

Thursday

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Sandra M. Halsey, CSR,
Official Court Reporter

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4 BE IT REMEMBERED THAT, on
Thursday, the 9th day of

5 January, 1997, in the Criminal
District Court Number 3 of

6 Dallas County, Texas, the above-
styled cause came on for

7 a hearing before the Hon. Mark
Tolle, Judge of the

8 Criminal District Court No. 3,
of Dallas County, Texas,

9 without a jury, and the
proceedings were held, in open

10 court, in the City of Kerrville,
Kerr County Courthouse,

11 Kerr County, Texas, and the
proceedings were had as

12 follows:

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Sandra M. Halsey, CSR,
Official Court Reporter

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A P P E A R

A N C E S

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5

HON. JOHN VANCE

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Criminal District Attorney

7

Dallas County, Texas

8

9

BY: HON. GREG DAVIS

10

Assistant

District Attorney

11

Dallas County,

Texas

12

13

AND:

14

HON. JOHN GRAU

15

Assistant

District Attorney

16

Dallas County,

Texas

17

18

AND:

19

HON. SHERRI

WALLACE

20

Assistant

1 ADDITIONAL APPEARANCES:

2

3 HON. DOUGLAS D.

MULDER

4 Attorney at Law

5 2650 Maxus Energy

Tower

6 717 N. Harwood

7 Dallas, TX 75201

8

9 AND: HON. CURTIS GLOVER

10 Attorney at Law

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12 717 N. Harwood

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15 AND: HON. RICHARD

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16 Attorney at

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19 Kerrville,

TX 78028

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22 Attorney at

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Sandra M. Halsey,
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1

2 AND: HON. JOHN

HAGLER

3 Attorney at

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4 901 Main Street, Suite 3601

5 Dallas, TX 75202

6 ALL ATTORNEYS REPRESENTING

THE

7 DEFENDANT: DARLIE ROUTIER

8 MR. HAGLER HANDLING THE

APPEAL

9 AND:

10 HON. ALBERT D. PATILLO, III

11 Attorney at Law

12 820 Main Street, Suite 211

13 Kerrville, TX 78028

14 APPEARING FOR: Witness-

15 Detective Jimmy

Patterson

16 only on one date in

trial

17 AND:

18 HON. STEVEN J. PICKELL

19 Attorney at Law

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Kerrville, TX 78028

22

APPEARING FOR: Witness

23

Officer Chris Frosch

24

only on one date in

trial

25

Reporter Sandra M. Halsey, CSR, Official Court

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G S
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following
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in
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presence
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attorneys
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of
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the
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P R O C E E D I N

January 9th, 1997
Thursday
8:30 a.m.

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

20 THE COURT: All right. Let the
record

21 reflect that these proceedings are being held
outside the

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

23 present.

24 MR. GREG DAVIS: It's my
understanding

25 that there is a gag order in this case and that this

1 applies to witnesses and potential witnesses.

2 THE COURT: That is correct.

3 MR. GREG DAVIS: My understanding
was

4 that yesterday, and also this morning, that
witnesses

5 that I would expect to be called by the defense,
since

6 they were sent out of the courtroom, when I asked
that

7 the rule be invoked as to all witnesses, that
those

8 witnesses have spoken with the press, after the
testimony

9 concluded yesterday.

10 Sarilda Routier and Darlie Kee
11 speaking about the testimony given by Dr. Santos, and
12 testimony presented by the State of Texas.

13 My understanding was that Darlie
Kee

14 in fact held a short news conference this morning
again,

15 discussing the nature of Dr. Santos's testimony, as
well

16 as a number of witnesses, and the types of testimony
that

17 the defense expected to present in this case.

18 Now, again, it was my

understanding

19 that we had a gag order. My recollection is that

Darlie

20 Kee, in fact, was warned by this Court in an earlier

21 hearing concerning the gag order. The Court made it

very

22 clear to her what that gag order meant to her.

23 MR. DOUGLAS MULDER: Well, Judge,

I

24 don't think --

25 THE COURT: Just a minute.

1 MR. DOUGLAS MULDER: Certainly no
one

2 is --

3 THE COURT: Just a minute.

4 Anything else?

5 MR. GREG DAVIS: And also, again,
I

6 just need some ground rules on our comments to the
media

7 too.

8 THE COURT: Well, both sides are
under

9 the gag order. If Ms. Kee has done this, we'll take
that

10 up.

11 MR. GREG DAVIS: Yes, sir. Just
in

12 particular, comments made by counsel to media after
the

13 conclusion of the testimony. I mean, if we're going
to

14 go into how the case is going, and what we feel about
the

15 testimony, then certainly the State would like to put
our

16 position out there every day too.

17 THE COURT: All right. Well, both
18 sides are instructed not to discuss the case until
it's
19 over. It's just that simple.

20 MR. DOUGLAS MULDER: Well,
Judge, we
21 understand that. But I think, as I read the
Court's
22 Order, and I won't refer to it as a gag order,
because
23 the Court doesn't refer to it as a gag order. But,
as I
24 understand the Court's order, anyone, including the
25 spectators here, are certainly free to comment on

1 anything that went on in Court. I mean, that's fair
2 game. And if they want to give their
interpretations, so
3 be it.

4 I mean, you know, I haven't come
in
5 here crying to anybody about anything. I'm probably
the
6 only one.

7 MR. RICHARD C. MOSTY: Well, for
8 instance, I saw Dr. Santos on TV giving an interview
9 myself.

10 MR. GREG DAVIS: Well, again, we
don't
11 have a problem -- if we're allowed to comment on the
12 case, then we're more than happy to do that. We
just
13 want to be on even footing here.

14 THE COURT: Well, you will be
able to
15 comment on the case and what goes on in the
courtroom
16 every day.

17 MR. GREG DAVIS: Okay. That's
fine.

18 THE COURT: That's fine there.

19 MR. GREG DAVIS: We'll do that
then.

20 THE COURT: We'll deal with Ms.
Kee

21 later.

22 MR. DOUGLAS MULDER: Judge, you
know,

23 she, likewise, is free to comment on anything that
goes

24 on in Court and give her interpretation. I'm sure
the

25 reporters ---

1 THE COURT: The Court is aware of
2 that. The Court will --

3 MR. DOUGLAS MULDER: Well, then I
4 needn't waste anymore time, Judge. We're ready to
go.

5 THE COURT: Who is your first
witness?

6 All right. Bring the jury in,
please.

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 MR. TOBY SHOOK: Judge, we will
call
19 Dr. Dillawn.
20 THE COURT: Good morning, ladies
and
21 gentlemen. Let the record reflect that all parties
in
22 the trial are present and the jury is seated.
23 Doctor, if you will raise your
right
24 hand, please.
25

Sandra M. Halsey, CSR, Official Court Reporter

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1 (Whereupon,
the
2 Witness was
duly
3 Sworn to
speak
4 The truth,
and
5 Nothing but
the
6 Truth, and
the
7
Proceedings were
8 Resumed on
the
9 Record, as
10 follows:

11
12 THE COURT: Do you solemnly
swear or
13 affirm that the testimony you are about to give
will be
14 the truth, the whole truth and nothing but the
truth, so
15 help you God.

16

THE WITNESS: I do.

17

THE COURT: Have a seat right

here,

18 please.

19

All right. Go ahead, please.

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1 Whereupon,

2

3

DOCTOR PATRICK DILLAWN,

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. Patrick Dillawn.

16 Q. And spell your last name for the
Court

17 Reporter.

18 A. D-I-L-L-A-W-N.

19 Q. Okay. And how are you employed,
sir?

20 A. I'm a resident at Baylor

University

21 Medical Center.

22 Q. Okay. And could you tell the
jury

23 what a resident is?

24 A. A resident is a physician in
training

25 between medical school and private practice.

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1 Q. Okay. Tell the jury -- where are
you

2 from originally?

3 A. I'm from Houston.

4 Q. Okay. Tell the jury your
educational

5 and professional training which allows you to hold a
6 position of a resident in training?

7 A. I did my undergraduate work at
the

8 University of Texas at Austin. And I went to
medical

9 school at the University of Texas at Houston,
graduated

10 in 1993 and subsequently entered my residence at
Baylor,

11 which I am continuing.

