape that you would interpret
to
20 be running water?
21 A. No. It would have been
listed. There
22 was -- I detected no sound like that.
23 Q. Okay. So if you had detected
that,
24 the sound of running water, would you have placed
that on
25 the transcript that the jurors have?

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Reporter

1 A. Yes, I would.

2 Q. And it's not on there, is it?

3 A. No, it's not.

4 Q. Because you didn't hear it?

5 A. No, I did not.

6 Q. Okay. And Mr. Dickey, again,
the

7 laser disk that is now evidence, just so we're
clear,

8 if -- you can access the 7 portions of testimony that
Mr.

9 Mosty was referring to. Correct?

10 A. Yes, you can.

11 Q. But if you choose to access the
entire

12 video transcript, starting from 00, all the way down
13 through the end of the transcript there at 5:44.28,
you

14 can access that and you can see that in it's
entirety,

15 can't you?

16 A. Yes. In two forms, one with
17 transcript and one completely without.

18 Q. All right. So there's actually
two

19 choices. If you just want to hear the sound all the
way

20 through, you can do that, right?

21 A. That's correct.

22 Q. If you want to view the video
23 transcripts we've used you can do that?

24 A. That is correct.

25 Q. If you want to view just one of
the

1 seven individual clips, you can do that also,
right?

2 A. That is correct.

3 Q. Let me ask you, Mr. Mosty (sic),
in

4 our dealings throughout this case, have I ever
suggested

5 to you in anyway what ought to be on your final
6 transcript there?

7 A. No, you have not.

8

9 MR. GREG DAVIS: I'll pass the
witness

10

11

12 RE CROSS EXAMINATION

13

14 BY MR. RICHARD MOSTY:

15 Q. Mr. Dickey, just to follow up
real

16 quickly on what Mr. Davis said. If I understand,
every

17 sound that you heard, you identified?

18 A. Every sound that was audible to
me is

19 on the transcript.

20 Q. Okay. Now, and that included,
did it

21 not, a dog barking?

22 A. Yes.

23 Q. That dog was upstairs, or could
you

24 tell?

25 A. I could not tell where the dog
was in

1 proximity to the phone.

2 Q. But you heard the dog?

3 A. Yes. There is a sound of a
barking

4 dog.

5 Q. Okay. Mr. Dickey, tell me what
was on

6 television that night while this was playing?

7 A. I could not tell you what was
8 programed that night.

9 Q. Well, how come you couldn't hear
the
10 TV? Why aren't you able to tell me what the
program was,

11 what was being said on the TV that was on?

12 A. It obviously wasn't in close
enough

13 proximity to the telephone.

14 Q. So you heard the dog, but did
not hear

15 the TV. Am I right?

16 A. That's right.

17

18 MR. RICHARD C. MOSTY: Okay.

What is

19 my next exhibit number?

20 MR. DOUGLAS MULDER: 17.

21 MR. RICHARD C. MOSTY: Your

Honor, we

22 would offer Defendant's 17.

23 MR. GREG DAVIS: We will object

to it

24 as being hearsay.

25 THE COURT: Sustained.

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1 BY MR. RICHARD MOSTY:

2 Q. Does Exhibit 17 fairly depict
what you

3 have testified to as I have written it down as you
have

4 said it?

5 A. Could you be a little more
specific?

6 Q. Well, I mean, I wrote these
down,

7 didn't I, as your words and as you testified?

8 A. Maybe not in complete but -- I
don't

9 understand why there is a particular phrase as
"Darlie,

10 y'all look out."

11 Q. How about Darlie said, "Y'all
look out

12 in the garage"?

13 A. How about female caller?

14 Q. Okay. FC said, "Y'all look out
in the

15 garage." What I've written up here fairly
describes what

16 you've testified to here today, isn't it?

17 A. Parts of what I have testified
to,
18 true.

19 Q. Right. But everything that is
up
20 there is a fair depiction of something you
testified to?

21 A. True.

22

23 MR. RICHARD C. MOSTY: I'll
offer 17

24 again.

25 MR. GREG DAVIS: We will re-urge
or

1 objection as still hearsay.

2 THE COURT: Same ruling. Let's
move

3 on. Any other questions?

4 MR. JOHN HAGLER: Your Honor,
it's

5 simply a summary of his prior testimony. It's not
6 hearsay. It's offered under oath in Court. That's
7 fair --

8 MR. GREG DAVIS: Well, let me
just

9 ask. If all of these exhibits -- it's my
understanding

10 that these exhibits -- whatever exhibits are
contained

11 here on this pad, that they're being offered, that
they

12 were offered for demonstrative purposes only. Is
that my

13 understanding?

14 MR. DOUGLAS MULDER: Well, Judge,
15 they're like anything else. They came in and they
were

16 in for all purposes. There is no restriction on
them.

17 THE COURT: Well, yours came in

18 because there was no objection made. An objection
was

19 made to this -- it is in the nature of notes, and
Mrs.

20 Halsey is the official notetaker.

21 MR. RICHARD C. MOSTY: But that
wasn't

22 the objection, Your Honor.

23 THE COURT: Well, I still -- it's

24 hearsay. If the Court has made an error, you can
appeal

25 that to the Court of Appeals later on. That's my
ruling.

1 That's what it's going to be. So let's go ahead with
the

2 next question or get the witness off the stand.

3 MR. RICHARD C. MOSTY: Pass the
4 witness.

5 MR. GREG DAVIS: No further
questions.

6 THE COURT: You may step down.
Thank

7 you for coming. I'm sure this witness will be going
back

8 to Dallas?

9 MR. GREG DAVIS: Yes, sir.

10 MR. RICHARD C. MOSTY: Your Honor,
I

11 think there's something that we're required by law to
12 take up outside the presence of the jury right
now.

13 THE COURT: Well, can I see
both

14 sides?

15

16 (Whereupon, a short
17 discussion was held

off

18 the record, at the

side

19

of the bench, and

20

outside the hearing

of

21

the jury, after

which

22

time the

proceedings

23

were resumed on

the

24

record as

follows:)

25

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1 THE COURT: Well, let's step
outside
2 the Courtroom, please, ladies and gentlemen. Just
go
3 back to the jury room.

4
5 (Whereupon, the jury
6 Was excused from
the
7 Courtroom, and the
8 Proceedings were

held
9 In the presence of
the
10 Defendant, with
her
11 Attorney, but

outside
12 The presence of
jury
13 As follows:)

14
15 THE COURT: Let the record
reflect
16 that these proceedings are being held outside the
17 presence of jury and all parties of trial are

present.

18 Mr. Mosty.

19 MR. RICHARD C. MOSTY: Yes,

your

20 Honor, the defendant objects to the comment that the

21 Court just made about that we may take it up on

appeal,

22 or whatever.

23 The word appeal is the operative

word

24 here. That if we have an objection, we can take it

up on

25 appeal suggests that the defendant would be
convicted,

1 and is a comment by the Court, and we'd move for a
2 mistrial.

3 THE COURT: Motion for mistrial
4 denied.

5 Bring the jury back in, please.

Thank

6 you.

7

8 (Whereupon, the jury

9 Was returned to

the

10 Courtroom, and

the

11 Proceedings

were

12 Resumed on the

record,

13 In open court, in

the

14 Presence and

hearing

15 Of the defendant,

16 As follows:)

17

18 THE COURT: All right. Let the

record

19 reflect that all parties in the trial are present
and the

20 jury is seated.

21 The jury is instructed to
disregard

22 the Court's use of the word "appeal" in the last
23 statement. You're not to consider it for any
purpose

24 whatsoever.

25 Come on up, please.

1 MR. TOBY L. SHOOK: We'll call
Dr.

2 Santos.

3 THE COURT: Dr. Santos.

4 MR. TOBY L. SHOOK: This witness
has

5 not been sworn, Judge.

6 THE COURT: Doctor, if you'll
raise

7 your right hand, please.

8

9 (Whereupon, the witness
10 Was duly sworn by the
11 Court, to speak the truth,
12 The whole truth and
13 Nothing but the truth,
14 After which, the
15 Proceedings were
16 Resumed as follows:)

17

18 THE COURT: Have a seat right
here,

19 please, sir.

20 All right. Go ahead, please.

21

22

23

24

25

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1 Whereupon,

2

3

DOCTOR ALEJANDRO SANTOS,

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. TOBY L. SHOOK:

14 Q. Would you state your name,
please.

15 A. Alex Santos, S-A-N-T-O-S.

16 Q. And how are you employed, sir?

17 A. I'm self-employed as a physician.

18 Q. And where do you work?

19 A. In Dallas, at Baylor University
of

20 Medical Center.

21 Q. Okay. Could you tell the jury

your

22 educational and professional training that you have

for

23 the position that you hold, please.

24 A. I attended the University of

Texas at

25 San Antonio and graduated there with a Bachelor of

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1 Science degree. Then attended the University of
Texas

2 Medical Branch in Galveston for medical school. And
then

3 did my surgical training at Methodist Hospital in
Dallas.

4 Q How long have you been at Baylor
5 Hospital?

6 A. I was in private practice at
Baylor

7 University of Medical Center in Dallas for
approximately

8 five years.

9 Q. And what did you do there? What
were

10 your duties there at Baylor?

11 A. I specialized in trauma surgery,
12 critical care management and general surgery.

13 Q. Okay. Tell the jurors what trauma
14 surgery is.

15 A. Trauma surgery has to do with
dealing

16 with patients who have suffered traumatic injuries,
such

17 as gunshot wounds, stab wounds, car wrecks, falls,

that

18 sort of trauma.

19 Q. Okay. Do you deal with people

that

20 are brought into the emergency room and need

immediate

21 treatment, and that sort of thing?

22 A. Yes, sir, that's where I get all

of

23 the trauma patients.

24 Q. And let me turn your attention

back to

25 June 6th, 1996, and ask if you were on duty in those

1 early morning hours.

2 A. Yes, sir, I was on trauma call for
3 Baylor at that time.

4 Q. Tell the jurors what trauma call
is.

5 A. Trauma call just means that there
is a
6 specified trauma surgeon that will take care of the
7 trauma patients that night. It's usually on call for
a

8 24 hour period, take it about every third or fourth
day.

9 Q. Okay. And tell the jurors where
10 Baylor Hospital is located.

11 A. It's just east of downtown
Dallas.

12 Q. Is it a small or large hospital?

13 A. Large hospital.

14 Q. About how large is it?

15 A. 750 beds. It's a community
hospital,

16 but it's a pretty large size.

17 Q. Been there a pretty long time?

18 A. Yes, sir.

19 Q. And as part of your duties, do

you

20 supervise other doctors there that help out in the
21 emergency room?

22 A. Yes. Part of my duties are to
help

23 with the surgery resident training.

24 Q. Okay. And did you have several
25 surgery residents in training on that date?

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1 A. Yes. Every day there's a team
of
2 surgery residents on call with the trauma surgeon.

3 Q. Okay. Is one of those surgeons
also a
4 Dr. Dillawn?

5 A. Yes, sir.

6 Q. Okay. Were you actually there
at the
7 hospital that entire morning, or what time did you
get
8 there?

9 A. I had been there on and off
during the
10 day. And I happened to be in the emergency room at
this
11 time getting ready to leave.

12 Q. Okay. So you're getting ready
to go
13 home when a call comes in?

14 A. Yes, sir.

15 Q. Okay. Do you recall about what
time
16 it was?

17 A. Somewhere around midnight. I
remember

18 it was close to the early morning hours.

19 Q. Sometime in the early morning
hours?

20 A. Yes.

21 Q. Now y'all keep pretty good
records

22 there at Baylor; is that right?

23 A. Yes. The nurses keep excellent

24 records.

25 Q. Okay.

1 (Whereupon, the following
2 mentioned item was
3 marked for
4 identification only
5 as State's Exhibit 53-C,
6 after which time the
7 proceedings were
8 resumed on the record
9 in open court, as
10 follows:)

11

12 MR. TOBY L. SHOOK: Judge, at
this
13 time we'll offer what's been marked as State's
Exhibit
14 53-C, which has been on file with the Court.

15 MR. RICHARD C. MOSTY: No
objection,
16 your Honor.

17 THE COURT: State's Exhibit 53-C
is
18 admitted.

19 MR. TOBY L. SHOOK: May I
approach the
20 witness?

21 THE COURT: You may.

22

23

(Whereupon, the documents

24

heretofore mentioned were

25

marked and received in

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1 evidence as State's
2 Exhibit No. 53-C, after
3 which time, the
4 proceedings were resumed
5 as follows:)

6

7 BY MR. TOBY L. SHOOK:

8 Q. Doctor, let me show you what's
been

9 marked and entered in evidence as State's Exhibit
53-C

10 and ask you to take a look at those. Do you
recognize

11 those as copies of Baylor medical records?

12 A. Yes, they are.

13 Q. Okay. And are they Baylor
medical

14 records pertaining to Darlie Routier?

15 A. Yes, they are.

16 Q. Okay. Now. I'll just ask you to
keep

17 those notes close to you in case you need to refer
to

18 them at any time during your testimony. In fact,
would

19 the time she arrives there at the emergency room,

would

20 that be reflected in the notes?

21 A. Yes, it should be in the -- what's
22 called the trauma sheet.

23 Q. If you could just take a moment
there

24 and find that for us, please.

25 A. Okay. Here in the trauma records,
the

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1 first time noted when she was -- had her vital signs
2 taken, which is blood pressure, and those kind of
things,

3 that are done pretty much as soon as she gets in.

The

4 time is 03:25.

5 Q. So is that going to be 3:25 in the
6 morning?

7 A. Correct.

8 Q. That's when she hits the emergency
9 room; is that right?

10 A. Correct.

11 Q. Now, had you been notified a
little

12 bit earlier that she would be on her way?

13 A. Yes.

14 Q. Okay. And was she going to be
just

15 transported there herself, or was there going to be
16 someone else also?

17 A. I had been notified that there
were

18 two stab victims coming in. One was a child and one
was

19 an adult.

20 Q. As far as what happened, you're

not

21 given that type of information?

22 A. No.

23 Q. Okay. What do you do to get ready

to

24 receive these two stabbing victims?

25 A. Most of the time we prepare -- we
have

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1 several trauma rooms to take care of the trauma
patients

2 in. We usually call the trauma surgery residents to
come

3 down and help. I just happened to be in the
emergency

4 room at that time and the residents happened to be in
the

5 emergency room at the same time caring for other
6 patients, so we prepared for these two patients by
7 getting two trauma rooms ready.

8 I sent my chief surgery resident
to

9 one room, with another lower level resident to
prepare

10 for the adult patient, and I took one of the other
11 surgery residents with me to prepare to receive the
12 child.

13 Q. Okay. And which patient arrived
14 first, the woman or the child?

15 A. I'm not sure. I know when the
child

16 arrived he was brought directly to my room. And
sometime

17 around that time the woman was taken to the other

room.

18 Q. Okay. So they arrived pretty

close

19 together?

20 A. Yes.

21 Q. But you're not sure which arrived

22 first?

23 A. Correct.

24 Q. Okay. The first patient you saw,

25 would that be the child?

1 A. Yes.

2 Q. Could you describe the child?

3 A. He was a white male, about 5 or 6
4 years old. Had no signs of life on arrival.

Brought in

5 by the paramedics. We examined him, found multiple
stab

6 wounds to the back. I examined him closer and found
no

7 evidence of life and I pronounced him dead at the
scene.