12 Q. How long have you been there
at

13 Baylor?

14 A. Three and a half years.

15 Q. Okay. And are you assigned to
a

16 particular section of the hospital?

17 A. We have different rotations of
the

18 hospital at Baylor and John Peter Smith Hospital.

19 Q. Currently where are you
located? What

20 section are you located in?

21 A. I'm currently a float
resident, which

22 means I cover people in between hospitals.

23 Q. Okay. Let me turn your
attention back

24 to June 6, 1996 and ask if you were working at
Baylor on
25 that day?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. I was.

2 Q. In the early morning hours?

3 A. Yes.

4 Q. And what part of the hospital
were you

5 working in on that particular day?

6 A. We were on call that day, and
we're

7 probably in the OR part of the time and the ER
part of

8 the time, working on the floors part of the time.

9 Q. Okay. And did you perform
surgeries

10 there at Baylor?

11 A. Yes.

12 Q. Okay. You were there with
other

13 doctors and supervising surgeons and things like
that?

14 A. Yes.

15 Q. Do you remember going to the
ER, oh,

16 around 3:30 in the morning that day?

17 A. I don't remember specifically
going.

18 I remember we were there.

19 Q. Okay. Were you there when
some

20 victims came in from a stabbing incident?

21 A. Yes.

22 Q. How many victims were coming
in there

23 at Baylor?

24 A. I think they initially
mentioned

25 possibly, two children and an adult, and one
child and an

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Reporter

1 adult eventually came in.

2 Q. Okay. Did they give you some
time

3 that y'all could get prepared for what was
coming?

4 A. No, they usually tell you we're
5 coming, and going to be 6 minutes out, 10 minutes
out. I

6 don't specifically remember how long they said.

7 Q. Okay. Did you have a lot of
doctors

8 down there at that particular time?

9 A. Yes. The ER physicians were
there and
10 our entire -- there were four people on our surgical
11 team, as well as Dr. Santos's staff, by chance,
happened

12 to be in the emergency room.

13 Q. Was Dr. Santos the supervising
14 physician there?

15 A. Yes.

16 Q. And about 3:30 or so did two
people

17 arrive, the stabbing victims arrive there in the
18 emergency room?

19 A. Yes, they did.

20 Q. Did you see one of them right
away?

21 A. Yes, I did.

22 Q. And where did you see that
person?

23 A. I saw them at Trauma Room One at
24 Baylor.

25 Q. Okay. And who was that?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. That was a young child.

2 Q. Okay. And what was his condition
when
3 you saw him?

4 A. He was in extremis, he was being
5 coded, which means they were performing CPR.

6 Q. How long were you in there?

7 A. Just a few minutes.

8 Q. Okay. While you were in there
was

9 he -- well, what was his condition?

10 A. He was basically, he was dead on
11 arrival.

12 Q. Okay. After you went in there,
what's
13 the next thing that you did?

14 A. It was me, Dr. Santos and Dr. Lee
that
15 initially went into his room, and we did the basic
16 resuscitation procedures. Instructed the nurse to
start

17 IVs and get the whole process moving. Put a monitor
on

18 him and continued the CPR. And he showed no signs
of

19 life and he was pronounced dead by Dr. Santos.

20 Q. Okay. So y'all did the best you
could

21 working on him?

22 A. Yes.

23 Q. But it was to no avail?

24 A. No.

25 Q. All right. After you did that,
what's

Sandra M. Halsey, CSR, Official Court Reporter

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1 the next thing that you did?

2 A. Well, we had the child, and he
was on
3 his back on a backboard, which they're usually
4 transported on. He was covered with blood and he
had an
5 endotracheal tube in his throat. And we -- once he
was

6 pronounced dead, we usually look for the cause of
the
7 injuries. And we rolled him over and we saw multiple
8 stab wounds on his back.

9 Q. All right.

10

11 MR. TOBY L. SHOOK: May I approach
the
12 witness?

13 THE COURT: You may.

14

15 BY MR. TOBY L. SHOOK:

16 Q. Now, let me show you what's been
17 entered into evidence as State's Exhibits 52-J and
52-K.

18 Are those the photographs of the boy that you
treated?

19 A. Yes, they are.

20 Q. Okay. 52-J, is that a
photograph of

21 him as he appeared on his back?

22 A. Yes, sir.

23 Q. And then as you rolled him over,
are

24 these the stab wounds that you saw?

25 A. Yes, they are.

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1 Q. Okay. Let me let you look at
State's

2 Exhibits 53-C. Do you recognize those as being
copies of

3 Baylor Medical records of Darlie Routier?

4 A. Yes, I do.

5 Q. Okay. Did you, after leaving the
boy

6 did you go to another room to treat the other
stabbing

7 patient?

8 A. Yes, I did.

9 Q. And who was that patient?

10 A. That was Mrs. Routier.

11 Q. Okay. Do you see her here in the
12 courtroom today?

13 A. Yes, I do.

14 Q. Could you point her out, please.

15 A. She's sitting right there.

16 Q. Okay. That woman over here in the
17 green plaid dress?

18 A. Yes.

19 Q. Okay.

20

21 MR. TOBY SHOOK: Your Honor, if
the

22 record could reflect that the witness has identified
the
23 defendant.

24 THE COURT: Yes, sir.
25

Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. TOBY L. SHOOK:

2 Q. What was going on with Mrs.

Routier

3 when you entered the room?

4 A. Well, she had arrived

approximately

5 the same time as the boy, and two of the lower -- I
was

6 the more senior resident. Two of the lower level

7 residents had gone into the room to help her. And
when I

8 came in the resuscitation process was on-going. And
at

9 my initial examination she was covered with blood.
She

10 appeared to have a stab wound on her neck, which was,
11 either she or one of the techs was holding pressure
on it

12 with a gauze bandage.

13 Her vital signs were stable. She
was

14 awake and alert and responsive. She did not state
she

15 had lost consciousness. And, she appeared to have

16 another stab wound on her left shoulder and her
right

17 arm.

18 Q. Okay. You make an assessment
there

19 when you first see them in the emergency room; is
that

20 right?

21 A. Yes, we do.

22 Q. Now when you say she was alert
and

23 conscious, did she seem to be aware of everything
going

24 on around her?

25 A. Yes, she did.

1 Q. Okay. And do y'all typically ask
2 questions about being alert and conscious?

3 A. Yes, we do. It's part of our
primary
4 survey.

5 Q. Okay. And you specifically
inquired
6 as to whether she had lost consciousness?

7 A. Yes, I did.

8 Q. And what was her response?

9 A. No.

10 Q. All right. And where was this
wound
11 on the neck?

12 A. It was across the midline,
13 approximately going to the right, approximately 10
14 centimeters.

15 Q. Someone was holding pressure on
that;

16 is that right?

17 A. Yes.

18 Q. Okay. Did you ask her anything
else?

19 Did you ask her how she got that wound?

20 A. Yes, I did.

21 Q. What did you say to her?

22 A. I don't specifically remember the
23 exact words, but I asked her how the wounds occurred.

We

24 have to know if they were a knife, scissors, a gun.

She

25 said she was stabbed.

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1 Q. Okay. Did she say who stabbed
her?

2 A. Yes, she did.

3 Q. Okay. Who did she say stabbed
her?

4 A. She said it was a white male.

5 Q. Okay. Did she say what he looked
6 like, anything like that?

7 A. She gave a very limited
description of

8 a man in a baseball cap. And she told me she only
saw

9 him from the back.

10 Q. Only saw him from the back?

11 A. Yes, sir.

12 Q. Okay. How long was she there in
the
13 emergency room?

14 A. I know this from the record, she
was
15 there for 13 minutes.

16 Q. Okay. Pretty quick time?

17 A. That's a very fast time.

18 Q. All right. Now, someone with a
neck

19 injury like she had, in that area of the neck, what

is

20 that called? What area of the neck do y'all refer

to

21 that as?

22 A. We divide the neck into three

zones,

23 and that is how we manage them, and that is what we

call

24 a zone two injury.

25 Q. Okay. And how do you manage a

zone

1 two injury?

2 A. It's just -- these kinds of
injuries

3 are divided up, either for penetrating injuries,
either

4 by a stab wound or a gunshot wound. And, there's a
--

5 you can either manage them selectively or go to the
6 operating room. You can do studies or go to the
7 operating room.