8 Q. And did your examination take
place

9 there in one of the trauma rooms?

10 A. Yes.

11

12 (Whereupon, the following
13 mentioned items were
14 marked for
15 identification only
16 as State's Exhibit 52-J & K,
17 after which time the
18 proceedings were
19 resumed on the record
20 in open court, as
21 follows:)

22

23 BY MR. TOBY L. SHOOK:

24 Q. Okay. Let me show you two

photographs

25 and ask if you can recognize these to be photos
of the

Reporter Sandra M. Halsey, CSR, Official Court

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1 boy that you saw in the trauma room.

2 A. Yes, they are.

3 Q. And you're looking at
photograph,

4 State's Exhibit 52-J and 52-K?

5 A. Correct.

6

7 MR. TOBY L. SHOOK: Your
Honor, at

8 this time we would offer State's Exhibit 52-J and
K.

9 MR. RICHARD C. MOSTY: No
objection.

10 THE COURT: State's Exhibit 52-J
and K

11 are admitted.

12

13 (Whereupon, the documents
14 heretofore mentioned were
15 marked and received in
16 evidence as State's
17 Exhibit No. 52-J & 52-K,
18 after which time, the
19 proceedings were resumed
20 as follows:)

21

22 BY MR. TOBY L. SHOOK:

23 Q. Let me hold up State's Exhibit

52-J

24 first. Is this a photograph of how the child

appeared as

25 he lay there?

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1 A. Yes, except he did not have the
paper

2 bags on his hands when he arrived.

3 Q. Were those placed there later by
4 Rowlett Police Officers?

5 A. Or by the emergency room nurses.

6 Q. Or by the emergency room nurses.

7 Okay. But the devices here attached to him, he came
in

8 that way?

9 A. Yes.

10 Q. Okay. State's Exhibit 52-K, does
this

11 show the wounds as you saw them to his back?

12 A. Yes.

13 Q. Okay. And did you probe the
wounds?

14 A. Yes, I did.

15 Q. Okay. Could you tell the jurors
what

16 probing the wounds is.

17 A. Just examining them. If you
probe a

18 wound with an instrument, or with your gloved
finger, and

19 I did it with my gloved finger.

20 Q. And did you probe all of the
wounds?

21 A. Yes. The top three over here
appear

22 to be to go down to the level of the ribs and the
muscle

23 and stop there. But these larger wounds went into
the --

24 this one went into the thoracic cavity, which is the
25 cavity where the lung is located. And this bottom
one

1 went into the abdominal cavity, which is where the
2 stomach, spleen, liver, and all of those internal
organs
3 were.

4 Q. Were these deep penetrating
wounds?

5 A. Yes, very deep.

6 Q. Okay. After you had pronounced
the

7 child dead when he got there, there wasn't anything
you

8 could do for him; is that correct, Doctor?

9 A. Correct.

10 Q. After you pronounced him dead, did
you

11 go and see about the other stabbing victim?

12 A. Well, actually, before I left the
room

13 the other resident that was in with the adult patient

14 came in and said, "She needs to go to the operating

15 room." So, after I pronounced the child dead, I left
the

16 room and went to the other room to see the adult
patient.

17 Q. And what was going on when you

went

18 into that room?

19 A. There was a lot of people in the
room,

20 there was a lot of commotion going on, but I got a
chance

21 to see her. She had a laceration to the neck, with a
lot

22 of blood on her chest and her body. And I agreed
with

23 the surgery resident, that in view of those injuries
we

24 needed to take her to the operating room to explore
the
25 wounds.

1 Q. Okay. Now, did you later come to
know

2 this patient that you saw in there as Darlie Routier?

3 A. Yes.

4 Q. Okay. Do you see her in the
courtroom

5 today?

6 A. Yes.

7 Q. Could you point her out, please.

8 A. Yes, she's over there at the
defense

9 table.

10 Q. Okay. The woman here sitting with
the

11 coat draped around her?

12 A. Yes.

13

14 MR. TOBY L. SHOOK: Your Honor,
could

15 the record reflect that the witness has identified
the

16 defendant here in open court.

17 THE COURT: Yes, sir.

18

19 BY MR. TOBY L. SHOOK:

20 Q. Now, you go in there, you see a -

-

21 describe the wound you saw to her neck.

22 A. When I walked in the room, she
had a

23 slash wound, or a laceration to the neck, kind of

24 tangentially going from the right side to the left,

or

25 left side to the right, across here, across this
area,

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1 across her neck. And as I said, she had a lot of
blood
2 on her. Because the residents had already examined
her,
3 and based on my quick evaluation at the time, I felt
it
4 would best be managed up in the operating room.

5 Q. Okay. Tell the jurors why it's
best to
6 go immediately to the operating room with that type
of
7 wound?

8 A. You don't want to take any chances
9 with any type of neck wounds. There are a lot of
vital
10 structures in the neck. The vessels that feed blood
to
11 your brain and vessels that bring the blood back to
your
12 heart. As well as your trachea, the voice box. All
13 those kind of injuries can be very devastating if
they're
14 not taken care of right away. So it's usually better
to
15 go examine those in the operating room and get better

16 control in case you get into trouble.

17 Q. All right. You do a rather quick
18 assessment down there in the emergency room; is that
19 correct?

20 A. Yes.

21 Q. Okay. And do you have certain
terms,

22 or what you call zones for areas of the neck?

23 A. Yes. The neck area, as far as
24 injuries are concerned, is divided into 3 zones.

Zone 1

25 is just kind of the lower area where your collar bone
and

1 clavicle are down. Zone 2 is from above the
clavicle, up
2 to about where the Adam's apple is in the man, about
this
3 area. And then zone 3 is from about where the angle
of
4 the mandible is here on up. And that's how we
describe
5 the injuries to the neck, zone 1, zone 2, zone 3.

6 Q. This particular injury, was it in
the
7 zone 2 area?

8 A. Yes, it was.

9 Q. Okay. Any time you get any type
of
10 injury, any cut to the zone 2 area, do you take the
11 patient to the operating room?

12 A. Yes.

13 Q. And you do what is called
exploratory
14 surgery?

15 A. Correct.

16 Q. What about if it was down in the
zone
17 1, in the clavicle area?

18 A. Then you have to think about
doing
19 some studies. If the patient is stable enough and
have
20 injuries done to zone 1, then you worry about the
large
21 blood vessels coming out of the heart. That's a
22 different approach, a different type of surgery. And
if
23 the patient is stable enough, you wait and do some X-
ray
24 studies and figure out what you need to do.
25 Q. See any significant cut here at
all, a

1 cut to the neck in zone 2, you take them to the
operating

2 room; is that correct?

3 A. That's correct.

4 Q. And is that what you did with Ms.
5 Routier?

6 A. Yes, we did.

7 Q. All right. Were you in there and
8 helping in the performance of the surgery?

9 A. Yes, I was.

10 Q. Okay. Describe for the jurors
what
11 type of surgery was performed.

12 A. Well, it's call exploratory
surgery

13 again because we're looking for injuries. We don't
know

14 what's injured yet. We took her up to the operating
15 room, gave her general anesthetic, where she was out.

16 We washed the wounds, cleaned this
all

17 out, and were able to look at it. Once we had her up
in

18 the operating room, under the anesthetic, with
everything

19 cleaned and prepped, there was very little bleeding
at

20 this time.

21 So, we explored the wound and
found

22 that most of the bleeding had come from the veins
that

23 are located underneath the skin, in kind of, in
what's

24 called subcu, or the fat tissue that's underneath
your

25 skin.

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1 There's a bunch of veins here in
the
2 neck area. Some of those were injured. We
repaired
3 those by either using the electrocautery, which is
an
4 electric type of current that coagulates the
vessels, or
5 we put some stitches in the small vessels. We
washed out
6 the rest of the wound.

7 We noted that the wound went
down to
8 what is called the platysma, which is the muscle
that
9 kind of covers your neck here. When you do that,
you can
10 see it flexing. Her wound went down to the
platysma, had
11 a little nick in it, but did not go beyond it. So,
12 having found that extent of the injury, we washed
that
13 out and closed the neck wound.

14 Q. Okay. So you took her in and, I
15 guess, she was put to sleep?

16 A. Correct.

17 Q. And then you take a look at this
wound

18 you have on the neck?

19 A. Right.

20 Q. About -- was it just one wound
to the

21 neck?

22 A. There was one wound to the neck,
there

23 was another separate wound to the left shoulder,
and a

24 separate wound to the right forearm.

25 Q. Which wound were you primarily

1 concerned with?

2 A. With the neck injury.

3 Q. And could you tell the jurors
how long

4 this wound in the neck was?

5 A. We didn't measure it, but we
estimated

6 it was approximately 9 centimeters long.

7 Q. You say it came across partly on
the

8 right side?

9 A. It went from the right to the
left. I

10 can't tell you where it started, but it extended
from the

11 one side to the other, just passed the midline on
the

12 left side.

13 Q. Now, you say that it went to the

--

14 what's called the platysma; is that right?

15 A. Platysma, yes.

16 Q. And did you measure how deep the
wound

17 was?

18 A. No. We usually don't measure
wounds
19 because it doesn't matter, the depth of the injury.
What
20 matters is in relationship to the other structures,
like
21 the platysma. In the neck, that's kind of a
defining
22 boundary. If it goes past the platysma, it's
considered
23 a deep wound.
24 In that case, we may have to do
25 further exploration and open up the wound more. If
it

1 goes to the platysma, then is called superficial
wound.

2 Q. Okay. So, in laymen's terms,
this

3 wound cut through, I guess, the skin and fat; is that
4 right?

5 A. Correct.

6 Q. Okay. And the little veins that
are

7 contained in the skin and the fat?

8 A. Correct.

9 Q. But didn't penetrate the muscle
that's

10 below the skin and fat?

11 A. Correct, did not.

12 Q. And in your terms, you call that a
13 superficial wound; is that right?

14 A. Yes, sir. The medical
description,

15 that's a superficial wound.

16 Q. And you can't tell that there in
the

17 emergency room; is that right?

18 A. Right. And you don't need to take
the

19 time in the emergency room to do that. With a wound
to
20 the neck at zone 2, the best thing to do is take them
to
21 surgery and explore them there.

22 Q. Okay. And that's what you did in
this
23 case?

24 A. Yes.

25 Q. And once you get in there, you
find

1 it's -- all it did is cut through the fat and cut the
2 veins and the fat and went down to the, what you call
the

3 platysma; is that right?

4 A. Correct.

5 Q. So, what did you do to repair that
6 wound?

7 A. As I said, we washed it out and
made

8 sure that the bleeding was controlled, and then put
some

9 sutures in there to close the wound completely and
put a

10 dressing on that.

11 Q. Okay. So, you made sure the
bleeding

12 was controlled from these veins that were cut?

13 A. Um-hum. (Witness nodding head
14 affirmatively).

15 Q. And then just sewed -- did you sew
16 Mrs. Routier up?

17 A. Yes. We put what is called a
18 subcuticular stitch underneath the skin, but we
closed

19 the wound up completely.

20 Q. Okay. Now, could you tell the
jurors

21 about the other injuries that you looked at?

22 A. Yes. She also had a separate
23 laceration or wound to the left shoulder, and another
one

24 to the right forearm. Those were not actively
bleeding.

25 Those were not our main priority when we got into

bleeding,

17 so that's also considered a superficial wound.

18 The one on her forearm down here

also

19 went down through the skin, through the fat and into
the

20 muscle. But by the time we got her up in surgery,
and

21 looked at it, there was no active bleeding, so we
just

22 washed that out and closed that as well.

23 Q. Okay. If she just had this
wound

24 here, this smaller wound here on the clavicle and
the

25 wound to the arm, would you have taken her and
operated

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1 on her at all?

2 A. No. Those would be wounds that
could

3 be examined and probably closed in the emergency
room and

4 sent home.

5 Q. Just sewed up and sent home?

6 A. Correct.

7 Q. Okay. Did you see any other
major

8 cuts on her that needed to be tended to?

9 A. No. We examined her when we had
her

10 up in the operating room, since she was under an
11 anesthetic, and we didn't want to cause any
discomfort.

12 We examined all three of these
wounds

13 that I've talked about. We repaired those. We
looked to

14 make sure she had no other stab wounds to her back
or

15 anywhere else. We did not find any other injury.

16 Q. You looked pretty close for any
17 injuries; is that right?

18 A. Yes, sir.

19

20

MR. TOBY L. SHOOK:: May I

approach

21 the witness?

22

THE COURT: You may.

23

24

(Whereupon, the following

25

mentioned item was

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1 marked for
2 identification only
3 as State's Exhibit 28-A & B,
4 after which time the
5 proceedings were
6 resumed on the record
7 in open court, as
8 follows:)

9

10 BY MR. TOBY L. SHOOK:

11 Q. Let me show you two photographs
marked

12 State's Exhibits 28-A and 28-B. Do these look like
13 the
14 wounds that you treated on Mrs. Routier?

15 A. Yes.

16 Q. Okay. And 28-B had, I guess,
17 some
18 type of strips across it?

19 A. It's called Steri-strips or
20 butterfly

21 bandages.

22 Q. Okay. But that's how they looked
23 after she was treated?

24 A.
25 Yes.

22

Q.

Okay.

23

24

MR. TOBY L. SHOOK: We'll offer

25

State's Exhibit 28-B and 28-A.

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1 MR. RICHARD C. MOSTY: No
objection,

2 Your Honor.

3 THE COURT: State's Exhibit 28-A
and B
4 are admitted.

5
6 (Whereupon, the above
7 mentioned item was
8 received in evidence
9 as State's Numbers 28-A & B,
10 for all purposes
11 after which time,
12 the proceedings
were
13 resumed on the
record,
14 as follows:)

15
16 MR. TOBY L. SHOOK: Okay. Could
I
17 have the doctor step down for just a minute?

18 THE COURT: Please step down,
Doctor.

19 Watch your step going over there.

20

21 (Whereupon, the witness
22 Stepped down from the
23 Witness stand, and
24 Approached the jury
rail
25 And the proceedings
were

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1

Resumed as follows:)

2

3 BY MR. TOBY L. SHOOK:

4 Q. Let me caution you to keep your
voice

5 up now that you're not in front of the microphone.

6 A. Okay.

7 Q. Let me step back here so we can
let

8 all of the jurors see. If you could point out, I
guess,

9 does 28-B show the two injuries to the neck and then
the

10 left shoulder area.

11 A. All right. This is the injury to
the

12 neck here, the laceration, and then here's the
second one

13 to the left shoulder.

14 Q. Okay. And this injury to the
neck, it

15 starts right up in this area; is that right?

16 A. Um-hum. (Witness nodding head
17 affirmatively). It goes from the right crosses the
18 midline, which is right here. It goes to the left
of the

19 midline and stops there.

20 Q. Okay. This was one long cut; is
that

21 correct?

22 A. Correct.

23 Q. And then about how long was this
cut?

24 A. Probably about an inch and a
half.

25 Q. Okay. And again, it just went
through

1 the skin and the fat here on the neck, just down to
the

2 platysma?

3 A. Correct.

4 Q. And then State's Exhibit 28-A,
does

5 that show us the wound to the forearm?

6 A. Yes. That's the wound to the
right

7 forearm extending about --

8 Q. If you could step back, Doctor.

9 A. -- about an inch and a half here
on

10 her forearm. Again, that was washed out, and then
you

11 could see the sutures that we used to close that.

12 Q. Okay. If she had just come in
with

13 that, you would have just sewn her up there in the
14 emergency room?

15 A. Right.

16 Q. And then right above that wound,
is

17 there another wound, a smaller wound?

18 A. Yes. Appears to be a small

19 laceration. We washed that out. There was no
bleeding

20 from that. We thought that that would heal on its
own

21 and did not require stitches.

22 Q. So it didn't require stitches,
but it

23 was a laceration?

24 A. Yes.

25 Q. Okay. You can have a seat,
Doctor.

1 (Whereupon, the witness
2 Resumed the witness
3 Stand, and the
4 Proceedings were resumed
5 On the record, as
6 Follows:)

7
8 MR. TOBY L. SHOOK: Judge, if we
could
9 have the Doctor step down and look at Mrs. Routier's
neck
10 so I can get some testimony about where the wound was
11 located.

12 THE COURT: Yes, if you will do
that.

13 All right.

14

15 (Whereupon, the witness
16 stepped down from the
17 witness stand, and
18 Examined the

defendant's

19 Neck and the

proceedings

20 Were resumed as

21 Follows:)

22

23

THE WITNESS: That's the wound

we're

24 talking about.

25

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1 BY MR. TOBY L. SHOOK:

2 Q. Okay. And if you could point on
the

3 defendant where that wound begins.

4 A. Well, it extends from here down to
5 here. You can see the scar over here.

6 Q. All right, Doctor, if you could
maybe

7 just step around. If you could step over there,
please.

8 A. Okay.

9 Q. All right. Turn away this way.

All

10 right.

11 A. The incision was from here and
comes

12 all the way down to here. It's a little more
scarring in

13 the middle here, but this was the length of the
incision

14 here.

15 Q. Okay. And if we could see the
scar

16 here on the forearm, if you would turn that to the
jury.

17 A. Yes. And that's the incision we

saw.

18 That's a separate one noted on the photograph. This

is

19 the laceration to the forearm.

20 Q. Okay. And is that about, after 6

or 7

21 months how you would expect the scarring to look?

22 A. Yes.

23 Q. Okay. Thank you.

24

25 (Whereupon, the witness
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1 Resumed the witness
2 Stand, and the
3 Proceedings were
resumed

4 On the record, as
5 Follows:)

6

7 BY MR. TOBY L. SHOOK:

8 Q. Okay. Now, Doctor, after she was
sewn

9 up and these wounds were cleaned up, what did you do
with

10 her then?

11 A. After that she was extubated,
which

12 means the breathing tube was taken out. And we put
her

13 in the intensive care unit for recovery.

14 Q. Can you tell us how long this
whole

15 procedure took to look at these wounds, the whole
16 operation?

17 A. I could look it up if you want
the

18 exact time, approximately an hour, hour and a half.

19 There should be an operative record in here.

16 Q. Why did you decide to do that?

17 A. My concern was, just from what
18 little

18 I knew of what happened. That I knew she had been
19 injured, and I knew one of her children was dead that
20 I

20 had seen in the ER. And I was told another child was
21 dead at the scene, I was afraid that all this might
22 be a

22 little too much for her.

23 Plus, I knew that there would be a
24 lot

24 of media around, and I didn't want her disturbed, so
25 I
25 put her in the ICU really so we could take care of
her a

1 little bit closer and protect her from anybody who
might

2 try to come in and bother her.

3 Q. Okay. What kind of patients are
4 usually taken to the ICU unit?

5 A. Usually critically ill patients
that
6 need to be maintained on a ventilator, the breathing
7 machine. That's one criteria for putting someone in
the

8 intensive care unit. Someone who is unstable. The
blood

9 pressure is unstable, hard to manage. Someone who
has

10 multiple injuries, like car wreck victims who will
have

11 head, belly and pelvic injuries.

12 Q. Okay. So, Ms. Routier wasn't
put in

13 the ICU because she was in critical condition by
any

14 means?

15 A. No. Her injuries, by the time
we

16 finished in the O.R., I felt pretty clear that we

had

17 managed those, and those were of no further
danger to

18 her. I was more concerned about her psychological
state

19 after all this happened, when she would wake up, and
20 about protecting her from the media and all those
kinds

21 of things.

22 Q. You were concerned being -- what
you

23 knew about it was a stabbing and her two children
had

24 been killed; is that right?

25 A. Correct.

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Reporter

1 Q. And you were concerned about
her

2 psychological state and how she might handle
that?

3 A. Yes.

4 Q. And also didn't want the press
coming

5 in and asking her questions?

6 A. Correct.

7 Q. Okay. Were you concerned she
might --

8 well, be somewhat unstable when she woke up from the
9 operation?

10 A. Yes. I was afraid that once she
knew

11 what had happened, that both children were dead, that
she

12 might be in a very precarious psychological state.

13 Q. All right. Let me ask you,
Doctor,

14 when someone is admitted, do you run a blood screen
to

15 see if any drugs are present in the body?

16 A. Routinely on trauma patients,
17 particularly patients involved in car wrecks, we'll

18 almost always get an alcohol and drug screen to see
if

19 there is any drugs involved.

20 On patients who are stabbed or
shot,

21 or have injuries from falling, it kind of depends
on

22 whose drawing the blood at the time. Sometimes
the

23 emergency room physician will order it.

Sometimes We

24 will order it. Sometimes the nurses will draw that
blood

25 and they will get sent.

1 Q. Was there some testing done in
this

2 particular case?

3 A. Yes. There was -- she had a drug
4 screen drawn on admission.

5 Q. Okay. What was found in that?

6 A. It was positive for amphetamines.

7 Q. Okay. And do you know what
particular

8 type of amphetamines?

9 A. No. All a drug screen will say
is

10 that she is positive for a class of drugs, which
11 classified as amphetamines, but it won't tell you
which

12 ones.

13 Q. Okay. And if a patient can talk,
do

14 they give a medical history when they get there to
the

15 emergency room?

16 A. Yes. They're asked, usually, in
17 detail about their medical history.

18 Q. Okay. And those records will be
19 reflected there?

20 A. Yes. Usually the emergency room

21 nurses will get all that information.

22 Q. And if Ms. Routier was -- when we
talk

23 about amphetamines, would those be included in diet
24 pills?

25 A. Yes.

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1 Q. What is the opposite of
amphetamines?

2 A. What's called downers, or Valium,
or
3 things like that, that will depress your affect.

4 Q. Make you sleepy, put you to
sleep,
5 that type of thing?

6 A. Right.

7 Q. Was any of that found in Ms.
Routier?

8 A. No, only amphetamines.

9 Q. Okay. Which -- what do
amphetamines
10 do?

11 A. As you said, they can be used in
diet
12 pills, also other kinds of amphetamines. It's
usually to
13 stimulate you.

14 Q. Okay. Oh, any alcohol found in
Mrs.
15 Routier?

16 A. I don't remember if an alcohol
level
17 was drawn on her.

18 Q. And is there any way you can tell
how

19 much amphetamine is present in the body?

20 A. No, it doesn't measure the level,
it

21 just says whether it's present or not.

22 Q. Okay. Let me talk to you a
moment

23 again about the boy, Mrs. Routier's son. You didn't
know

24 his name at that time, did you?

25 A. No, I did not.

1 Q. Did you later learn his name was
2 Damon?

3 A. Yes.

4 Q. Okay. In 52-J, you probed the
wounds

5 in the back; is that right?

6 A. Yes.

7 Q. These deep penetrating wounds,
could

8 you tell, just from looking at them, some of the
vital

9 parts of the body that they injured?

10 A. Yes. As I said, one of them
that I

11 probed that went into his chest cavity, probably
12 collapsed his lung. I couldn't tell if there were
any

13 other injuries in the chest cavity because there
was no

14 active bleeding when he got there. He had already
15 sanguinated. And I presume that the cause of death
was

16 loss of blood or sanguination.

17 Q. Okay. Go ahead.

18 A. The other injury that I probed, I

went

19 into his abdominal cavity, the peritoneal cavity,
20 appeared to injure the liver.

21 Q. Okay. If someone -- you've seen
22 people in the E.R. that have been stabbed and had a
23 collapsed lung; is that right?

24 A. Yes.

25 Q. On few or many occasions?

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1 A. Many.

2 Q. Okay. If someone is stabbed in
the
3 lung and it causes it to collapse, are they still
able to
4 make noise?

5 A. Yes.

6 Q. Okay. Would they still be able to
cry
7 out in pain?

8 A. Yes.

9 Q. Okay. And is that a normal
reaction
10 when you get stabbed?

11 A. Yes.

12 Q. Okay. People make a lot of
noise
13 there in the emergency room, I bet?

14 A. Yes, they do.

15 Q. And is it an instantaneously
fatal
16 wound?

17 A. No. To have a collapsed lung
can
18 cause some pain and discomfort and shortness of
breath

19 and trouble breathing, but it won't kill you. If
you get
20 what's called a tension pneumothorax, where there's
a lot
21 of pressure in your lung, or actually outside the
lung,
22 and pushing your vital organs, your heart and all
that
23 over, that can cause your blood pressure to drop
and it
24 may cause death eventually. But he did not have a
25 tension pneumothorax because it was open to the
air. A

1 tension pneumothorax, usually it's a closed system.

2 Q. So when he was stabbed, he would
have

3 been capable of yelling out in pain?

4 A. I believe he would have, yes.

5 Q. And he would be capable of
moving

6 around some?

7 A. Yes.

8 Q. All right. Now, you transferred
her

9 to the ICU unit. Where is that located in Baylor?

10 A. In Baylor it's located up on the
4th

11 floor. We have a number of ICUs. She was taken to
the

12 trauma ICU, which is on the 4th floor.

13 Q. Did you -- I guess after she's
brought

14 in, you are her physician; is that right?

15 A. Yes, I am.

16 Q. And as part of your duties, do
you

17 then check up on her throughout the day?

18 A. Yes.

19 Q. Okay. Did you go by her room

later on

20 that day?

21 A. Yes. I went by the ICU later to
see

22 how she was doing.

23 Q. Okay. And how was she doing
when you

24 went by there?

25 A. Medically she was stable. I
spoke to

1 the nurses. Her vital signs had been stable. She
had no

2 signs of bleeding from any of the wounds. Blood
3 pressure, heart rate, all those kinds of things
were

4 looking okay. And the wounds were dry, as you saw
in the

5 pictures. No big oozing of blood or anything from
there.

6 I was happy to see that medically and surgically
she was

7 doing well.

8 Q. Okay. Well, let me ask you
this: You

9 wanted her in the ICU because of the facts, what
you knew

10 of the facts surrounding her admittance, you were
afraid

11 of her mental stability; is that right?

12 A. Yes.

13 Q. If this had been -- if she had
come in

14 with these same injuries let's say due to a
household

15 accident, would you have kept her in the ICU?

16 A. No, she would have gone to
recovery.

17 Q. Okay. Would she have had a long
stay
18 there in Baylor Hospital?

19 A. No, she probably would have gone
home
20 later that day.

21 Q. Did you talk with her?

22 A. Yes. I explained the injuries
that we
23 had found, what we had done about her neck and her
arm
24 and her shoulder. And I told her that I thought
she was
25 very lucky, and that thankfully we wouldn't have to
do

1 anything else.

2 Q. Okay. Now, you talked about how
you

3 were worried about her mental health; is that
right?

4 A. Yes.

5 Q. Have you dealt with people that
have

6 lost loved ones due to accident -- well, due to
sudden

7 deaths?

8 A. Yes.

9 Q. Or to sickness?

10 A. Mostly trauma, because that's
what I

11 do.

12 Q. Something you deal with, I guess,
on a

13 daily or weekly basis at times?

14 A. Yes.

15 Q. Okay. Have you dealt with
situations

16 where a person might be injured and, in the car
wreck,

17 themselves, let's say, one of their loved ones is

also

18 killed?

19 A. Yes.

20 Q. Also maybe someone who is just
taken

21 to the hospital and they die in your emergency room
and

22 you have to deal with the family when they get
there?

23 A. Yes, that happens often.

24 Q. And in the course of your

experiences,

25 have you dealt with mothers that have lost their

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Reporter

1 children?

2 A. Yes.

3 Q. On a few or many occasions?

4 A. Many. Too many.

5 Q. Okay. Do you want to take a
lot of

6 delicate care when you talk to a mother about
that?

7 A. Yes. You have to be very
careful

8 because you don't know how people are going to
react.

9 You don't know how much they know, to begin with,
and

10 what kind of support system they have.

11 Q. Okay. What frame of mind were
you in

12 when you first went to go examine Mrs. Routier after
she

13 had woken up from surgery and you went to examine
her?

14 A. Well, I was, again, happy that she
was

15 doing well medically and surgically, but I did not
know

16 how she was going to deal with it psychologically. I

17 didn't know if she was aware that both her sons
were
18 dead. I didn't know what had happened. I didn't
know
19 how she felt about it, and so I was very concerned
that
20 she might be very unstable psychologically.

21 Q. Okay. And what did you find
after you
22 spoke with her?

23 A. I spoke with her. She obviously
knew
24 that both boys were dead. Her husband was at the
25 bedside. And I think she had a large picture of
both

1 boys. So I spoke mostly about her injuries. I
didn't

2 want to bring up the fact about her boys being
dead. I

3 didn't want to have to go over that with her again.
So,

4 mostly I talked to her about the injuries. I kind
of

5 stayed around a little bit to make sure that I
thought

6 she was handling it okay. She had sort of a flat
affect,

7 but my main concern was that she did know what had
8 happened, and I wanted her to know that she was going
to

9 be okay. And that was about the extent of our
10 conversation.

11 Q. What do you call flat affect?

12 A. Someone who has a monotone voice,
is

13 obviously not excited about whatever is going on, and
14 blunt reaction to the situation, to the environment.

15 Q. Okay. Now, you've dealt with
mothers

16 in this same situation before?

17 A. Yes, I have.

18 Q. Tell the jury how they usually
react.

19 A. Most of the time mothers, when
they're
20 made aware, or told that a child has died, get
21 hysterical.

22 Q. Okay. Even after they've known
for
23 some hours that the child is dead?

24 A. Well, it's usually very hard for,
25 especially a mother, to accept that, yes.

1 Q. What types of things do you see?

What

2 are their reactions like?

3 A. They cry. They usually tell me
I'm

4 wrong. They don't believe me. And they want to know
why

5 this happened, couldn't have happened. They usually
go

6 into sort of denial and want to see the child, or
want me

7 to prove -- or want to prove to me that the child is

8 fine. And they're usually hard to control, that's
why

9 it's good to have a good support system, husband,
brother

10 or mother, somebody with them that can help them deal

11 with that.

12 Q. And are you able to console them
13 easily?

14 A. No.

15 Q. You say they cry a lot?

16 A. Yes, they do.

17 Q. And what do you mean by cry?

18 A. Crying over loss of a loved one,

19 crying over the tragedy of what has happened. And
20 there's a lot of anger, usually, because it can be
from a
21 gunshot wound, a car wreck. It is very hard for,
22 especially mothers, to face the fact that the
children
23 are dead. And there's a lot of anger and a lot of
pain.