8 It's sort of a clinical
judgment, of

9 what we do. And we base criterion if they've
penetrated

10 a muscle called the platysma, which is below the
skin.

11 And in her case the wound was clearly through the
12 platysma on superficial examination. And that's as
far

13 as you want to go.

14 Q. Okay. And why is that?

15 A. Because you might disrupt a
blood clot

16 that's tamponading a vessel, which means it's
keeping it

17 from bleeding. And you could make a patient worse

18 with -- in an uncontrolled situation outside the
19 operating room.

20 Q. So the best way to control that
is to

21 take her into the operating room and do some
exploratory

22 surgery?

23 A. Yes. Take her to the operating
room

24 and see if she has anything significant injured.

25 Q. Okay. And is that what y'all
did at

1 that time?

2 A. That's what we did.

3 Q. Okay. Did you participate in
the
4 surgery?

5 A. Yes, I did.

6 Q. Okay. And can you describe that
7 surgery to the jury, please?

8 A. Well, when she was obviously put
to

9 sleep and prepped with sterile solutions, the
incision

10 that we typically make is along the edge of the
11 sternomastoid muscle, which is this muscle in your
neck

12 if you turn it to the side. Her incision was
basically

13 made already.

14 So what we did is we undermined
the

15 skin a little bit to expose it and retracted the
skin

16 back and just looked and ligated the vessels that
were

17 bleeding. And looked for --

18 Q. What does that mean?

19 A. That means tying them off, to
stop

20 them from bleeding with a suture.

21 Q. Okay. And then what? What's the
next

22 thing you saw?

23 A. Well, when we looked at her we
saw

24 several very small veins bleeding, which we tied
off.

25 And these -- the veins in the neck are close to the

1 internal jugular vein, which is a large vein, so
they
2 were bleeding. And once we stopped those, the wound
was
3 what we call hemostatic, the bleeding had stopped.
And
4 then we just irrigated it and looked around for
anything
5 that looked suspicious, for a major vessel injury,
an
6 injury to the windpipe, injury to the esophagus, and
we
7 didn't see anything.

8 Q. All right. About how long was
this
9 wound?

10 A. It was about 10 centimeters
11 approximately.

12 Q. Now, did you get out and measure
it
13 yourself with a ruler?

14 A. No, I didn't. I estimate the
length
15 of wounds.

16 Q. And did you measure the depth of

the

17 wound at all or was it an estimation?

18 A. Well, I usually don't measure the
19 depth. We don't think in those terms. I would
call it a

20 superficial wound.

21 Q. Okay. And what do you mean by a
22 superficial wound?

23 A. I mean by a superficial wound
that it

24 did not penetrate any of the deeper structures,

you'd

25 call a deep wound would penetrate the muscles, the

1 vessels. It just penetrated basically the skin and
the
2 subcutaneous tissue, which is what we refer to as
the
3 fat, underlying the skin. And there's a muscle in
the
4 subcutaneous tissue in that area of the neck called
the
5 platysma, which it also penetrated. That was the
extent
6 of the injury.

7 Q. So it cut through the skin, the
fat
8 and then what y'all call the platysma?

9 A. Platysma, yes.

10 Q. Which is located in the --

11 A. In the subcutaneous
fat.

12 Q. Which is the fat.
Right?

13 A. Yes, sir.

14 Q. Okay. Did you see any other
injuries

15 on her, and treat other injuries while she was being
16 operated on?

17 A. I didn't specifically -- the
other
18 residents sewed up the wounds on her shoulder and her
19 arm, they were irrigating the wound.

20 Q. Where was the wound on her
shoulder?

21 A. The wound on her shoulder overlaid
the
22 top of her humerus, the bone here. And it was also a
23 superficial wound, it was just closed with sutures.

24 Q. Okay. Just closed it with
sutures?

25 A. Yes.

1 Q. And, was there another wound on
her

2 right arm?

3 A. There was a wound on her right arm
on

4 the -- what we call the dorsal aspect, about right
here.

5 And it was approximately an inch long. It was also
6 superficial. It was down to the bone in that point.

But

7 the bone at that point is very superficial in the
arm.

8 And these wounds did not approach any dangerous
9 structures.

10 Q. Let me show you what's been marked
as

11 State's Exhibit 28-B.

12

13 MR. TOBY L. SHOOK: Could we have
the

14 doctor step down?

15 THE COURT: Yes. Please step
down,

16 Doctor.

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 MR. TOBY L. SHOOK: I'll

caution you

Sandra M. Halsey, CSR, Official Court

Reporter

1 to keep your voice up.

2 THE WITNESS: Okay.

3

4 BY MR. TOBY L. SHOOK:

5 Q. If you'll step back so all the
jurors

6 can see.

7 A. Okay.

8 Q. Looking at State's Exhibit 28-
B, do we

9 see the two wounds you treated on the neck and
shoulder?

10 A. Yes.

11 Q. And if you would just point
those out

12 to the jury.

13 A. This is the neck wound that we
14 explored right here. And this is the shoulder
wound

15 which we closed primarily.

16 Q. Just cleaned it out and sewed
it up?

17 A. Yes.

18 Q. Then 28-A, is this the wound
here on

19 the right forearm?

20

A. Yes.

21

Q. Again, was that just cleaned

and then

22 sewn up?

23

A. Yes, sir.

24

Q. You say it went to the bone?

25

A. Yes. On this part of the

forearm

Reporter Sandra M. Halsey, CSR, Official Court

1 there's a -- the bone is not very far under the
skin.

2 Q. Okay.

3 A. And it went through the
muscle, to the

4 bone, but there was no fracture. There was no
fracture.

5 Q. So the bone is very close to
the skin

6 here?

7 A. Relatively close, yes.

8 Q. So, we see another wound here,
just

9 above that wound. Was that also present?

10 A. Yes, it was. That was simply
a

11 superficial abrasion which we did nothing about.

12 Q. Okay. All right.

13

14 MR. TOBY L. SHOOK: Go ahead
and have

15 a seat.

16

17 (Whereupon, the witness

18 Resumed the witness

19 Stand, and the
20 Proceedings were resumed
21 On the record, as
22 Follows:)

23

24 BY MR. TOBY L. SHOOK:

25 Q. Do you recall approximately
how long

Reporter Sandra M. Halsey, CSR, Official Court

1 this entire process took place, the operation
itself?

2 A. It took approximately 45
minutes.

3 Q. Okay. And then what was done with
Ms.

4 Routier after that operation. Where did she go?

5 A. She was awakened from anesthesia
and

6 transported to the intensive care unit.

7 Q. Did you go visit her later that
day to

8 check up on her, see how she was doing?

9 A. Yes, I did.

10 Q. Okay. And where was she located
when

11 you did that?

12 A. She was in the intensive care
unit.

13 Q. Okay. How was she doing then?

14 A. She was doing very well,
medically.

15 Q. Okay. When you saw her was she
--

16 well, what was her mental condition? Was she awake
and

17 alert?

18 A. Yes, she was.

19 Q. Suffering from the after effects
of

20 the anesthesia in anyway?

21 A. Not that I can tell. She was
doing

22 very well. She was awake and alert, very
appropriate.

23 Q. Okay. You've seen patients that
24 suffer from grogginess from that, haven't you?

25 A. Yes.

1 Q. Okay. You didn't see any signs
of
2 that in her?

3 A. No, sir.

4 Q. Okay. I guess being a physician
you
5 are familiar with people that are in shock; is that
6 right?

7 A. Yes, I am.

8 Q. Okay.

9 A. In medical shock or --

10 Q. Well, I guess both. Are there
11 different kinds of shock?

12 A. Well, what I would term as shock
is
13 somebody who has a low blood pressure.

14 Q. Okay. And is that medical shock
we're
15 talking about?

16 A. Yes.

17 Q. Was she suffering from that?

18 A. No. Not at anytime during her
19 hospitalization was she in shock.

20 Q. Okay. And as you stated, I
guess, she

21 seemed alert?

22 A. Yes.

23 Q. Answered your questions?

24 A. Yes.

25 Q. Okay. Now, she was in the ICU;
is

Sandra M. Halsey, CSR, Official Court Reporter

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1 that right?