24 Q. You're talking about crying with
25 tears, sobbing, that kind of thing?

1 A. Yes.

2 Q. Tears coming down the cheeks?

3 A. Yes.

4 Q. All right. Now, how long was Ms.
5 Routier in the hospital?

6 A. She came in, I think we said about
7 3:00 in the morning on the 6th and was discharged on
the
8 8th.

9 Q. Okay. About 3:00 something in the
10 morning on the 6th and discharged an the 8th of
June?

11 A. Around noon on the 8th.

12 Q. Around noon on the
13 8th?

14 A. Somewhere around
that.

15 Q. Did you see her the entire time
she
16 was there, would you check on her periodically?

17 A. Yes. I saw her the next day,
which

18 would be -- I saw her that first day later on in
the day,

and then I saw her on the 7th, and then on the 8th

before

19 she went home.

20 Q. Okay. This what you described
as she

21 had flat affect, did you ever see that change at
all?

22 A. No. Every time I saw her she
23 exhibited the same.

24 Q. Okay. Let me ask you, Dr.

Santos, as

25 far as all of the mothers you have dealt with in
this

1 same situation, have you seen anyone react in this
way?

2 A. No, I have not.

3 Q. Okay. Now, on that day the 6th,
she

4 had been operated on earlier in the morning by
yourself

5 and the other residents?

6 A. Yes.

7 Q. Was she suffering from the
influence

8 of drugs, in your opinion, from the operation?

9 A. No. The anesthetic drugs usually
wear

10 off after a couple of hours. I felt that that was
all

11 gone. She had some pain medicine ordered as she
should

12 for the injuries of the surgery she had, but usually
the

13 medication that she was getting doesn't give you a
flat

14 affect. It can make you very sleepy, especially if
15 you're very sensitive to it, or you get too much of
it,

16 but it usually doesn't give you a flat affect.

17 Q. Okay. Does -- was she awake when
you

18 saw her?

19 A. Yes. She was sitting up and
talking.

20 Q. Appeared alert and lucid?

21 A. Yes.

22 Q. Did she seem aware of her
23 surroundings?

24 A. Yes. Again, that's why I told
her
25 where she was, and wanted to make sure she knew what
we

1 had done and why she had all of these stitches and
all

2 these things. So, she knew where she was.

3 Q. Okay. Now, also do you have
4 psychiatrist there at Baylor who are on staff and
can
5 assist you?

6 A. Yes, we do.

7 Q. And in these type cases, do you
keep
8 careful watch on the patient in case their services
are
9 needed?

10 A. Yes.

11 Q. And is that something you had in
your
12 mind in dealing with Ms. Routier?

13 A. Yes. That's something that we
kind of

14 had a plan. That if I thought she was having a lot
of

15 trouble handling this, we were going to get
psychiatry to

16 come by and help her.

17 Q. Okay. Did you ever feel you had

to do

18 that?

19 A. No.

20 Q. Okay. Did she appear to be any
kind

21 of zombie, or just traumatized state there in the
22 hospital?

23 A. No. That was not my impression.

My

24 impression was she just had a flat affect, and

that's all

25 I saw.

1 Q. Okay. Now, you say she was
released

2 on the 8th of June, somewhere around noon or so; is
that

3 right?

4 A. Yes.

5 Q. Did you want to keep her there
6 sometime longer?

7 A. Yes. I was still concerned that
maybe

8 she hadn't reached that point where she would have
more

9 of an uncontrollable reaction to all of this. And I
kind

10 of wanted to watch her, I think it was over the
weekend,

11 watch her until, like, Monday.

12 Q. Okay. But did you ever see this
13 reaction that you were expecting?

14 A. No, I did not.

15 Q. Okay. And did her and her
husband

16 want to be released, if possible?

17 A. Yes. Her husband stated that
they

18 would like to go, I think, because there was a
funeral

19 pending for the children. And I asked her if that
was

20 okay with her, if she felt like going and she said
she

21 did.

22 Q. Now, let me go into another
area.

23 You, as a trauma surgeon, deal
with a

24 lot of people that come in there that have been in
some

25 violent altercations; is that right?

1 A. Yes.

2 Q. Have you treated a lot of people
that

3 have been involved in assaults using sharp weapons,
4 knives, things like that?

5 A. Yes.

6 Q. Okay. As part of your job, you
see

7 what we call defensive wounds?

8 A. Yes, I have seen a lot of those.

9 Q. Tell the jury what defensive
wounds

10 are.

11 A. Well, defensive wounds usually
mean

12 when you're trying to defend yourself. It is
usually

13 against someone attacking you, usually with a
knife.

14 It's hard to defend yourself against someone with a
gun

15 by using your hands, unless you try to grab the
gun.

16 Most of the time, when someone is
17 close to you and trying to stab you, you put your

hands

18 up, and it's a reaction to try to grab the knife and

to

19 keep it away from your face.

20 So you can get defensive wounds

where

21 you have stab wounds to the fingers and the hands.

And

22 sometimes if their trying to slash you, you bring

you

23 arms up and you get slash marks on your forearms.

24 Q. The wounds to the hands, where are

25 they generally located?

1 A. Usually on the fingers and on the
palm
2 surface, because you usually have your palms out, as
to
3 try to defend yourself.

4 Q. Someone's coming at you with a
knife,
5 you automatically put your hands up?

6 A. Yes.

7 Q. Are they usually just small
wounds, or
8 can they be severe wounds?

9 A. It'll depend on the size of the
knife.

10 Obviously if it's a small knife, they make small
puncture
11 wounds or small lacerations. If it's a larger knife,
12 then usually they can make very deep wounds into
your
13 hands. And if you try to grab the knife, they can
cut
14 your fingers in half. You can also have deep slash
15 wounds to your forearms if you try and fight them
off.

16 Q. Is it unusual for a person to

grab a

17 knife?

18 A. Well, I don't know if I would say

it's

19 unusual. It happens occasionally when you're really

20 trying to defend yourself. Most people would just

try to

21 push things away.

22 Q. Okay. You also see defensive

wounds

23 to the forearms; is that right?

24 A. Yes.

25 Q. Okay. And where are those
located?

1 Where do you see those wounds?

2 A. Usually when you put your forearms
up,

3 or your arms up to try to defend them, and if they're
4 trying to slash you, you'll see them on this part of
your

5 forearm across this way.

6 Q. Okay. The underneath part here of
7 your forearm?

8 A. Correct.

9 Q. And are they usually just one or
more?

10 A. No. Usually they're multiple,
11 multiple injuries to the forearm.

12 Q. So you'll see several slash marks
13 horizontally across the forearm?

14 A. Yes, usually.

15 Q. Okay. This wound to Mrs.

Routier's

16 forearm here in 28-A, is that the kind of defensive
wound

17 you usually see?

18 A. No. That is not a --

19

20 MR. JOHN HAGLER: Excuse me, your

21 Honor. At this time we would object to this line
of
22 questioning. This witness is a trauma surgeon,
not a
23 forensic expert. We would submit under Rule 702 and
705,
24 he is not qualified to give his opinion as to the
nature
25 and type of wound that's reflected in this case.

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1 THE COURT: Overruled. Go ahead.

2

3 (Whereupon, the following
4 mentioned item was
5 marked for
6 identification only
7 as State's Exhibit 28-D,
8 after which time the
9 proceedings were
10 resumed on the record
11 in open court, as
12 follows:)

13

14 BY MR. TOBY L. SHOOK:

15 Q. Here in 28-A, is that the type of
16 wound that you usually see in what you call a
defensive

17 wound?

18 A. No, that's not a typical defensive
19 wound.

20 Q. And why is that?

21 A. Again, it's a deeper wound,
because I

22 examined that wound. It's not a slash wound, like a
23 knife cutting cross, it's a stab wound. It usually
would

24 be, as I said, the defensive wounds would be more on
this
25 part of the forearm and they would be across the
other

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1 way, typically.

2 Q. When a person puts their arm up?

3 A. Right.

4 Q. Okay. Now, let me show you what's
5 been marked as State's Exhibit 28-D, a large
photograph

6 of a palm of a hand and fingers; is that right?

7 A. Yes.

8 Q. Okay. Do you see some, what could
be

9 cuts there on the fingers?

10 A. Yes. Appear to be some slight
11 injuries there to those fingers.

12 Q. Okay. Is that what you would call
a

13 typical defensive wound you see on the hands if
someone

14 is being assaulted by a knife?

15

16 MR. JOHN HAGLER: Same objection,
your

17 Honor. Same objection, your Honor.

18 THE COURT: I'll overrule the
19 objection. Go ahead.

20 MR. JOHN HAGLER: Could we have a
21 running objection?

22 THE COURT: Oh, yes, running

23 objection.

24 THE WITNESS: I'm sorry, would you

25 repeat the question?

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1 BY MR. TOBY L. SHOOK:

2 Q. Is this the type of cut that you
would

3 classify as the defensive wound that you usually see
4 there that's on the hands?

5 A. No. Normally they would be
larger.

6 Q. Okay. Larger, deeper wound?

7 A. Yes. Deeper.

8

9 MR. TOBY L. SHOOK: We'll offer
10 State's Exhibit 28-D.

11 MR. RICHARD C. MOSTY: No
objection.

12 Subject to the earlier objection.

13 THE COURT: I assume it's the same
14 objection?

15 MR. JOHN HAGLER: Yes, your Honor.

16 THE COURT: All right.

Overruled.

17 State's 28-D is admitted.

18

19 (Whereupon, the item
20 Heretofore mentioned
21 Was received in evidence
22 As State's Exhibit No. 28-D

23

For all purposes,

24

After which time, the

25

Proceedings were resumed

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1 As follows:)

2

3 BY MR. TOBY L. SHOOK:

4 Q. Now, I want to show the
photographs to

5 the jurors. Could you point out the injuries you
might

6 see there to the hand.

7 A. Normally, typically defensive
wounds

8 you would see puncture wounds to the hand, to the
palm

9 and to the fingers here. And they should be
deeper

10 wounds if someone is trying to stab you.

11 Q. Could you point on the
photograph

12 where these -- there's some maybe cuts located on
the

13 fingers?

14 A. The injuries I see here are
this

15 middle finger, and on this ring finger here, but
they

16 appear to be small.

17

18

(Whereupon, the following

19

mentioned item was

marked

20

for identification

only

21

as State's Exhibits

52-A,

22

B, C, D, E, F, G, H,

I,

23

after which time the

24

proceedings were

25

resumed on the record

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1 in open court,
as

2 follows:)

3

4 BY MR. TOBY SHOOK:

5 Q. Okay. Doctor,
let me show you some

6 other photographs which have been
marked as State's

7 Exhibit Nos. 52-A, 52-B, 52-C, 52-D,
52-E, 52-F, 52-G,

8 52-H, 52-I, and I don't need to
offer that.

9 A. Okay.

10 Q. Do those
photographs -- first of all,

11 are those photographs of Darlie
Routier and injuries

12 there to her body?

13 A. Yes, they are.

14 Q. In some of the
photographs she's in a

15 pink shirt. And specifically
State's Exhibits 52-F, 52-G

16 and 52-H, are those taken at the
hospital?

17 A. Yes, they are.

18 Q. Okay.

19

20 MR. TOBY L.

SHOOK: Your Honor, we'll

21 offer State's Exhibits 52-A through

I.

22 MR. RICHARD C.

MOSTY: No objection,

23 Your Honor.

24 THE COURT:

State's Exhibit 52-A, B,

25 C, D, E, F, G, H and I are admitted.

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1 (Whereupon, the
items

2 Heretofore
mentioned

3 Were received in evidence
4 As State's Exhibit No. 52-A
5 through 52-I for all purposes,
6 After which time, the
7 Proceedings were resumed
8 As follows:)

9

10 BY MR. TOBY L. SHOOK:

11 Q. Doctor, in your hospital records,
if

12 you could look at the focus notes of the nurse and
turn

13 to the date of 6-6, around 4 P.M. I guess that would
be

14 1600 hours.

15 A. Okay.

16 Q. In fact, I may have turned that
one

17 down on the corner, Doctor.

18 A. Yes.

19 Q. Okay. So it's clear, you're
referring

20 there, I think to nurse's notes that are taken there
in

21 the ICU unit?

22 A. Yes, on 6-6.

23 Q. Is there a note in there that some

24 Rowlett Police officers, and someone from the medical
25 examiner's office came and took some photographs of
Mrs.

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1 Routier?

2 A. Yes. On 6-6, at 1600, it says
medical

3 examiner in Rowlett, PD officer here to photograph
4 wounds. Procedures explained to patient's husband at
5 bedside. Evidence being collected.

6 Q. Okay. And that would be 4 p.m. on
the

7 6th of June; is that right?

8 A. Correct.

9 Q. So, she's been in the hospital
a

10 little over 12 hours at that point; is that right?

11 A. Correct.

12 Q. Okay.

13

14 MR. TOBY L. SHOOK: Now, if I
could

15 have the witness step down.

16 THE COURT: You may.

17

18 (Whereupon, the witness

19 Stepped down from

the

20 Witness stand, and

21

Approached the jury

rail

22

And the proceedings

were

23

Resumed as follows:

24

25

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1 BY MR. TOBY L. SHOOK:

2 Q. State's Exhibit 52-H, is that how
Ms.

3 Routier would appear in the ICU unit?

4 A. Yes.

5 Q. Could you tell kind of what we're
6 seeing there, as far as what's hooked up to her?

7 A. Yes. She has nasal cannula --
outflow

8 of oxygen.

9 Q. If you could just start down at
this
10 end and just kind of go along so all the jurors can
see.

11 A. She has nasal cannula of oxygen,
being

12 delivered to her nose through these two little
prongs

13 there. That is what comes around her neck here.

Here's

14 our neck incision, where we repaired that. Here's
the

15 shoulder incision on this side. And you can see the
EKG

16 leads which are the ones that monitor her heartbeat,
the

17 telemetry unit, on the sides over here, hooked up to
18 either shoulder. And then there appears to be a
line, or

19 IV line going over to her left arm on that side.

20 Q. Okay. The IV line is in her left
arm;

21 is that right?

22 A. Well, it's laying over there, so
I

23 can't see where it goes in. There's a bandage on
the

24 left antecubital area -- left -- inside of the
elbow, but

25 I can't tell if the line goes in there or not.

1 Q. Looking at State's Exhibits 52-F
and

2 52-G, can you tell that there's no IV line on the
right
3 arm?

4 A. Yes, I see there is no line in
the
5 IV -- IV line in her arm at that time.

6 Q. And those are more photographs of
her
7 in the ICU unit; is that right?

8 A. Yes.

9 Q. Specifically photographs of her
right
10 arm?

11 A. Correct.

12 Q. Okay. Now, let me go to these
other
13 photographs for a moment. State's Exhibits 52-E, D,
C,

14 B, A, and I. Do these appear to be photographs
of Darlie
15 Routier?

16 A. Yes.

17 Q. Okay. And is there a date
present

18 here in the bottom right-hand corner of these
19 photographs?

20 A. It says 6-10-96.

21 Q. Okay. So, we can assume, at
least if

22 that's correct, they were taken on the 10th day
of June,

23 1996?

24 A. Correct.

25 Q. Okay. Now, let's look at

52-A. Do

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1 you see a wound here to the right arm, or
evidence of an

2 injury to the right arm?

3 A. There's a large amount of
bruising to

4 the right arm, but I don't see any -- actually
by

5 laceration, there's none. But there is
evidence of

6 bruising to the arm.