2 A. Yes, she was.

3 Q. Okay. What kinds of patients
are

4 usually there in the ICU?

5 A. Well, the ICU has a nurse to
patient

6 ratio that's less than a floor, which is usually
either

7 one to one or two to one. One nurse has one to two

8 patients. And there are specific monitors we have
for

9 patients, a heart monitor, an oxygen monitor.

10 And we can also place some
invasive

11 monitors which we can't on the floor. It's just for
more

12 ill patients than are on the floor.

13 Q. Okay. Was Darlie Routier
critically

14 ill at that point?

15 A. No, she wasn't.

16 Q. Okay. You say this neck wound was
--

17 you describe it as being superficial; is that right?

18 A. Yes, it was.

19 Q. Okay. If this incident had
happened,

20 let's say in a household accident, the same type of
cut,

21 would she have stayed there in the hospital?

22 A. In my opinion, we could have
watched

23 her for 24 hours and discharged her home.

24 Q. Okay. And done that just as a
25 precaution?

18 concussion. A very severe closed head injury would
be

19 somebody in a coma. And then it's just graded from
--

20 it's a very large scale, from mild to very severe.

21 Q. Okay. You didn't see any
evidence of

22 closed head injury at all?

23 A. None at all.

24 Q. Okay. When you went to check on
her,
25 did you -- were you aware, for some reason, of her -
- or

1 did you take note of her emotional makeup, how she
was

2 acting that way?

3 A. Yes, I did.

4 Q. Okay. And, what were you
expecting

5 when you went to check on her?

6 A. Well, in a situation where a
person

7 has lost a very close family member, especially a
spouse,

8 or a mother has lost a child, you really don't know
what

9 to expect. You expect somebody who is in very deep
10 grief. And it's something you have to be very
careful of

11 when you talk to somebody, and you need to be very
12 sensitive.

13 Q. Okay. Describe Ms. Routier's
14 emotional condition.

15 A. When I initially saw her she was
16 surrounded by family members. There were many
policemen

17 around the intensive care unit. And initially she
was a

18 little bit agitated about what the policemen were
doing

19 and why they wanted to photograph her, photograph
her

20 wounds.

21 Q. Okay.

22 A. She did not seem particularly
upset

23 other than that.

24 Q. Okay. Did you ever see tears
25 streaming down her face?

1 A. At the end of my visit she did
cry a
2 little bit. She had a photograph of her children in
her
3 hand. And then she cried a little bit.

4 Q. Okay. Did you see her the next
day
5 also?

6 A. Yes, I did.

7 Q. In fact, do you recall when she
was
8 discharged?

9 A. Yes, I do.

10 Q. When was that?

11 A. That was on June 8th, two days
after
12 admission.

13 Q. Okay. Did you see her every day?

14 A. Yes, I did.

15 Q. Okay. Check on her wounds every
day?

16 A. Yes, I did.

17 Q. Okay. What about the next day,
the

18 7th. Was she crying that day when you saw her?

19 A. No, she was not.

20 Q. What was her emotional condition
at

21 that time?

22 A. She seemed fine.

23 Q. Okay. Did you check her over
before

24 she was released, discharged?

25 A. Yes, I did.

1 Q. Did you talk to her at that time?

2 A. Yes, I did.

3 Q. Okay. Did she talk to you about
4 anything that the police had asked her?

5 A. Yes, she did. I can't remember
the
6 specific details, but it concerned a knife, which she
was
7 attempting to explain, I would assume, some piece of
8 evidence that she had been confronted with. And she
was
9 trying to explain to me how she -- this knife was --
10 somehow she could explain the reason it had something
on
11 it. I don't remember the specific details, but it
was
12 about a knife.

13 Q. Okay.

14 A. And I told her I just really
didn't
15 want to hear about those things.

16 Q. Okay. You were there to check
her
17 physical condition?

18 A. Her medical condition, yes.

19 Q. Medical condition. Okay. Let me

ask

20 you, when you're checking her, are you checking her
21 wounds, checking her overall physical condition?

22 A. Yes.

23 Q. Okay. Now she had the wound to
her

24 neck, her shoulder and this wound to the right arm;

is

25 that right?

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1 A. Yes, she did.

2 Q. Okay. Now, let me show you
what's

3 been marked as State's Exhibit 52-A. Do you
recognize

4 that as a photograph of Ms. Routier?

5 A. Yes.

6 Q. Do you see her right arm there and
the

7 bruising on her right arm?

8 A. Yes.

9 Q. What type of injury is that?
What's

10 that called?

11 A. That's what we would term
medically a

12 hematoma. It's a large bruise.

13 Q. Okay. And how are those caused?
In

14 particular, that type of bruise?

15 A. This type of bruising, if I just
saw

16 it, I would think that it was caused by a very heavy
17 blunt injury.

18 Q. Okay. And explain to the jury

what a

19 blunt injury is.

20 A. We say blunt, as in not something
21 sharp, striking your hand against a door, being in a
car

22 wreck and hitting the steering wheel, something in
that

23 nature.

24 Q. Is that pretty severe blunt
trauma?

25 A. This is a fairly severe blunt
trauma,

1 yes.

2 Q. Okay.

3 A. This is something that we -- if I
saw

4 it on somebody's arm I would probably want to x-ray
their

5 arm.

6 Q. Okay. At any time during your
7 examination of Darlie Routier, did you ever see that
type

8 of injury to her right arm?

9 A. No.

10 Q. Okay. And is that something that
you

11 look for in your examination of her?

12 A. Yes.

13 Q. Okay. Any time on the 6th, did
you

14 see any evidence of that type of injury to her right
arm?

15 A. None at all.

16 Q. The 7th?

17 A. No.

18 Q. The 8th?

19 A. No.

20 Q. Okay. Now, if that injury, that

blunt

21 trauma, had occurred on June 6th, about 2:30 in the
22 morning, 1996, would you have seen evidence of that
23 injury on her right arm, Doctor?

24 A. In my opinion, yes. This is a lot
of
25 blood, yes.

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1 Q. Okay. You saw no evidence of that
2 injury whatsoever?

3 A. No.

4 Q. Okay. That's not something that
would

5 be caused by an IV or anything, would it?

6 A. No. I've never seen such a severe
7 hematoma caused by an intravenous line.

8 Q. Okay. Let me show you some other
9 photographs marked 52-G, 52-H and 52-F. And let me
ask

10 you if you can recognize those photos.

11 A. These appear to be Mrs. Routier in
the

12 intensive care unit. And they're photographs of her
neck

13 wound and her arm wounds.

14 Q. Okay. On the right arm there, did
you

15 see any evidence of the --

16

17 THE COURT: Just a minute, please.

18 Please confer in silence. Please. Thank you.

19 Go ahead.

20 MR. DOUGLAS MULDER: Judge, excuse

me,

21 but I'm not able to confer in silence.

22 THE COURT: Well, I mean, keep

your

23 voices down. We hear too much when you speak to

each

24 other. I don't mind you speaking, but let's keep

the

25 voices down.

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Reporter

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1 MR. DOUGLAS MULDER: Well,
we're doing

2 the best we can.

3 THE COURT: Do better. Thank
you.

4 Go ahead.

5 MR. TOBY L. SHOOK: Judge, can
I have

6 the witness step down, please?

7 THE COURT: Yes. Please step
down.

8

9 (Whereupon, the witness
10 Stepped down from the
11 Witness stand, and
12 Approached the jury rail
13 And the proceedings were
14 Resumed as follows:)

15

16 BY MR. TOBY L. SHOOK:

17 Q. Doctor, again, let me caution
you to

18 keep your voice up.

19 A. Okay.

20 Q. 52-G, is that a photograph
that we can

21 see of Ms. Routier's right arm?

22 A. Yes.

23 Q. Okay. And if you could just
watch

24 your shoulder here, if you can keep it down,

because we

25 have jurors -- in fact, I'll just get you to go
along the

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Reporter

1 jury rail in a moment. But the blood we see
here, is

2 that from an injury, abrasions that were on the
arm?

3 A. No, that looks like dried blood.
Just

4 blood dries and it is hard to wash off. She does
not

5 look like she's been cleaned.

6 Q. Okay. And holding 52-F also, is
that

7 another photograph of the arm?