7 Q. Okay. And that's a pretty
large

8 bruise, isn't it?

9 A. Yes.

10 Q. Where does it extend from?

11 A. It appears to go from her
wrist to

12 right below where her hand is, past her elbow,
up toward,

13 almost into her armpit.

14 Q. Okay. And then 52-E, that's
an even

15 more close-up photograph of that bruise?

16 A. Yes, correct.

17 Q. If you could take these two
18 photographs and go along the jury rail so all

the jurors

19 can see.

20 A. Okay.

21 Q. Now, Dr. Santos, tell the
jurors what

22 caused this type of bruising.

23 A. Some type of trauma. Some
kind of

24 blunt trauma, being hit, a car wreck, anything
like that.

25 Some kind of a force to the arm.

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Reporter

1 Q. What is blunt trauma?

2 A. Blunt trauma, as opposed to
none

3 penetrating. Penetrating is usually stab wound
or

4 gunshot wound. Blunt trauma is -- again, in a car
wreck,

5 falling and hitting your arm, being hit with a
baseball

6 bat or something like that.

7 Q. Being struck by an object very
hard?

8 A. Correct.

9 Q. Doesn't break the skin?

10 A. Does not penetrate.

11 Q. But causes these deep bruises?

12 A. Yes.

13 Q. Okay. Is this pretty severe blunt
14 trauma that we're looking at?

15 A. Yes, it is.

16 Q. Now, by looking at these
photographs,

17 can you tell anything about the age of this bruise?

18 A. Just by looking at this
photograph, I

19 would say that that injury is about 24 to 48 hours
old.

20 Q. 24 to 48 hours old?

21 A. Correct.

22 Q. And what do you see there in the
23 photograph that let's you have that opinion?

24 A. On this photograph there is some
deep
25 bruising to this part of the arm over here. But up

1 towards -- the upper part of her arm, the arm proper
2 close to the armpit, there's more of a redness over
here.

3 That tells you that this is not a very old wound.

Wounds

4 like this tend to get very dark, and after about
three or

5 four days starts turning green when that blood starts
to

6 get absorbed. But this redness up here tells me that
it

7 was probably a 24 to 48 hour old wound.

8 Q. When it's photographed here?

9 A. Yes, at that time.

10 Q. And the date is 6-10-96?

11 A. Correct.

12 Q. Now, you had Ms. Routier from
about

13 3:30 in the morning on June 6th, 1996 to you say
around

14 noon or so on June 8th; is that right?

15 A. Correct.

16 Q. Okay. Now, y'all checked pretty
17 carefully about other injuries; is that right?

18 A. Yes, we did.

19 Q. And in ICU, are there enough
nurses in

20 attendance at all times?

21 A. Yes.

22 Q. Okay. It's not like being in a
room

23 when you're in the hospital and the nurse just checks
on

24 you once in a while; is that right?

25 A. Correct.

1 Q. They're right there all the time?

2 A. Yes.

3 Q. Okay. And you examined Mrs.

Routier

4 several times on her stay there?

5 A. Yes.

6 Q. Examined the wounds that you sewed
up?

7 A. Yes.

8 Q. Okay. And before she was
released, do

9 you examine those wounds?

10 A. Yes. Routinely we'll look at the
11 wounds just to make sure they're healing okay.

12 Q. Did you see at any time while she
was

13 in the hospital any injury that would cause this type
of

14 bruising?

15 A. No, I did not see any evidence of
16 that.

17 Q. Okay. Is this something that you
18 would have been if it had occurred on June 6th, let's
say

19 at 2:30 in the morning, 1996?

20 A. Yes. I believe we would have seen

21 some evidence of that before she left the hospital.

22 Q. Okay. A person, when they get
blunt

23 trauma, they don't bruise -- a huge bruise doesn't
just

24 immediately form, does it?

25 A. No, sir.

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1 Q. A little bit of time occurs; is
that

2 right?

3 A. Correct.

4 Q. But to get this type of
bruising, do

5 you see some evidence of it pretty soon afterwards?

6 A. Yes. You mean if you had
something

7 that would create that, how soon would you see it?

8 Q. Right. Right.

9 A. Usually within 24 hours it will
show
10 up.

11 Q. This bruise would show up?

12 A. Yes.

13 Q. And even when you first receive
the

14 person, would you see some type of injury to that
area

15 that would later on cause this type of bruising?

16 A. You may. Most of the time you
do.

17 Sometimes you cannot see the evidence in the
beginning,

18 but most of the time it's pretty evident.

19 Q. Okay. Now, you never saw any
evidence
20 of that type of injury to the right arm on her stay
on
21 the 6th, 7th or 8th of June; is that right?

22 A. Other than the stab wound that we
23 talked about earlier, no, I did not see any other
type of
24 injury.

25 Q. Okay. Let's look at State's
Exhibit

1 No. 52-F, which is a photograph of the arm wound; is
that

2 right?

3 A. Yes.

4 Q. Okay. First of all, would a stab
5 wound to the arm in that area cause that type of
6 bruising?

7 A. It can cause bruising usually
around

8 the wound.

9 Q. Okay. But nothing like this in
52-E?

10 A. No. I don't think that this type
of
11 wound would cause that type of injury.

12 Q. Okay. And, again, 52-G shows the
arm.

13 Do you see this blood here? Is that more injury?

14 A. That's blood from her wound up
here.

15 This was taken in the ICU, and this is just dried
blood.

16 As I said, when she first came in, she had a lot of
dried

17 blood all over her. This is not indicative of the

18 injury. This is dried blood from the injury from her

19 arm.

20 Q. Okay. So that's just dried blood
left

21 on her arm; is that right?

22 A. That's correct.

23 Q. Do you see anywhere in State's
24 Exhibits 52-F, 52-H, 52-G, any evidence of the injury
25 that would cause the bruising that you see here in
52-E?

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1 A. No -- excuse me. No, I don't see
any
2 evidence here that would show what caused that.

3 Q. Okay. And again, you thoroughly
4 checked her stay in the hospital; is that right?

5 A. We checked her very carefully when
she

6 was in the operating room. That was our best chance
to

7 do that while she was under the anesthetic. And
then we

8 had the nurses do dressing changes on her
afterwards.

9 Q. Okay. And before she leaves,
you,

10 yourself and the other residents checked her; is
that

11 right?

12 A. I went and talked to her. I did
not

13 examine all the wounds the day she left.

14 Q. Okay. But you never saw this
type of

15 injury?

16 A. No, I did not.

17 Q. And have you looked at the

nurses'

18 notes and other medical records regarding Ms.
Routier?

19 A. Yes.

20 Q. Would the nurse make notes of
that if

21 they saw any type of injuries?

22 A. Yes. That's part of their
duties, is

23 to find injuries that we may have missed. And
certainly

24 something like this would be something I would
expect the

25 nurses to point out to me or to the other doctors
before

1 we sent her home.

2 Q. So you didn't see this injury at
all?

3 A. No, I did not.

4 Q. And you say by looking at these
5 photographs, this type of bruising looks like
something

6 that occurred in the last 24 to 48 hours?

7 A. Correct.

8 Q. Not a four-day old bruise at all;
is
9 that right?

10 A. Not in my opinion.

11 Q. Okay. So, if we can kind of look
at
12 this photograph being taken on the 10th day of June,
13 would you say this injury did not occur on the 6th
of
14 June --

15

16 MR. JOHN HAGLER: I'm going to
object

17 to leading and repetitious.

18 THE COURT: Overruled. Go ahead.

19

THE WITNESS: Would you
repeat the

20 question, please?

21

22 BY MR. TOBY SHOOK:

23 Q.

If we assume that this
photograph here

24 in 52-E was taken
on the 6th day of June,

of 1996, is

25 there any way that
bruising could have
occurred -- that

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Halsey, CSR, Official
Court Reporter

1 injury that caused
this bruising occurred
at 2:30 in the
2 morning on June 6,
1996?

3 A.

I don't believe so.

4 Q.

Okay. All right. Let
me show you

5 what's been marked
State's Exhibit 52-J.
Again, is that

6 a photograph of
Darlie Routier?

7 A.

Yes, sir.

8

9

THE COURT REPORTER: We
have a J and K
10 already.

11

MR. TOBY L. SHOOK:
I'll mark it 52-M.

12

13

(Whereupon, the
following

14 mentioned item was
15 marked for
16 identification only
17 as State's Exhibit 52-M,
18 After which time the
19 proceedings were
20 resumed on the record
21 in open court, as
22 follows:)

23

24 BY MR. TOBY L.

SHOOK:

25 Q.
Again, is 52-M a
photograph of Ms.

Sandra M.
Halsey, CSR, Official
Court Reporter

1 Routier and an
injury?

2 A.
Yes.

3

4 MR. TOBY L. SHOOK: We'll offer
5 State's Exhibit 52-M.

6 MR. RICHARD C. MOSTY: No
objection,
7 your Honor.

8 THE COURT: State's Exhibit 52-M
is
9 admitted.

10

11 (Whereupon, the item
12 Heretofore mentioned
13 Was received in evidence
14 As State's Exhibit No. 52-M
15 For all purposes,
16 After which time, the
17 Proceedings were resumed
18 As follows:)

19

20 BY MR. TOBY L. SHOOK:

21 Q. Okay. Again, can you -- 52-
M, is that

22 a photograph of bruising there to the left arm?

23 A. Yes. It shows some bruising
to the

24 left arm around the wrist area extending down

toward her

25 elbow.

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1 Q. Again, Doctor, if you could
start

2 maybe down at this end. You can come on down.

3 A. Okay.

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

13 (Whereupon, the following

14 mentioned item was

15 marked for

16 identification only

17 as State's Exhibit 52-N,

18 after which time the

19 proceedings were

20 resumed on the record

21 in open court, as

22

follows:)

23

24 BY MR. TOBY L. SHOOK:

25 Q. And again, Doctor, is 52-N a
closer up

Sandra M. Halsey, CSR, Official Court Reporter

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1 photograph of that wound?

2 A. Yes.

3

4 MR. TOBY L. SHOOK: We'll offer

5 State's 52-N.

6 MR. RICHARD C. MOSTY: No

objection,

7 Your Honor.

8 THE COURT: State's Exhibit 52-N

is

9 admitted.

10

11 (Whereupon, the item

12 Heretofore mentioned

13 Was received in evidence

14 As State's Exhibit No. 52-N

15 For all purposes,

16 After which time, the

17 Proceedings were resumed

18 As follows:)

19

20 BY MR. TOBY L. SHOOK:

21 Q. Doctor, the bruising we see

here on

22 the left side, is that the same type of blunt

trauma

23 injury that we saw to the right arm?

24 A. It appears to be. All I can tell

is

25 that there's some bruising there. I'm not sure what

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1 caused that. You can see a little closer here than
you

2 could on the other one.

3 Q. Okay. Anyway -- did that look
like a

4 fresh bruise or could you tell on that particular
end?

5 A. On this one it's hard to tell.
Most

6 of this -- this ecchymotic bruise is smaller than
the one

7 on the other arm. And it's hard to tell whether
the

8 edges are fresh or not. On this photograph it's
hard to

9 tell how old it is, but it's at least 48 hours
old.

10 Q. Now, the injury that we see
here on

11 52-E, the right arm, you've treated people that
you see

12 bruising if they've been grabbed hard or something
like

13 that; is that right?

14 A. Correct.

15 Q. Okay. Maybe a man grabs a

woman and

16 pulls her around. Will that leave bruising?

17 A. Yes, it can.

18 Q. What type of bruising is that?

19 A. It depends if he grabs her with

his

20 bare hands and grabs her on the forearm, he can

leave the

21 imprint of his fingers and his thumb on the

forearm.

22 Q. Okay. Did you -- as far as the

injury

23 to the right arm, is that that type of bruising?

24 A. No. The bruising that you

showed me

25 in those photographs on her arm appears to be more
of a

Sandra M. Halsey, CSR, Official Court
Reporter

1 deep bruise.

2 Q. Again, what we call blunt
trauma,

3 something striking the arm?

4 A. Very possible.

5 Q. Okay. Thank you. You can have
a seat

6 up there.

7

8 (Whereupon, the witness

9 Resumed the witness

10 Stand, and the

11 Proceedings were resumed

12 On the record, as

13 Follows:)

14

15 BY MR. TOBY L. SHOOK:

16 Q. Doctor, would an IV, in any
way, cause

17 a bruise like that?

18 A. I don't believe an IV would
cause

19 bruising like that, no.

20 Q. That's blunt trauma?

21 A. Yes, it appears to be.

22

23

MR. TOBY L. SHOOK: That's all

the

24 questions I have. I'll pass the witness.

25

THE COURT: Mr. Douglass.

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Reporter

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1 MR. PRESTON DOUGLAS: Thank
you.

2

3

CROSS EXAMINATION

4

5 BY MR. PRESTON DOUGLASS:

6 Q. Doctor, in terms of Ms. Routier
and

7 how she acted while she was under your care,
obviously

8 you have other patients, you weren't able to be with
her

9 the entire time?

10 A. That's correct.

11 Q. And how many times do you think
12 between, say, the 6th and when she was discharged
that

13 you went and checked on her?

14 A. Three times, once each day.

15 Q. All right. And in -- contrary to
you

16 going by three times, she would have been under the
care

17 of nurses throughout the time; is that right?

18 A. Correct.

19 Q. And would you agree that those
nurses,
20 in some instances, would have had better opportunity
in
21 some cases to view how she's doing, how she's feeling
22 emotionally?

23 A.
Yes.

24 Q.

Okay.
25

1 MR. PRESTON DOUGLASS: May I
approach

2 the witness, your Honor?

3 THE COURT: You may.

4

5 BY MR. PRESTON DOUGLASS:

6 Q. Doctor, if you would refer to your
7 notes. First, there's the admitting history and
physical

8 sheet, it should be toward the first part of your
record

9 which has a drawing.

10 A. Right.

11 Q. Okay. And under "general," can
you

12 read what was noted by the nurse and signed off on
by

13 you?

14 A. Yes.

15 Q. Do you see where that says
"general"?

16 A. Okay. If I may correct you,
that's

17 not signed by the nurse, that's signed by my
resident.

18 Q. Okay.

19 A. Under "general," it says, "Young,
20 W --" what stands for young white female,
"tearful,
21 frightened."

22 Q. So when she first came in, she
was

23 noted to be frightened and noted to be crying
some; is

24 that right? Tearful?

25 A. Yes.

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Reporter

1 Q. And then further back, look at
June

2 6th.

3 A. The admitting -- the nurse's
notes?

4 Q. Right, going back to the
admitting

5 nurse's notes? It should be earlier in the time
line.

6 My copy is bad, but I'm guessing that that time is
before

7 5:15 in the morning.

8 A. I'm sorry, is that the ICU or the
9 emergency --

10 Q. Look at the focus notes on June 6,
11 1996, prior to 5:15 in the morning.

12 A. Okay. On the 6th, you say?

13 Q. Yes sir. If I could show you.

That's

14 the admitting nurse?

15 A. Yes.

16 Q. And then I'm showing a date of
June

17 6th, 1996, admitting nurse. And what I'm showing
you,

18 does this appear to be a copy of the records that
you

19 have?

20 A. Yes, they are.

21 Q. And you see where I have
highlighted,

22 for your convenience, some nurse's notes?

23 A. Yes, I do.

24 Q. Can you read who signed that?

25 A. I'm sorry, I can't read that
name.

1 It's followed by RN, by abbreviation, it's one of
our

2 nurses, but I don't know what the name on it is.

3 Q. Is this admitting nurse?

4 A. Well, not necessarily the
admitting

5 nurse, it just means that's the person who admitted
them,

6 yes.

7 Q. All right. And what notation is
made

8 there?

9 A. You have highlighted it says,
"Crying,

10 visibly upset."

11 Q. Okay. And then later in the same
day,

12 at 7:30, psychosocial. There's a note for
psychosocial;

13 is that correct?

14 A. Correct, yes.

15 Q. And that's meant specifically to
16 address her emotional state; is that right?

17 A. Correct, yes.

18 Q. And am I right -- did you find

that in

19 the notes?

20 A. I found it.

21 Q. Look --

22 A. Okay.

23 Q. Does it say "the patient is very

24 emotional"?

25 A. Yes.

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1 Q. There are periods of crying,
sobbing,

2 talking about events and her family?

3 A. Yes, that's what it says.

4 Q. Okay. All right. So, when you
said

5 to the jury that you were surprised that she had a
flat

6 affect, then obviously there are nurses that did not
see

7 what you saw, but saw a very crying, emotionally
upset

8 woman and made psychosocial notes because they
thought it

9 was significant enough that a reviewing doctor should
10 look at?

11 A. Correct.

12 Q. Did you look at these notes?

13 A. No.

14 Q. Well, you were her attending
15 physician; is that correct?

16 A. Yes.

17 Q. So if you're trying to make -- if
18 you're trying to make a determination as to how she
is

19 progressing, there are nurses writing notes to you
that
20 are telling you, "She's visibly upset, she's crying,
and
21 she's emotional about the events she just went
through;"

22 is that right?

23 A. They're not writing notes to me,
those

24 are the nurse's notes.

25 Q. Those are the nurse's notes that
are

1 telling you, "She's visibly upset, she's crying."

2 A. Usually the nurse will give me a
3 verbal review.

4 Q. The point being, it's a history
that's

5 being made for the benefit of whoever it is, in this
case

6 obviously not intended for a jury, but from these
notes

7 at the time they were made, how this lady was acting;
is

8 that right?

9 A. Yes.

10 Q. And is it safe to say that there
is

11 notes that throughout the day on the 6th, she was
visibly

12 upset; is that right?

13 A. Those two notes, yes, sir.

14 Q. Okay. Well, first there was the
15 admitting note that said she was tearful and said she
was

16 scared; is that right -- or frightened, I'm sorry?

17 A. Correct.

18 Q. All right. So first she's scared,

and

19 then there's notes early in the morning that says

she's

20 visibly upset and emotional, and then there's another

21 note. And these are all noted by nurses who are paid

22 and --

23 A. Yes.

24 Q. Okay. Look on the next page.

25 A. Where the notes --

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1 Q. Okay. Let's see. Do you
remember,

2 Doctor, prescribing Ms. Routier Xanax?

3 A. Yes.

4 Q. Now I can't find that in here, but
you

5 remember -- you do remember calling that in. Right?

6 A. I didn't call it in. I wrote it
on

7 her discharge orders. I added it to -- Dr. Dillawn
on

8 her discharge orders, and when I came by and spoke
with

9 her and her husband, they requested that and I
went ahead

10 and ordered that. So, it's on my discharge
orders.

11 Q. Okay. Well, was she given
Xanax

12 before the discharge?

13 A. I believe it was ordered by one
of the

14 other physicians. We can look in the --

15 Q. All right. Well, let me just
show

16 you. Later on the same day, on the 6th, which
looks like

17 16:45, so towards four or five o'clock in the
afternoon;

18 is that right?

19 A. Correct.

20 Q. Okay. Can you find where it's
noted

21 anxiety?

22 A. Correct.

23 Q. All right. And she was given

25

24 milligrams or .25? She'd be out if it were 25
25 milligrams. Right?

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Reporter

1 A. Well, it should be .25 --

2 Q. Okay. Point 25 milligrams of
Xanax

3 given to decrease -- is that an arrow going down?

4 A. Correct. To decrease anxiety.

5 Q. The point of that is to decrease
6 anxiety. Right?

7 A. Yes.

8 Q. And it says that the patient, Ms.
9 Routier, is unable to relax; is that right?

10 A. Yes.

11 Q. Okay. Now, there's lots of notes
--

12 you would agree that these injuries that she received
are

13 painful injuries; is that right?

14 A. Yes.

15 Q. And you see there's lots of notes
16 where they're -- the nurse that is treating her
notes,

17 pain and actions taken to lessen and care for the
pain

18 that she was experiencing; is that right?

19 A. Yes.

20 Q. Okay. For instance, the wound to

her

21 arm, on the left side; is that right?

22 A. Yes --

23 Q. The right side.

24 A. Right forearm.

25 Q. The right arm went down to the
bone;

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1 is that right?

2 A. It did not injure the bone, it
went

3 through the muscle.

4 Q. All right. In your records, I
believe

5 it says it went to the bone. I'm not meaning to say
it

6 struck the bone, but it did say it went to the bone?

7 A. I did not write that. It may be
in

8 there, but it's hard to tell.

9 Q. You're not quarreling with that,
are

10 you?

11 A. No.

12 Q. And certainly you would expect
that to

13 be a very painful injury. Right?

14 A. Yes.

15 Q. And now, in talking, when you
first --

16 let's back up to the beginning. When you first saw
Mrs.

17 Routier, there was no question, and in your admitting

--

18 well, actually it's in your discharge summary. Do
you

19 see that?

20 A. Let me find it.

21 Q. Okay.

22 A. I found it.

23 Q. In your discharge summary, you
noted

24 that Ms. Routier had a large, what you described as
a
25 slash wound; is that right?

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1 A. Correct. This is a discharge
summary

2 dictated by Dr. Dillawn, which I signed. Yes, it
says

3 she has a large slash wound.

4 Q. All right. Well, you signed it.
You

5 approved it; is that right?

6 A. Yes.

7 Q. And you described, or Dr. Dillawn
8 described and you approved his description, that she
was

9 actively bleeding from a large slash wound?

10 A. Correct.

11 Q. Now, that was the first scene that
any

12 doctor saw was an actively bleeding woman who had
13 obviously lost a large amount of blood on the front
of

14 her shirt; is that right?

15 A. Correct.

16 Q. Now, you also gave her, either
on

17 discharge or upon when you admitted her, I don't
know

18 exactly where it is, but you gave her a diagnosis
of post

19 trauma anemia; is that right?

20 A. Yes.

21 Q. Now, post trauma anemia would be
from

22 a severe loss of blood; is that correct?

23 A. Correct. Any loss of blood,
that will

24 make your numbers go down. Medically that's
defined by

25 certain parameters, and if your blood count -- your

1 hematocrit specifically is below normal, then
you're by

2 definition anemic.

3 Q. All right. But in any event,
what you

4 described it was -- and I can't say the word, it's
post

5 hemorr --

6 A. Hemorrhage.

7 Q. Well --

8 A. It's post hemorrhagic.

9 Q. Right. Hemorrhagic anemia.

Right?

10 A. Close, yes.

11 Q. So I try to say it post trauma.

12 Right? Same thing?

13 A. Well, post hemorrhagic just
means she

14 bled, that's why her blood count is low. Post
trauma

15 doesn't necessarily mean she bled. You can bleed

16 internally, et cetera, et cetera. But post

17 hemorrhagically -- post hemorrhagically anemia

18 specifically means you're anemic from loss of
blood.

19 Q. All right. But in any event you
20 noticed that that diagnosis was made and that she
had to
21 be looked after because she was suffering from
anemia; is
22 that right?

23 A. Yes.

24 Q. Okay. Now, you mentioned in, I
guess
25 it was an operative report, that the wound -- and
you're

1 not -- let me just ask you this: You're not
attempting

2 to give the jury, and I think you were careful to
say

3 that you're not attempting to give the jury any
type of

4 opinion about directionality of the wound, are you?

5 A. Correct. I cannot --

6 Q. You have no opinion about that?

7 A. No, sir.

8 Q. You have no opinion about

9 self-inflicted or directionality or anything like
that?

10 A. I cannot tell.

11 Q. You can't tell?

12 A. Right.

13 Q. Is that right?

14 A. Yes.

15 Q. And you were the first trained
medical

16 person to look at this woman; is that right? Well,
Dr.

17 Dillawn and the paramedics?

18 A. Right.

19 Q. But the first person to treat

her and

20 look at her closely, that was you. Right?

21 A. Yes.

22 Q. All right. Now, when you
referred to

23 the midline, you were referring to the center, am I

24 right, of her neck?

25 A. Right, the center of her neck.

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1 Q. All right. And if I remember
right,

2 your notes say that the wound was higher to the
right

3 side of her neck and that it was deepest on the
lowest,

4 or the left side of wound?

5 A. I'll have to look on the notes.

6 Q. Please. I could be mistaken.

7 A. Were you talking about in the

8 operative records? That's what I'm looking at now.

I'm

9 not sure if there was any mention of if it was
deeper on

10 one side. I don't recall anyone saying it was
deeper on

11 one end or the other. I don't see it on the
operative

12 record, was it somewhere else?

13 Q. Okay. Well, in your
recollection, was

14 the wound deeper at one point?

15 A. Well, it was a little deeper,
if I

16 recollect correctly, on the right side.

17 Q. Okay. And you said that the
wound

18 penetrated the platysma muscle; is that right?

19 A. Yes.

20 Q. And in the operative record, it
says

21 at one point the laceration appeared to extend to,
but

22 not through the carotid sheath which covers the
carotid

23 artery; is that right?

24 A. Correct.

25 Q. Now, the carotid sheath,
Doctor, would

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Reporter

1 that be a membrane, or how would you describe it?

2 A. Its connective tissue, sort of
a

3 membrane, yes. That would be the best way --

4 Q. Is it thin?

5 A. Compared to --

6 Q. How many millimeters?

7 A. It's probably two to three
8 millimeters, which is pretty small.

9 Q. And is it true that this wound,
at
10 that point, to the carotid sheath came within two
11 millimeters of the carotid sheath (sic)?

12

13 MR. RICHARD C. MOSTY: The
artery?

14 MR. PRESTON DOUGLASS: Sheath.
I'm

15 asking about the sheath first.

16 THE WITNESS: You said it's an
injury

17 to carotid sheath?

18

19 BY MR. PRESTON DOUGLASS:

20 Q. On the records it says it came to

the

21 carotid sheath.

22 A. Right.

23 Q. Now, the carotid sheath is 2 or 3

24 millimeters thick; is that right?

25 A. Correct.

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1 Q. Okay. So it came within 2
millimeters

2 of the carotid artery?

3 A. Correct.

4 Q. Okay. Now, inside the sheath is
the

5 internal jugular vein as well as the artery; is that
6 right?

7 A. Carotid artery, correct.

8 Q. All right. Now, when you said to
Mrs.

9 Routier "You're very lucky" -- I'm going to see if I
can

10 try something. I may not be able to demonstrate
this,

11 but I want to show how lucky she was. This is, it
seems

12 to be a common ruler; is that right?

13 A. Yes.

14 Q. And it's got inches on one side,
it's

15 got centimeters on one side; is that correct?

16 A. That's correct.

17 Q. Now, the centimeters don't start
at

18 the blunt end of the ruler.

19 A. Right.

20 Q. But am I right that this will
be 2
21 millimeters?

22 A. Yes.

23 Q. Okay. So, if I understand
your

24 testimony that it's 2 millimeters from nicking the
25 carotid artery; is that right?

1 A. Yes.

2 Q. Or the internal jugular vein?

3 A. Yes. Actually closer to the
carotid

4 artery because they lay side by side.

5 Q. Okay.

6 A. Closer to the carotid artery.

7 Q. Well, I'm not very adept at
8 demonstrating this, but anybody can look and see
that

9 these two lines are what it would take to hit the
carotid

10 artery.

11 Now, if a carotid artery is
severed,

12 Doctor, what happens?

13 A. You bleed profusely.

14 Q. Is that often, if not fatal,
certainly

15 fatal?

16 A. If it is not controlled
immediately,

17 yes, it can be fatal.

18 Q. And when you say immediately,
you're

19 talking right then. Right?

20 A. Within minutes.

21 Q. So when you told Mrs. Routier
that

22 she's a very lucky lady, what's represented is just
these

23 infinitesimal two lines are what you declare the

24 difference between superficial and a fatal injury?

25 A. No. I mean, we don't
differentiate

1 between superficial and fatal. There's superficial
and
2 deep.

3 Q. Are these two lines away from
4 potentially fatal?

5 A. Yes.

6 Q. Two millimeters?

7 A. Yes.

8 Q. Okay. So, if this knife had
traveled

9 two millimeters more, and immediate attention --
when you
10 say immediate, I mean, what are you talking about in
11 time?

12 A. Two or three minutes.

13 Q. So without any immediate care in
three
14 minutes, she's dead?

15 A. Correct.

16 Q. Now, when you saw her at the
hospital,

17 you did not scrub for the surgery; is that right?

18 A. No.

19 Q. And you had made a determination
that

20 Dr. Dillawn could handle it?

21 A. Well, actually Dr. Lee, who was
the

22 chief surgery resident, was doing the surgery, Dr.

23 Dillawn was assisting him.

24 Q. And you applied pressure and you
25 stopped the bleeding by applying pressure to her
neck?

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1 A. Yes, I did.

2 Q. That's what you did?

3 A. Yes, I did.

4 Q. Okay. Now, I want to talk about
your

5 termination of a slash. You've seen, I'm sure, a
number

6 of injuries to the neck by a sharp-edged instrument;
is

7 that right?

8 A. Yes.

9 Q. And is it safe to say -- and
you're

10 familiar with the term incised wound, obviously?

11 A. Correct.

12 Q. An incised wound is a wound that
13 stretches longer in length than it is deep. And is
it

14 typical that if someone is going to inflict the
maximum

15 amount of damage to the area of the throat,
it'll be done

16 in a slashing motion in an attempt to cut the
jugular

17 vein and the carotid artery?

18 A. Correct.

19 Q. So, when you see wounds to
the neck,

20 you don't expect, really, a straight on deal,
straight-on

21 type, what you expect is a slashing motion; is
that

22 right?

23 A. I would say that's more
typical on a

24 neck wound, yes.

25 Q. Okay. Now, when you say more
typical,

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1 you're a careful doctor, I understand that.

I've

2 listened to you testify and you're familiar with
the

3 terms reasonable medical probability; is that
right?

4 A. Yes.

5 Q. Now, can you define that for the
jury?

6 A. Once you look at whatever evidence
you

7 have, or clinical evidence you have, you make a
decision

8 whether something, an event or an occurrence, in your
9 opinion, would be medically probable when you weigh
it

10 against all the evidence. It doesn't mean it
necessarily

11 happened that way, but that more likely that that's
what

12 happened, or that's what would happen.

13 Q. Okay. Now, it wasn't asked of
you,

14 but have you couched your opinions based on a
reasonable

15 medical probability?

16 A. I'm not sure I understand your
17 question.

18 Q. Well, there are things a doctor
can
19 say that are consistent with something, or expected,
or
20 maybe my opinion, but that doesn't necessarily mean
it's
21 to a reasonable medical probability. Do you
appreciate
22 what I'm saying?