8 A. Yes. This is the same arm,
different

9 aspect.

10 Q. Okay. If you had seen evidence
of
11 this blunt -- if she had had blunt trauma on the 6th
of

12 June, would you have seen it somewhere here in the
ICU on

13 her arm?

14 A. From what I saw in the
photograph, I

15 think we would be able to see it on this part of the

arm

16 right here.

17 Q. Okay. If you could just start at
that

18 end of the jury and show them.

19 A. Did they see this other bruise?

20 Q. We'll go over that in a minute,
after

21 you finish that.

22 A. All this on here is dried blood
from

23 either her neck wound or the wound here.

24 Q. And if you could show 32-A.

25 A. Okay.

1 Q. You saw no evidence of that type
of
2 injury whatsoever?

3 A. No, none at all.

4
5 MR. TOBY L. SHOOK: Okay. You
can
6 have your seat.

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 MR. TOBY L. SHOOK: Judge, that's
all
16 the questions we have. I'll pass the witness.

17 THE COURT: Mr. Douglass.

18 MR. PRESTON DOUGLASS: Yes, sir.

19 THE COURT: All right.

20

21

22 CROSS EXAMINATION

23

24 BY MR. PRESTON DOUGLASS:

25 Q. Dr. Dillawn, I just want to go
through

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1 a few things with you.

2 I was corrected yesterday and was
told

3 that you did a lot of the dictation that goes in
these

4 records; is that right?

5 A. Yes, I did.

6 Q. All right. Did you review your
7 discharge summary that you dictated and that Dr.

Santos

8 approved?

9 A. Yes, I did.

10 Q. And, you characterized the wound
to

11 Ms. Routier's neck as a large slash wound; is that
right?

12 A. Yes.

13 Q. And, if it was previously
testified

14 that this slash wound penetrated the platysma muscle,
and

15 was previously testified by a medical expert that it
16 reached to two millimeters of the carotid artery, you
17 wouldn't disagree with that expert, would you?

18 A. What I saw in the operation was
the --

19 I saw a very small portion of carotid sheath.

20 Q. That was nicked?

21 A. No.

22 Q. But you saw the sheath?

23 A. I saw the sheath.

24 Q. The carotid sheath?

25 A. Yes.

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1 Q. The point is, if it has been
2 previously -- you wouldn't quarrel with anything Dr.
3 Santos says, would you?

4 A. I couldn't understand you.

5 Q. You wouldn't quarrel or disagree
with

6 any of Dr. Santos's observations, would you?

7

8 MR. TOBY L. SHOOK: Judge, I'll
object

9 to that. It's going into comparison of testimony.

10 THE COURT: Sustained.

11

12 BY MR. PRESTON DOUGLASS:

13 Q. Well, if there's been previous
14 testimony that the --

15

16 MR. TOBY L. SHOOK: Again, same
17 objection.

18 THE COURT: Well --

19

20 BY MR. PRESTON DOUGLASS:

21 Q. Is Dr. Santos more experienced or
less

22 experienced than you?

23

A. Dr. Santos is more experienced.

24

Q. Okay. If he made an approximation

to

25 the jury of the length of the --

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1 MR. TOBY L. SHOOK: Judge --

2 MR. PRESTON DOUGLASS: I can ask
this

3 question, your Honor.

4 MR. TOBY L. SHOOK: I'm objecting
to

5 it as comparison of the testimony.

6 THE COURT: Let's hear the
question

7 first.

8 MR. PRESTON DOUGLASS: He's an
expert

9 witness, your Honor.

10 THE COURT: I understand. Let's
hear

11 the question.

12

13 BY MR. PRESTON DOUGLASS:

14 Q. If he -- you wouldn't quarrel with
any

15 measurements that he gave this jury, would you?

16

17 MR. TOBY L. SHOOK: Again, I'll
object

18 to comparison of testimony. He doesn't know --

19 MR. PRESTON DOUGLASS: I didn't --

20

MR. TOBY L. SHOOK: -- what --

21

MR. PRESTON DOUGLASS: If I might

22 respond.

23

I did not give a comparison. I

just

24 asked if he would quarrel with his attending

physician.

25

THE COURT: I understand the

question.

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1 If that question is asked, it will be permitted. Go
2 ahead.

3

4 BY MR. PRESTON DOUGLASS:

5 Q. You wouldn't quarrel with anything
Dr.

6 Santos told this jury relating to the carotid artery,
the

7 carotid sheath or distance of the wound?

8

9 MR. TOBY L. SHOOK: Judge, we have
to

10 object because the witness does not know what Dr.
Santos

11 said to this jury.

12 MR. PRESTON DOUGLASS: I said --

13 MR. TOBY L. SHOOK: That's a

14 comparison of testimony.

15 THE COURT: Sustained.

16 Let's get on with the next
question.

17 You can rephrase your question, please.

18

19 BY MR. PRESTON DOUGLASS:

20 Q. All right. In your opinion, the
21 carotid sheath, would you agree that is approximately

two

22 to three millimeters in thickness?

23 A. Approximately, right.

24 Q. And if the carotid sheath is cut

into

25 and you sever the carotid artery, what happens?

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1 A. You bleed.

2 Q. Bleed?

3 A. Well, it depends on how much of
the --

4 I mean, you could get a laceration of the carotid
artery

5 that could spontaneously stop.

6 Q. Okay. Then if you sever the
internal

7 jugular vein, you're going to say that that could
just

8 stop?

9 A. If there's enough muscular tissue
10 overlying it, yes, it could stop.

11 Q. It could just stop. So someone
could

12 have a severed internal jugular vein, you're telling
this

13 jury that they could just walk around and it could
just

14 stop bleeding and everything would be fine and they
15 continue on? Is that what you're trying to tell this
16 jury?

17 A. That is possible. If you have a
18 gunshot wound to the internal jugular vein --

19 Q. No, I'm --

20 A. And that vein is covered by some
21 structure, any structure. Any structure that can
apply

22 pressure on it, it can stop. If you have an injury
where

23 the wound is completely open, there's nothing to
tampon

24 on it, it will not stop.

25 Q. But your testimony is that people

more

19 serious than the jugular vein.

20 Q. Okay. Would it be a serious
wound?

21 A. Yes.

22 Q. All right. When you visited Ms.

23 Routier, how many times did you go to see her in the

24 hospital over those, what, three days?

25 A. I saw her twice. I saw her in the

1 operating room on the 6th. I saw her later that day
in

2 ICU. And I saw her once a day on the following days.

3 Q. So how many times total?

4 A. I guess five.

5 Q. Okay. And, did you make notes of
6 every time you saw her?

7 A. I made one note a day, besides the
8 operative note.

9 Q. Okay. And, did you have a chance
to
10 read through your notes in terms of what nurses said
with

11 respect to Mrs. Routier?

12 A. I did not read the nurses' notes.

13 Q. Would it surprise you that when
you

14 talk about her reaction, that there are notes and
15 references in the medical records that you can
refer to

16 that at various times over those three day periods,
she

17 was tearful, she was frightened, she was very
upset,

18 crying, anxious about the events that had taken

place,

19 and that nurses noted that and they put it in their
20 notes?

21 A. Are you asking if that would
surprise

22 me?

23 Q. Yes.

24 A. No, it would not surprise me.

25 Q. And you certainly would rely on
what

1 those nurses said because they're with her a lot, are
2 they not?

3 A. Yes, they are.

4 Q. Okay. But -- Doctor, how old are
you?

5 A. 30.

6 Q. And, you and I are about the same
age.

7 Do you have children?

8 A. No, I don't.

9 Q. Have you ever lost a little niece
or
10 nephew?

11 A. No.

12 Q. Maybe had a next door neighbor who
had
13 a child that you kind of got to know, and played with
14 this child, and that child died?

15 A. No.

16 Q. You're not here to tell this jury
that

17 you feel that there is a one singular, appropriate
way to

18 relate to a tragic loss, are you?

19 A. Not one singular, appropriate way,

no.

20 Q. And, is it true that the
description

21 of a flat affect can relate to a depressed person,
22 someone who is deeply depressed?

23 A. Possibly.

24 Q. Isn't it also true that people can
25 gain a great deal of strength from family members?

1 A. Yes.

2 Q. And isn't it true that there's
lots of
3 records that show that the family was very supportive
and
4 was present by Darlie's side while she was
recovering?

5 A. Yes.

6 Q. Now, I want to talk to you a
little
7 bit about the term superficial. In laymen's terms,
8 people think of superficial, they think of a scratch
or a
9 cut or a flesh wound. Would you agree with me?

10 A. I'm not a layman. I think of it
in a
11 different way.

12 Q. Well, all right. And that's the
whole
13 point. You think of superficial in a different way;
is
14 that right?

15 A. Yes.

16 Q. If these people are laymen that
are on

17 the jury, they may think of the word superficial
18 different from the way you think of superficial; is
that
19 right?

20 A. Well, they might.

21 Q. Okay. What I mean by that is,
22 superficial is, in effect, in many ways to a
medically
23 trained professional, a term of art meaning that a
cut
24 was superficial to a structure, meaning it came to a
25 structure but it didn't nick or cut the structure; is

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1 that right?

2 A. Did you say term of art?

3 Q. Well, it's a medical term in some
4 respects. When you say, is it not true, Doctor, when
you

5 say it's superficial to the platysma, or superficial
to

6 the carotid sheath, that it nicked it and did not
totally

7 obstruct it?

8 A. That's a different use of the word
9 superficial. When you describe a superficial wound
it

10 means that it was superficial and not deep. You
weren't

11 describing it in relation to any structure, you're
12 describing it in relation to the wound itself.

13 Q. Okay.

14 A. You know, you could say that the
15 coronary artery is superficial to the heart, but
they're

16 both deep.

17 Q. That's my point. That's my
point.

18 And let me ask you this: If in laymen's terms, as

just

19 us laymen would say, it's not normal to have to have

an

20 hour and 15 minutes under general anesthetic for a

wound.

21 That's considered surgery. Right?

22 A. That's surgery. Yes.

23 Q. And it's not normal to have to

have

24 sutures underneath your structure and around the

platysma

25 muscle and then sutures to close up a wound and have

a

1 scar that will last the rest of your life that is
four

2 inches long. That's not normal, is it?

3 A. Normal as compared to what?

4 Q. Well, most people don't end up
having

5 a cut, and as a result of that cut, they have an hour
and

6 15 minutes of surgery and a four inch scar?

7 A. The reason she went to surgery is
8 because of the location of the wound.

9 Q. Right. I understand that. But
she

10 still, nevertheless required suturing; is that right?

11 A. Yes.

12 Q. She had a diagnosis from Dr.
Santos of

13 post trauma anemia. And that's from a severe loss of
14 blood. Right?

15 A. I would say a mild loss of blood,
16 moderate.

17 Q. Let me ask you something, Doctor,
when

18 did you get here?

19 A. About 8:00 o'clock.

20 Q. In Kerrville?

21 A. In Kerrville, I arrived here

Monday

22 night.

23 Q. All right. And, did you confer

with

24 Mr. Shook following Dr. Santos's testimony last

night?

25 A. Mr. Shook?

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1 Q. This man.

2 A. Yes, I did.

3 Q. You conferred with him about your
4 testimony last night?

5 A. I spoke to him over the phone.

6 Q. Okay. When was the last time she
was
7 given an anesthetic?

8 A. Ms. Routier?

9 Q. Yes.

10 A. I have no idea.

11 Q. Can you refer to your notes?

12 A. Well --

13 Q. Let me ask you this. If it was
14 previously testified at 5:00 AM, would you disagree
with
15 that?

16 A. 5:00 AM on the day of the, of the
--
17 on June the 6th?

18 Q. Right. If anesthesia was
terminated

19 at 5:00 AM on June the 6th, would you disagree with
that?

20 A. I would have to see the records.

21 Q. Okay. You might be able to find
the

22 anesthesia report quicker than me. Is that it?

23 A. Um-hum. (Witness nodding head
24 affirmatively). It was about 5:00 AM when we stopped
25 monitoring her.

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1 Q. When you say stopped monitoring,
that
2 means, that's when whatever medication is causing her
to
3 be under general anesthetic, that's when it is
4 terminated?

5 A. They allow patients to emerge from
6 anesthesia, and that must have been when they
transported
7 her out of the operating room.

8 Q. Okay. All right. How many times
have
9 you spoken with either district attorney's
investigators
10 or representatives of the District Attorney's office
11 about your testimony?

12 A. I spoke to them twice before I
arrived
13 here.

14 Q. So twice in Dallas and then last
15 night?

16 A. Last night the -- he just told me
when
17 I was supposed to arrive in the morning.

18 Q. Did he talk to you at all on

Monday?

19 A. I don't believe he did.

20 Q. Okay. Are you being paid for your
21 time here today?

22 A. No.

23

24 MR. PRESTON DOUGLASS: Pass the
25 witness.

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1

REDIRECT EXAMINATION

2

3 BY MR. TOBY L. SHOOK:

4 Q. Dr. Dillawn, Mr. Douglass asked
you

5 some questions about the cut jugular and --

6 A. Jugular vein.

7 Q. Did Darlie Routier have any of
those

8 injuries?

9 A. No.

10 Q. Okay. You said something about a
11 sheath?

12 A. Yes. There's a carotid sheath
that

13 surrounds the two vessels, the internal jugular vein,
the

14 carotid artery and a large nerve called the Vagus
nerve.

15 And it's just a fibrous structure in the neck that's
16 continuous with other fibrous material that would
sort of

17 hold you together.

18 Q. There was no cut to her jugular or
19 carotid artery or anything like that, was there?

20 A. No.

21 Q. And in laymen's terms, the skin
was

22 cut, the fat was cut and the platysma, which is in
the

23 fat; is that right?

24 A. Yes.

25 Q. That's it?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. That was it.

2

3 MR. TOBY L. SHOOK: That's all I
have,

4 Judge.

5 THE COURT: May this witness be
6 excused by agreement of both sides?

7 MR. PRESTON DOUGLASS: I have one
8 question, your Honor.

9 THE COURT: All right.

10

11

12 REXCROSS EXAMINATION

13

14 BY MR. PRESTON DOUGLASS:

15 Q. On this ruler there's millimeters
16 marked; is that right?

17 A. Yes.

18 Q. Okay. And, would you agree,
that in

19 distance that there was a distance of approximately
two

20 to three millimeters to the artery of this woman,
the

21 carotid artery?

22 A. Over a very short distance it
was --

23 we could see the sheath. I didn't actually measure
it.

24 Q. Okay. But answer my question.

And my

25 question is: Based upon your training and your

Sandra M. Halsey, CSR, Official Court Reporter

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1 experience, could it have been two to three
millimeters?

2 A. I don't really know. I just saw
the
3 sheath.

4 Q. Okay. You're not saying no,
you're
5 just saying you don't know?

6 A. I have stated that the wound was
7 superficial and did not damage it -- it damaged
no

8 significant structures. At a small point, we
could

9 see -- the carotid sheath was exposed. The
carotid
10 artery was not exposed.

11 Q. Okay. But it cut down to the
carotid
12 sheath?

13 A. Over -- we could see a distance
of
14 approximately -- the two to three millimeters maybe
the
15 amount of the carotid sheath that I could see. The
16 carotid artery is this long. (Witness demonstrating
with

17 his hand). I could see this much.

18 Q. Okay. But certainly you didn't
cut

19 down to that?

20 A. No.

21 Q. That was done by whatever sharp-
edged

22 instrument hit Mrs. Routier?

23 A. Yes.

24 Q. Okay. So that instrument made
that

25 cut down to that depth?

1 A. Yes, it did.

2

3 MR. PRESTON DOUGLASS: Okay.

That's

4 all I have.

5 MR. TOBY L. SHOOK: Nothing

further,

6 Judge.

7 THE COURT: All right. Doctor --

both

8 sides are excusing this witness?

9 MR. PRESTON DOUGLASS: Yes, sir.

10 MR. TOBY L. SHOOK: Yes, sir.

11 MR. DOUGLAS MULDER: Subject to

our

12 agreement.

13 THE COURT: All right. Please

don't

14 discuss your testimony with anybody who has

testified.

15 In other words, don't compare it. You may talk to

the

16 attorneys for either side. If someone tries to

talk to

17 you about your testimony, please tell the attorney

for

18 the side who called you.