23 A. I think it's a fine line, but
yes, I
24 appreciate what you're saying.

25 Q. Okay. So what it means is, a

1 reasonable medical probability is the level of
convincing

2 that a doctor has, and sometimes you can give an
opinion,

3 but you're not willing to say, I'm going to say that
to a

4 reasonable medical probability; is that right?

5 A. Correct.

6 Q. Okay. Now, the operative record,
and

7 I think what you testified to, was an hour and 15
minutes

8 that Ms. Routier was under general anesthetic; is
that

9 right?

10 A. Well, I didn't -- I'll be glad to
look

11 on the anesthesia record as to how long she had
12 anesthesia on board. What I was looking at earlier,
when

13 they asked me, was the time we actually began the
14 operation, neck, arm and shoulder, that went from
3:50 to

15 4:49.

16 Q. All right. Well, let me ask you,

17 Doctor, maybe in the discharge record, you made --
you
18 used the term, in the discharge summary, that she
was
19 emergently taken for neck exploration. I'm assuming
that
20 emergently means with all haste?
21 A. Correct. Yes, sir.
22 Q. Okay. And if you make an
immediate
23 decision that a person has to have surgery, I'm
assuming
24 that anesthesia would be administered to the patient
as
25 soon as possible upon arrival to the emergency room -
- I

1 mean, operating room?

2 A. Correct.

3 Q. No reason to think that she would
have

4 sat in there 20 minutes before she would have been
5 administered anesthesia.

6 A. That's right, there's no reason to
7 think that.

8 Q. Well, based on your usual custom
and

9 happening of the O.R., on someone who is emergently
10 brought into the O.R., would you think that perhaps
they

11 were administered anesthesia as little as five
minutes

12 after they arrived?

13 A. Probably even less than that.

14 Q. Okay. So, when you say it's an
hour

15 and 15 minutes that the person was under surgery, is
it

16 safe to say that for sure an hour and 10 minutes of
that

17 she was under general anesthetic?

18 A. Yes.

19 Q. All right. Now, I believe your
20 testimony was that you would expect a person to be
under
21 the affects of general anesthesia for up to two
hours.

22 A. Two to three hours, yes.

23 Q. Two to three hours.

24 A. Yes.

25 Q. And that she was -- what time do
you

1 recall that the surgery ended and that she was
brought

2 out of surgery?

3 A. Well, the official time that the
4 surgical procedure ended was 4:49, as I said. The
time

5 the anesthesia ended was 05:00.

6 Q. Okay. So, she was, in effect,
7 beginning to come out of the affect -- or let me back
up.

8 There was no additional anesthesia being administered
to
9 her at five in the morning?

10 A. Correct. That's when it stopped.

11 Q. Okay. So at that point the
12 anesthetist says that's it, and she should begin that
13 three hour process of coming out of the anesthesia;
is
14 that right?

15 A. Correct.

16 Q. Now, would you expect that if
someone

17 had talked to her, say at 6:00 in the morning, that
she

18 would be groggy and still under the effects of

19 anesthesia?

20 A. She may, yes, sir.

21 Q. When you say "may," all people
are

22 different; is that right?

23 A. Correct.

24 Q. Now talking about the

anesthesia,

25 isn't it also true that she was, very soon after
coming

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1 out of the operating room, that she was ordered
up, or

2 you ordered up for some Demerol?

3 A. It was ordered in the
postoperative

4 period, I believe by either Dr. Dillawn or one of
the

5 other residents. But I know she did have some
Demerol

6 ordered for pain control, yes, sir.

7 Q. Okay. Now, would that have
been

8 administered to her -- if it's ordered
postoperatively,

9 does that mean, Doctor, that it's administered to
her

10 right away?

11 A. It's usually ordered PRN, which
means

12 whenever necessary. The nurses usually make that

13 designation. If a patient says, "I'm having
pain,"

14 there's a time limit placed it.

15 We usually will say every
three to

16 four hours. Whenever she gets her first one
really

17 depends on the nurse's assessment or evaluation.

But it

18 can be right away.

19 Q. Okay. Do you see anything in
the

20 nurse's notes as to when the first dose of Demerol
might

21 have been administered to Ms. Routier?

22 A. The first thing I see here is a
note

23 from the ICU, 6-6-96, at 06:00, she was given 25

24 milligrams of Demerol and 25 milligrams of

Phenergan IM.

25 Q. Okay. And what's Phenergan?

1 A. Phenergan is an anti-- or
medication

2 that keeps you from being nauseated or vomiting
because

3 the Demerol can make you nauseated.

4 Q. Okay. What all -- can Demerol
make

5 you groggy?

6 A. Yes.

7 Q. Can Demerol cause you to be
heavily

8 sedated? Is that the right word?

9 A. Yes, it would mean the same
thing,

10 groggy, sleepy, drowsy.

11 Q. If a person comes out of general
12 anesthetic and at 6:00 o'clock they're given
Demerol at

13 that dose that you just indicated, wouldn't that
14 aggravate the effects of the anesthesia?

15 A. It would obviously depend on the
16 patient's condition, underlying medical problems,
if they

17 have any. If made -- if they were having trouble
getting

18 rid of the anesthetic effect, however the Demerol
dose,

19 really this is a small dose because she is a
small woman.

20 Q. Right. But you're not saying
it

21 couldn't?

22 A. No, it may. It may, yes.

23 Q. Okay. And in that situation,
if you

24 think that she would still, perhaps, experience
the

25 effects of general anesthesia from 5:00 o'clock
to up to

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1 three hours, which is 8:00 in the morning,
certainly,

2 Doctor, the Demerol administered at 6:00 would
either

3 aggravate that or prolong that; is that right?

4 A. Yes, it could.

5 Q. Okay. So, she could have still
been

6 groggy even past 8:00 o'clock. Is that what you're
7 trying to say?

8 A. She could, yes.

9 Q. Could general anesthetic, in your
10 experience, lead to confusion?

11 A. Yes.

12 Q. Can it lead to disorientation?

13 A. Yes.

14 Q. Can it lead to short-term memory
loss?

15 A. Yes, I suppose it could, yes.

16 Q. Would you agree, Doctor, that to
be

17 questioned sometime before 8:00 in the morning of,
let's

18 say 6:05, hypothetically, to be questioned about
very

19 serious events at 6:05, one hour and five minutes
after

20 anesthesia being cut off, would you be somewhat
suspect

21 as to the response you may receive from a patient?

22 A. You may get an unreliable
response,

23 yes.

24 Q. What I mean by that is you may
get a

25 response that's subject to disorientation, memory
loss,

1 confusion, all of those things that you said could
be
2 prevalent with a patient in that situation; is that
3 right?

4 A. Well, that could be possible,
yes.

5 Q. Okay. Would you please read for
the
6 jury the 6:05 focus note entry.

7 A. "06:05, Psych. Social, Rowlett
Police
8 to bedside for questioning."

9 Q. So, within an hour and five
minutes

10 after she is -- now, she's in ICU, and you put her
there

11 so she would not be put under stress; is that right?

12 A. Correct.

13 Q. Well, did you say there weren't
14 suppose to be any police officers there?

15 A. No, I said "Do not let the media
in."

16 Q. Well, did it matter to you if
people

17 started, immediately, one hour after surgery start

18 questioning her? Would you have recommended that?

19 A. I would not have recommended
that, no.

20 Q. Now, would you also suspect --
or be

21 suspect of the results you might have received due
to the

22 combination of general anesthesia and Demerol,
which she

23 received five minutes earlier?

24 A. I'm sorry, would you repeat the
25 question, please.

1 Q. Well, am I right -- I don't have
my
2 notes with me. Am I right that she received
Demerol at
3 6:00 o'clock?

4 A. Yeah, she did.

5 Q. She had just terminated general
6 anesthetic at 5:00 o'clock?

7 A. Correct.

8 Q. So then one hour and five
minutes of

9 general anesthetic for an hour and 15 minutes, and
a
10 dose of Demerol, and she then is questioned about the
11 events surrounding this attack. Would that cause you
to
12 be suspect of what she may have said, based on the
amount
13 of medication she's taken?

14 A. It could, yes.

15 Q. Okay. Now, while we're on that
16 subject, let me talk to you a little bit about
trauma.

17 You've seen numerous people who have been the
subjects of

18 traumatic attacks or traumatic events, maybe
automobile

19 accidents; is that right?

20 A. Yes, I have.

21 Q. Well, let me -- one thing Mr.
Glover

22 mentioned in my ear, when you've talked to mothers
about

23 accidents, many times that denial and that wanting to
see

24 the body and the things you talked about, isn't it
true,

25 Doctor, those are people who did not witness their
child

1 murdered.

2 I mean, that's someone who may
have

3 come up after an accident, didn't see the event that
4 caused the death of the child?

5 A. Yes, in some cases, yes.

6 Q. Okay. So, when you were saying,
"I've
7 got to explain what happened to some of these
parents,"

8 well certainly you have to explain to parents if they
9 didn't see what happened. Right?

10 A. Right.

11 Q. All right. And wouldn't you
naturally

12 assume that if -- you would naturally assume that if
13 someone knew the cause of death of their child that
that

14 may not be something you would have to explain to
them?

15 A. You mean in general, I would
assume

16 that?

17 Q. Well, let me go on.

18 A. All right.

19 Q. Talking back about trauma, what
we
20 were talking about earlier, and the fact that you
had
21 seen numerous people who were the events -- the
victims
22 of tragic trauma, either attacks or automobile
injuries.
23 Is it common for people, and I'm
not
24 talking about the anesthetic now, I'm just talking
about,
25 is it common for victims of traumatic attacks to
block

1 out and have memory loss as to the event that
caused

2 their accidents, their injuries?

3 A. Well, I would not say it's
common, but

4 it does occur.

5 Q. Well, have you seen it?

6 A. Yes, I have.

7 Q. And you've witnessed it in what
is --

8 in a percentage of your patients such that you say
it can

9 happen?

10 A. Yes.

11 Q. All right. And that could be
12 traumatic memory loss as to even the cause of an
injury;

13 is that right?

14 A. Yes.

15 Q. It could be memory loss as to
not only

16 the cause, but what the person was doing before the
17 injury or what the person was doing after the
injury; is

18 that right?

19 A. Yes.

20 Q. All right. In short, Doctor,
the mind

21 has a funny way of tricking a person when they've
been

22 through a traumatic event; is that right?

23 A. Yes.

24 Q. Okay. In fact, what happens is
the

25 mind compensates for the injury; is that right? Is
that

1 a term you're familiar with?

2 A. I'm not sure what you mean by
3 compensates.

4 Q. Well, in effect, it may create -
- it

5 may block out in an effort to -- how am I trying to
say

6 this. A person goes unconscious many times not
7 necessarily because of the injury, but because of
the
8 shock; is that right?

9 A. That's right.

10 Q. So, in effect, your mind takes
over in

11 a reflex action which protects the body, the person
goes
12 unconscious?

13 A. Right. That can happen.

14 Q. All right. That's what I mean by
15 compensate.

16 A. Okay.

17 Q. The mind compensates for the
injury?

18 A. In that way, yes.

19 Q. Okay. So, it doesn't surprise you

20 that a person that is the victim of a very
traumatic
21 injury or attack would have significant memory loss
as
22 either to the cause of the attack -- is that right,
23 Doctor, it wouldn't surprise you?
24 A. Well, I would have to qualify it
and
25 say that most of the times I've seen that has been
a

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1 patient with head injuries.

2 Q. But when you say most, that
means

3 there's another significant amount of patients --
you

4 have seen thousands of patients; is that right?

5 A. Yes.

6 Q. So if most is 60 percent, then
that's

7 600, then there's 400 other people you've seen that
have

8 had other types of reactions; is that right?

9 A. Yes.

10 Q. All right. And those people have
had

11 reactions that may have blocked out their initial
12 perception of what happened to them and the cause of
the

13 injury; is that right?

14 A. Yes.

15 Q. Okay. Doctor, there's no
way that you

16 can say that Darlie Routier was not unconscious
at any

17 point, is there?

18 A. There's no way I can say --
you mean

19 during the event?

20 Q. You can't rule out that she
lost

21 consciousness?

22 A. I can't rule it out.

Correct.

23

24 THE COURT: All right.

Ladies and

25 gentlemen, I think it's getting on to five
o'clock now.

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1 MR. TOBY SHOOK: Judge,
could we

2 approach the bench real quickly?

3 THE COURT: Yes.

4

5 (Whereupon, a short
6 Discussion was held off

7 The record, at the
side

8 Of the bench, and

9 Outside the hearing
of

10 The jury, after
which

11 Time the
proceedings

12 Were resumed on
the

13 Record as
follows:)

14

15 THE COURT: All right. I have
been

16 told that we are near the end, so we'll just stay.

17 MR. PRESTON DOUGLASS: Could I
have

18 about 2 -- we'll about a 10 minute recess, your
Honor?

19 THE COURT: Ten minute recess.

20 MR. PRESTON DOUGLASS: What
about 5?

21 THE COURT: All right. A 5
minute

22 recess.

23 MR. RICHARD C. MOSTY: Are you
going

24 to let the jury have a recess too?

25 THE COURT: Well, I guess we
will. If

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Reporter

1 you will step in the jury room briefly, please.
We'll
2 proceed shortly.
3
4 (Whereupon, a short
5 Recess was
taken,
6 After which
time,
7 The proceedings were
8 Resumed on the record,
9 Outside the presence
and
10 Hearing of the
defendant
11 And the jury, as
follows:)
12
13 THE COURT: All right, bring the
jury
14 back in, please.
15
16 (Whereupon, the
jury
17 was returned to
the

18 courtroom, and
the
19 proceedings
were
20 resumed on the
record,
21 in open court, in
the
22 presence and
hearing
23 of the defendant,
24 as follows:)
25

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1 THE COURT: Let the record reflect
2 that all parties in the trial are present and the
jury is
3 seated.

4 All right, Mr. Douglass.

5

6

7 CROSS EXAMINATION (RESUMED)

8

9 BY MR. PRESTON DOUGLASS:

10 Q. All right. Dr. Santos, with
respect

11 to the bruises, there was one bruise you noted that
said

12 could be greater than two days old; is that correct?

13 A. That's correct.

14 Q. It could be up to four days old;
is

15 that correct?

16 A. Anywhere greater than two days,
yes.

17 Q. It could have been four days old?

18 A. Could have been.

19 Q. And wouldn't it be highly unlikely
20 that you would get a blunt trauma injury that could
be

21 four days old on one arm and not get it at the same
time

22 as the other injuries?

23 A. I would think it would be
unlikely.

24 Q. So this one could be four days
old.

25 This one it is likely, was created at the same time;
is

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1 that right?

2 A. But it doesn't look as old as the
3 other one.

4 Q. Well, that's your opinion?

5 A. Yes.

6 Q. And reasonable minds can differ;
is

7 that right?

8 A. Correct.

9 Q. And you're not saying a
reasonable

10 medical probability that's your answer, that's just
11 saying that's what it seemed like?

12 A. Correct.

13 Q. But likewise, it's your same
opinion

14 that this one is two days old and you just told the
jury

15 it could be four days old?

16 A. Correct.

17 Q. All right. Now, talking about
bruises

18 and things, what everyone was dealing with, and what
the

19 notes refer to are wounds to the neck, a severe --

well,

20 a slash wound, a large slash wound to the neck, not
to

21 use other words.

22 A. Yes.

23 Q. And all of the records of the
nurses

24 that you see in the records seemed to be focused

upon and

25 dealing with how that neck wound -- and also the arm

1 wound are coming along; is that right?

2 A. Correct.

3 Q. All right. It doesn't say
anywhere

4 how her feet are doing, her knees are, her legs,
there's

5 just no reference that they're fine either, is
there?

6 A. Correct.

7 Q. I mean, there's nowhere to say,
we

8 didn't notice anything to an arm, or we didn't
notice

9 anything to a leg?

10 A. Well, but the focus notes, by
11 definition, are suppose to point out abnormalities,
not

12 comment on the norm.

13 Q. Okay. I understand that. But
isn't

14 it also true that with everybody busy and a number
of

15 patients, and in fairness to just the way things go,
that

16 there is things that are missed occasionally; is that

17 right?

18 A. Yes.

19 Q. Okay. Was Ms. Routier cooperative
20 with you?

21 A. Yes.

22 Q. Did she seem to appreciate what
you
23 did for her?

24 A. Yes. When I first spoke to her,
yes,
25 she did.

1 Q. She was anxious to get to the
funeral;

2 is that right?

3 A. Well, her husband was anxious.

4 Q. Well --

5 A. I don't know if she was.

6 Q. And families want to be together
7 during times of grief, you know that?

8 A. Certainly.

9 Q. Is there any question in your mind
10 that a person with a flat affect, that can be
synonymous

11 with depressed, could it not, Doctor?

12 A. It could, yes.

13 Q. Flat affect is a term of art, it
means

14 just kind of stone-faced; is that right?

15 A. Correct.

16 Q. And a stone-faced person could be
a

17 person you would not rule out as deeply depressed and
18 grieving?

19 A. Correct. You cannot rule that
out.

20 Q. So the fact that someone has a

flat

21 affect that person -- I mean, you can't make any
22 extrapolation from that, can you?

23 A. Right. You cannot.

24

25 MR. PRESTON DOUGLASS: Pass the

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1 witness, your Honor.

2 MR. TOBY L. SHOOK: Just a couple
of
3 questions, Judge.

4 THE COURT: Yes.

5

6

7

REDIRECT EXAMINATION

8

9 BY MR. TOBY L. SHOOK:

10 Q. As far as the two bruises, the one
on
11 the left, you say that might be a little older; is
that
12 right?

13 A. Correct.

14 Q. But this bruise on the right, the
one
15 we've talked at some length about, that is, in your
16 opinion, 24 to 48 hours?

17 A. Correct.

18 Q. Okay. And again, would you or the
19 nurses spotted this type of trauma if it had occurred
on
20 2:30 in the morning, June 6, 1996?

21 A. Yes, I believe we would.

22 Q. You never saw that type of injury

on

23 her right arm, did you?

24 A. No, I did not.

25 Q. And as far as the nurse's notes

go,

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1 those are focus notes that focus on what?

2 A. On things out of the abnormal, not
on
3 normal.

4 Q. These nurses in ICU are very
thorough,
5 aren't they?

6 A. Yes.

7 Q. They check for injuries and how
the
8 patient is doing; is that right?

9 A. Yes. That's their job.

10 Q. Okay. Now, as far as Demerol,
what is
11 Demerol?

12 A. Demerol is a narcotic that's
13 administered usually for pain relief.

14 Q. Okay. And you said that she was
given
15 that around 6:00 a.m., I think, or so?

16 A. Yes, sir, 6:00 o'clock, yes, sir.

17 Q. The first time she was given that
was
18 on June the 6th?

19 A. Correct.

20 Q. And how much was she given?

21 A. 25 milligrams.

22 Q. Okay. Is that a large or small
dose?

23 A. I would say on the average it's a
24 medium dose.

25 Q. Okay. And did the nurse
administer

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1 that?

2 A. Yes. The nurses administer all of
the
3 medications in the ICU.

4 Q. They're trained in that; is that
5 right?

6 A. Yes, they are.

7 Q. Now, Mr. Douglass has asked you a
8 number of questions about whether a person would be
9 groggy waking up from the anesthesia and also
getting

10 some Demerol. And you said, "Could be, maybe;" is
that
11 right?

12 A. Correct.

13 Q. Does it just depend on the
person?

14 A. It depends on specific -- how
your
15 metabolism will process medication, if you're ill,
older,
16 et cetera, et cetera.

17 Q. Some people might be groggy and
some
18 people might be very alert?

19 A. Correct.

20 Q. It just goes person by person
basis;

21 is that right?

22 A. Yes.

23 Q. Okay. Now, you didn't see her
there

24 at 6:00 a.m., did you?

25 A. No, I did not.

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1 Q. You didn't come until sometime
later

2 in the morning or so?

3 A. Approximately, I think it was in
the

4 afternoon actually when I saw her.

5 Q. Okay. And when you saw her, she
had

6 what you call flat affect?

7 A. Correct.

8 Q. Okay. But you didn't feel she
was

9 suffering from grogginess from drugs or anything,
did

10 you?

11 A. No, I did not.

12 Q. Okay. You've seen that many
times

13 before?

14 A. Yes.

15 Q. All right. Now, as far as memory
loss

16 goes, you say you have seen people that have had
some

17 trauma that had memory loss?

18 A. Yes.

19 Q. And usually what type of trauma
do
20 they have?
21 A. Usually it's the motor vehicle
22 collisions where they have a closed head injury.
23 Q. Okay. They smash their head real
24 hard?
25 A. Correct.

Sandra M. Halsey, CSR, Official Court Reporter

820

1 Q. Okay. And what type of memory
loss do

2 they have?

3 A. Usually what's called retrograde
4 amnesia, where they don't remember something that's
5 already happened. Usually they're in the hospital,
in

6 the ICU or emergency room and they have no idea how
they

7 got there. They were driving home and now they're
here.

8 They have retrograde amnesia for what happened, and
it's

9 that kind of event of amnesia that they don't
remember

10 what happened around that time.

11 Q. They just don't remember what
happened

12 or why they're there?

13 A. Correct.

14 Q. It's not selective amnesia, is
it?

15 A. No. Usually it's they block out
the

16 whole thing.

17 Q. Okay. You don't just pick one

part

18 out and can't remember that part, is it?

19 A. No, I have not seen that.

20 Q. They just don't remember what
happened

21 at all?

22 A. Correct.

23 Q. And that's usually a closed head

24 injury?

25 A. Usually, yes.

1 Q. Now, did you see any evidence on
Ms.

2 Routier of a closed head injury?

3 A. No, we did not.

4 Q. Okay. And the Xanax, what is
Xanax?

5 A. Xanax is an anti-anxiety drug
that can

6 be taken to help patients when they have anxiety
attacks.

7 Q. Does that mean like when they get
8 nervous and so forth?

9 A. Yes.

10 Q. And do you prescribe that in
these

11 type of situations?

12 A. No, I do not. I usually do not
13 prescribe this kind of medication. A lot of

patients --

14 the trauma patients, if they're anxious, usually
they

15 have a reason to be anxious, because they've been
16 injured, car wreck, they lost a car, lost a loved
one, et

17 cetera, et cetera, and I usually don't prescribe it.

18 Q. Now, in this case Ms. Routier did
get

19 some Xanax prescribed to her; is that right?

20 A. Yes, she did.

21 Q. And while she was in the hospital
some

22 was given to her; is that right?

23 A. I believe it was, yes.

24 Q. Do you recall when that entry
was?

25 A. I can look here. I believe she

1 received some that first day. Let me see if I can
find

2 that. I remember -- here it is. 6-6-96 at 16:45,
which

3 is 4:45 in the afternoon, she was given .25
milligrams of

4 Xanax, given by mouth, to decrease her
anxiety.

5 Q. Okay. So, on June 6,
1996, she's

6 given 2.5 --

7 A. No, .25 milligrams.

8 Q. .25 milligrams of Xanax for
anxiety?

9 A. Correct.

10 Q. In fact, that's how they
term it in

11 the list, anxiety. Right?

12 A. Correct.

13 Q. And can you tell the
jurors the entry

14 before that, on 6-6, what time is that entry
made?

15 A. 16:00, 4:00 o'clock in the
afternoon.

16 Q. Okay. And could you read
that entry,
17 please?

18 A. "Medical examiners and
Rowlett P.D.

19 officer here to photograph the wounds.

Procedures

20 explained to patient. The patient's husband
at bedside.

21 Evidence being collected from both husband
and patient."

22 Q. And that's at 6:00
o'clock?

23 A. Right.

24 Q. And then at 6:45 she needs
the Xanax
25 for anxiety?

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Reporter

1 A. Correct.

2 Q. Okay. Now, as far as what
you have

3 described as Ms. Routier, her reaction to the
loss of her

4 children, what you saw, and comparing that to
the other

5 mothers that you've seen, have you ever seen
a reaction

6 like that --

7

8 MR. JOHN HAGLER: Your
Honor, we've

9 been through this. We'll object, again,
repetitious and

10 leading.

11 MR. TOBY L. SHOOK: Well,
I think they

12 brought it up.

13 THE COURT: Hold on just a
minute.

14 I'll let him answer the question if he knows
the answer.

15 Go ahead.

16 THE WITNESS: I'm sorry,

repeat the

17 question, please.

18

19 BY MR. TOBY L. SHOOK:

20 Q. As far as this flat
affect, the way

21 Ms. Routier reacted to the loss of her
children, have you

22 ever seen that reaction in a mother before?

23 A. No, I have not.

24 Q. Okay. Doctor, let me show
you what's

25 been entered in for record purposes as
State's Exhibit

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Reporter

1 31-A, and let me draw your attention to the
upper

2 left-hand corner. Is that a reasonable
accurate

3 representation of how the wound, cross section of
the

4 wound of Ms. Routier's neck wound was?

5 A. Well, let me see. A close
6 representation, yes.

7 Q. Okay. And that's what we're
talking

8 about, the neck?

9 A. Yes.

10 Q. And again, State's Exhibit 31-B,
the

11 upper right-hand corner, is that also an accurate
12 representation of, I guess a cross-section you would
say

13 of the neck wound and the injury she received?

14 A. Yes. That's a good
representation.

15

16 MR. TOBY L. SHOOK: Then we'll
offer

17 State's Exhibit 31-A and 31-B for all purposes,

Judge.

18 THE COURT: Any objection?

19 MR. PRESTON DOUGLASS:

No.

20 THE COURT: State's

Exhibit 31-A and B

21 are admitted for all purposes.

22

23 (Whereupon, the items

24 Heretofore mentioned

25 Were received in

evidence

Reporter Sandra M. Halsey, CSR, Official Court

1 As State's Exhibit No.
31-A

2 and 31-B for all
purposes,

3 After which time, the
4 Proceedings were
resumed

5 As follows:)

6
7 MR. TOBY SHOOK:: That's all we
have,
8 Judge.

9 THE COURT: Mr. Douglass,
anything?

10 MR. PRESTON DOUGLASS: Yeah,
sure,
11 Judge, just a few questions.

12

13

14 RECROSS EXAMINATION

15

16 BY MR. PRESTON DOUGLASS:

17 Q. So, do I understand what you're
trying

18 to say, Dr. Santos, is that no one who is grieving
should

19 have moments of quietness, moments they feel
depressed or

20 moments they should be flat?

21 A. No, I did not say that.

22 Q. All right. And isn't it true
that an

23 hour ago or so, I pointed out to you notes of
nurses who

24 wrote down in their notes that they observed her
acting

25 just as you expected her to act; is that right?

1

2

MR. TOBY SHOOK:: Judge, we'll

object

3

to asked and answered.

4

THE COURT: Overruled. Go ahead

and

5

answer the question.

6

MR. PRESTON DOUGLASS: Thank

you,

7

Judge.

8

THE COURT: Let's get all of the

9

questions out and let's get them answered. This

10

gentlemen has to leave. All right.

11

MR. PRESTON DOUGLASS: Let me

reask

12

that.

13

14

BY MR. PRESTON DOUGLASS:

15

Q. The point is, there are at least

three

16

references in the notes where Mrs. Routier acted

just

17

like you would have expected her to act?

18

A. According to the nurses' notes,

yes.

19

Q. Well, you trust the nurses,

don't you?

20 A. Yes.

21 Q. So the fact that you saw her
three

22 times, but the nurses who were there with her and

23 watching her closely noticed she was frightened,

she was

24 tearful, she was anxious, she was emotional and

upset.

25 That's exactly what you expect, isn't it?

1 A. Yes.

2 Q. All right. And you're not
trying to

3 tell this jury that the three visits that you made
to her

4 is the sum total of this lady's reaction to this
trauma?

5 A. That was the sum total of my
6 impression

7 Q. It's based on three visits?

8 A. Correct.

9 Q. Duration of those visits,
Doctor?

10 A. Five to 10 minutes.

11 Q. Okay. So, the opinions you made
that

12 this lady doesn't act like any mother you have ever
seen

13 is based on 15 minutes of contact with this lady?

14 A. Approximately, yes.

15 Q. Okay. In fairness to this lady,
do

16 you think that's fair?

17

18 MR. TOBY SHOOK: Judge, I'll

object to

19 that, that calls for speculation.

20 THE COURT: I'll sustain that

21 objection. Go ahead.

22 MR. PRESTON DOUGLASS: I'm

sorry, that

23 should be sustained. I take that back, I

apologize.

24 They're telling me to stop.

I'll pass

25 the witness.

1 THE COURT: Thank you. Either
side

2 have any further questions?

3 MR. TOBY SHOOK: Nothing
further,

4 Judge.

5 THE COURT: Thank you very much,
6 Doctor.

7 MR. TOBY SHOOK: May this
witness be

8 excused?

9 THE COURT: Do both sides agree?

10 MR. DOUGLAS MULDER: Subject to
our
11 recall.

12 THE COURT: All right. Ladies
and

13 gentlemen, that will conclude the testimony for
today.

14 If everybody will please calm
down

15 over there, we will excuse you until
tomorrow morning at

16 9:00 o'clock. Regardless of what you
hear on the radio.

17 This court will be here tomorrow

morning at 9:00 o'clock.

18 Thank you very much. See you then.

19 All members of the

audience will just

20 sit tight or stand tight, please,

until the jury leaves

21 the Courthouse.

22

23

24 (Whereupon, the

jury

25 Was excused from

the

Sandra M. Halsey, CSR, Official
Court Reporter

1 Courtroom, and the
2 Proceedings were
held

3 In the presence of
the
4 Defendant, with
his

5 Attorney, but
outside

6 The presence of
jury

7 As follows:)

8
9 THE COURT: All right. Both
sides, by

10 agreement, Mr. Scott has a camera and wants to take
some

11 pictures. I'm going to let him up here, so if y'all
want

12 your picture taken, they're going to smile nice. As
soon

13 as they get out -- the jury clears, and the audience
14 clears, bring him up.

15

16 (Whereupon, the
17 proceedings were

18
day,
19
20
21
22
23
24
25

recessed for the

to be resumed the
following day,
January 9, 1997,
In open court, as
Follows:)

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, was the 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
363RD Judicial District

Court

Dallas County, Texas

22

Phone, (214) 653-

5893

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR,

Official Court

Reporter

831

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

15

16

17

18

19

MARK TOLLE, JUDGE

20

Criminal District Court Number 3

21

Dallas County, Texas

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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