19 THE WITNESS: Okay.

20 THE COURT: All right. Your

next

21 witness.

22 MR. TOBY L. SHOOK: We'll call

Jody

23 Fitts.

24 THE COURT: Jody Fitts.

25 Were you sworn in the other day?

1 THE WITNESS: No,
sir.

2
3 (Whereupon, the
witness

4 Was duly sworn by
the

5 Court, to speak the
truth,

6 The whole truth and
7 Nothing but the truth,
8 After which, the
9 Proceedings were
10 Resumed as follows:)

11
12 THE COURT: Do you solemnly
swear or

13 affirm that the testimony you are about to give
will be

14 the truth, the whole truth, and nothing but the
truth, so

15 help you God?

16 THE WITNESS: I do.

17 THE COURT: Have a seat right
there,

18 please. Speak right into the microphone. Spell

your

19 last name when you are asked, please.

20

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 Whereupon,

2

3 JODY FITTS,

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. Tell us your name, please.

15 A. Jody Fitts, F-I-T-T-S.

16 Q. And how are you employed, sir?

17 A. I'm a registered nurse at Baylor
18 University Medical Center.

19 Q. Okay. Tell the jury your
education

20 and training you have to hold that position.

21 A. I've been a nurse for three
years,

22 registered nurse; about a year and three months in
the
23 emergency room, two years before that in ICU, and
about
24 eight and a half years as an emergency paramedic
before
25 that.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. And where do you work?

2 A. I work at the emergency
department

3 there at Baylor University Medical Center in
downtown

4 Dallas.

5 Q. Okay. How long have you been
at

6 Baylor?

7 A. A year and a half now.

8 Q. And you are an emergency room
nurse;

9 is that correct?

10 A. That's correct.

11 Q. Tell the jurors what your duties
are,

12 as an emergency room nurse.

13 A. We -- at the emergency room there
at

14 Baylor, we take care of anything from what we call
15 primary care patients, which is any kind of little
small

16 injury or illnesses, all the way up to a major
trauma.

17 We are a major trauma center there in the city.

18 Q. Okay. Let me turn your attention

to

19 June 6th, 1996 and ask if you were on duty during
those

20 morning hours?

21 A. I was. I was supposed to have
left at

22 2:00 AM that day, but it was an extremely busy night
so I

23 stayed over.

24 Q. Okay. Around -- a little after
3:00

25 or so did you get notice that there would be some

1 patients coming in that were -- that had been stabbed
--

2 some stabbing victims?

3 A. Right. We got -- actually the
call we

4 received, was that five minutes out we had a multiple
5 stab victim, five-year old coming in.

6 Q. Okay.

7 A. And then it was just a few minutes
8 after that, that we got a call that we would be
getting

9 a -- the child they said they had been doing CPR on,
and

10 we got prepared for that. And then we got a second
call,

11 saying that we would be getting a second patient, a
12 female, the mother of the child that was awake and
13 talking.

14 Q. Okay. And what did you do in
15 preparation for that?

16 A. There are several things we have
to

17 do. We have to -- there's a lot of staffing
situations

18 that we have to do. Each major trauma patient gets
two

19 nurses assigned to them immediately. And we have to
20 actually don garb, that is our trauma gear, that
covers,

21 and things in glasses, things to protect us from
22 different things. And there's equipment, IV bags,
and

23 any kind of equipment we may possibly use, we set it
out.

24 Q. Did you get ready in time to
receive
25 the female victim?

of

16 our technicians were setting up the equipment in the
room

17 and I was standing outside of the room, waiting for
this

18 stretcher to come in. And as they came in, I could
hear

19 the lady screaming. And could see her in the
stretcher

20 as she came down the hall.

21 Q. What was she screaming?

22 A. She was screaming two different
23 things. The first thing I heard was her screaming
asking

24 for pain medication. "I need pain medication,"
something

25 along that line.

16 head was turned as if looking into that room.

17 Q. Okay. Did you see any reaction
as she

18 went by that room?

19 A. There was a lot of reactions to
20 everything. But no, I didn't see -- I was
concerned. I

21 knew what was going on in that first room. I wasn't
22 involved in there at the time, but I knew what was
going

23 on. But, I was very concerned when she turned her
head

24 that way, that she would see her son in there, and
that

25 would escalate her emotional state. But that's what
I

1 was afraid of.

2 Q. But she continued to yell for
pain --

3 A. Right.

4 Q. -- and then "Why," the first
thing,

5 "Why did they kill my boys?" And then, "Why did he
kill

6 my two boys?"

7 A. Right. In the room she said,
"Why

8 would he do that? Why would he kill my boys?"

9 Q. Describe her physical condition
when

10 you saw her there in your trauma room.

11 A. She arrived to me completely
nude,

12 covered head to toe in dried blood. She had a
dressing

13 around her neck and around this right arm.

14 Q. Okay. What did you do then?

15 A. We immediately take them off the
16 stretcher. You've got to understand it was a very
17 stressful situation, it was a horrible sight to see
all

18 of this. We get the people lowered onto the table,
we
19 have the technicians start bathing them, washing
them
20 down.

21 We need to assess what their
injuries
22 are right away. And so, as soon as she got over,
the
23 technicians there, were taking the dressings off of
the
24 arms, and began taking the dressing off the neck
here.

25 Q. Okay.

1 A. And the paramedics were giving us
a
2 report about what the injuries were.

3 Q. Her neck was bleeding; is that
right?

4 A. Her neck initially was not
bleeding.

5 We pulled the dressing off. It was initially not
6 bleeding, but the surgeon there had to explore
that wound

7 just a little bit and look at it. And after he
had

8 touched it just slightly, a bit of blood squirted
out of

9 the wound, which would, to us indicates an
arterial

10 bleeding, and that we don't want to mess with that
in the

11 emergency room. So we immediately covered that
back up.

12 Q. Okay. Now, as far as what the
actual

13 damage was, you don't know at that time. Right?

14 A. No. We knew that it was
bleeding and

15 some -- indicating some type of arterial bleed. I
16 believe it ended up not being an arterial bleed.

But for

17 us, that's not something we need to mess with.

You lose

18 a lot of blood that way. You just --

19 Q. You want to make sure that
pressure is

20 applied to that wound?

21 A. Right.

22 Q. All right. And did you see the
other

23 injuries on her?

24 A. Right. She had another injury
up here

25 by her neck. She had this neck wound, and then
also one

Sandra M. Halsey, CSR, Official Court
Reporter

1 up here too, two different wounds. And then one,
like a

2 stab or puncture wound in her forearm right here.

3 Q. Okay.

4 A. I have a picture of that on my
record.

5 Q. Okay. Let me show you what's
been

6 marked as State's Exhibit 28-A. Is that the
location of

7 the wound you saw on the forearm?

8 A. That's the forearm wound that I
saw,

9 yes.

10 Q. Okay. And then State's Exhibit
No.

11 28-B, is that the neck area and then the shoulder?

12 A. Right. And then that second
wound

13 there.

14 Q. All right. Did you examine
other

15 parts of her body, her arms?

16 A. We examined her head to toe.

17 Q. Let me ask you this: Is that

18 something you're concerned about, examining her
head to

19 toe?

20 A. Well, certainly, especially
with her

21 being covered in blood, and dried blood. That
would

22 cover up many injuries. It could cover up all
kinds of

23 things.

24 Q. Did you find any other injuries

on

25 her?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. No. Just the simple cuts that
I've
2 explained, here, here and here. We rolled her on
her
3 back and couldn't find anything.

4 Q. Any other injuries on her right
arm at
5 all, other than this cut here?

6 A. No, just a clean stab wound
straight
7 through here, or a puncture wound.

8 Q. Okay. What was she -- do you
inquire
9 whether she's alert, knows what's going on, that kind
of
10 thing?

11 A. Right. We need to determine that
12 right away, so we'll know what we're dealing with,
13 especially in a trauma situation. We want to know
if
14 they're oriented right away, so we know to be
concerned
15 about head injuries or anything like that.

16 Q. So what do you do for that? How
do

17 you determine that?

18 A. We ask them if they know where
they're

19 at. If they know if they have any medical allergies,
any

20 medical conditions, any surgeries, and if they're
taking

21 any medications.

22 Q. Okay. Did she seem alert and
oriented

23 to you?

24 A. Yes. Mrs. Routier was able to
answer

25 all my questions.

1 Q. Okay. Do you watch for signs of
shock

2 when the patients come in there?

3 A. Sure we do. What you're asking me
4 about shock is not what we call medical shock, but
an

5 emotional state of shock. We're concerned about
that.

6 She was quite able to answer all my questions,
correct.

7 Q. Responded to all of your questions
you
8 asked?

9 A. I even asked her what medications
she
10 had been taking.

11 Q. What did -- and is it important to
12 find out if they're on any medications?

13 A. Sure. We need to know exactly
what

14 medications they're on, in case we give them
something

15 that might in some way not work with the medicine.

16 Q. What medication was she on?

17 A. She told me she was on Fastin and

18 Pondimin, neither of those medications I had never
dealt
19 with. I found out since then that they're diet
control,
20 appetite-suppressant-type medication. And she told
me --
21 I asked her, I don't know what those are for, and she
22 told me that they were diet pills.
23 Q. Okay. So she was on diet pills?
24 A. Um-hum. (Witness nodding head
25 affirmatively).

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. All right. Was she in there any
great

2 length of time?

3 A. She was in -- I had her in there
4 exactly 13 minutes.

5 Q. Okay. And then they take her off
to
6 surgery?

7 A. Yes.

8 Q. Okay. Did you remove a necklace
from

9 her neck?

10 A. Right. When the technicians
pulled
11 the dressing off the wound on her neck, a chain was
freed
12 around her neck. I took that off, set it aside, and
13 later, I believe, one of the other nurses handed
that
14 over to the Rowlett Police Department.

15 Q. Okay. Was that under the
gauze?

16 A. It was underneath the dressing
the
17 paramedics had applied.

18

19 (Whereupon, the following
20 mentioned item was
21 marked for
22 identification only
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

5 BY MR. TOBY L. SHOOK:

6 Q. Okay. Let me show you what's been
7 marked as State's Exhibit 26. Does this appear to be
the
8 necklace?

9 A. This looks similar to the
necklace. I
10 couldn't tell you if it was exactly the same one or
not.

11 Q. Okay. And it was unattached?

12 A. It was unattached.

13 Q. Okay.

14 A. I didn't have to undo it.

15 Q. Okay.

16

17 MR. TOBY L. SHOOK: Judge, I would
18 like to enter this for record purposes, at this
time.

19 THE COURT: State's Exhibit
what?

20 MR. TOBY L. SHOOK: 26.

21 THE COURT: For record only?

22 MR. TOBY L. SHOOK: Yes, sir.
23 THE COURT: Any objection?
24 MR. DOUGLAS MULDER: Not for
record
25 purposes.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 THE COURT: All right.
State's
2 Exhibit No. 26 is admitted for record purposes
only.

3
4 (Whereupon, the item
5 heretofore mentioned
6 was received in
evidence

7 as State's Exhibit
No. 26

8 for record purposes
only,

9 after which time, the
10 proceedings were resumed
11 as follows:)

12
13

14 BY MR. TOBY L. SHOOK:

15 Q. Do you see Ms. Routier here in the
16 courtroom today?

17 A. Yes, sir. Her hair is a little
bit
18 different, but that's her.

19 Q. And the scar we see here, is that
the

20 area that y'all were applying pressure to?

21 A. Yes, sir, that's exactly where I

had

22 seen it.

23

24 MR. TOBY L. SHOOK: Okay. That's

all

25 the questions we have, Judge.

Sandra M. Halsey, CSR, Official Court Reporter

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19 and nothing but

the

20 truth, after

which,

21 the proceedings

were

22 resumed as

follows:)

23

24 THE COURT: Do you solemnly

swear or

25 affirm that the testimony you are about to give
will be

Sandra M. Halsey, CSR, Official Court Reporter

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1 the truth, the whole truth, and nothing but the
truth, so

2 help you God?

3 THE WITNESS: I do.

4 THE COURT: All right. Have a
seat

5 right there, please. Speak right into the mike and
spell

6 your last name, please.

7 THE WITNESS: W-I-E-L-G-O-S-Z.

8 THE COURT: Okay. What is your
full

9 name?

10 THE WITNESS: Christopher
Wielgosz.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 Whereupon,

2

3

CHRISTOPHER WIELGOSZ,

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 THE COURT: Spell your last name,
please.

12 THE WITNESS: W-i-e-l-g-o-s-z.

13 THE COURT: Okay. What is your full
name?

14 THE WITNESS: Oh, Christopher Wielgosz.

15 THE COURT: Okay.

16 MR. TOBY L. SHOOK: And it's pronounced
17 Wielgosz?

18 THE WITNESS: Wielgosz, yes.

19 MR. TOBY L. SHOOK: All right.

20

21

22

DIRECT EXAMINATION

23

24 BY MR. TOBY L. SHOOK:

25 Q. Okay. How are you employed,
sir?

Reporter Sandra M. Halsey, CSR, Official Court

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1 A. I'm employed by Baylor
University

2 Medical Center as a nurse in their two ICU,
Intensive

3 Care Units.

4 Q. Okay. Tell the jury your
educational

5 background and professional training for the position
6 that you hold.

7 A. I have a bachelor in science from
8 Pennsylvania State University in health care
9 administration. And a bachelor of nursing from the
10 College of Misericordia. I have been employed at
Baylor

11 since June of 1994 as a nurse.

12 Q. And what particular section of
Baylor

13 are you assigned?

14 A. It's second floor Roberts
Building,

15 the cardio-thoracic vascular intensive care unit.

16 Q. Okay. And, tell the jury what
your

17 duties are there.

18 A. Primarily our duties are to take
care

19 of the critically ill patients that have open heart
20 surgery, or vascular-type surgery. It's primarily a
post
21 operative intensive care unit, which is where they
would
22 come following any procedure that would be
cardiothoracic
23 or vascular in nature.

24 Q. Sometimes if there's overflow, or
25 something like that, do you receive other patients?

1 A. That's correct. Occasionally we
may
2 have a bed that is open, and we can receive overflow
3 patients from some of the other units that would
normally
4 receive a trauma patient or any other, what they call
off
5 service patients, something we don't normally see in
that
6 particular unit.

7 Q. Okay. Let me turn your attention
back
8 to June 6th, 1996 and ask you if you were working on
that
9 date.

10 A. Yes, I was. I was working 7:00 PM
11 until 7:00 AM, the 5th through the 6th.

12 Q. Okay. So you started on the 5th
and
13 were going through 7:00 AM on the 6th?

14 A. Correct.

15 Q. Okay. Let me ask you if you
received

16 a patient that morning by the name of Darlie Routier?

17 A. Yes, I did.

18 Q. Okay. About what time did you

receive

19 her?

20 A. It was approximately 05:00 on the
21 6th.

22 Q. Okay. So that's about five in the
23 morning?

24 A. Five o'clock in the morning.

25 Q. Okay. Do you see her here in the
26 courtroom today?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yes.

2 Q. Point her out, please.

3 A. She's seated right over here.

4 Q. The woman here in the green plaid
5 dress?

6 A. Yes.

7

8 MR. TOBY L. SHOOK: Your Honor, if
the

9 record could reflect the witness has identified the
10 defendant.

11 THE COURT: Yes.

12

13 BY MR. TOBY L. SHOOK:

14 Q. Was she one -- I guess she wasn't
one

15 of those patients that you normally receive; is that
16 right?

17 A. That is correct. I had a -- what
they

18 call an available bed. Normally, we are assigned two
19 patients per nurse, and I had an available bed,
which

20 meant that I was to receive any emergency or
trauma

21 victims or something that the other ICUs could

not

22 accommodate because they were full at that time.

23 Q. Okay. What was her condition

when she

24 arrived on your floor?

25 A. They brought her into my unit,
again,

Sandra M. Halsey, CSR, Official Court Reporter

910

1 approximately 5:00 AM. And, at that time they
brought

2 her in on a bed from the OR, the operating room.

3 At that time she was awake,
alert,

4 oriented.

5 Q. Okay. Now, in your particular
6 section, do you have a lot of patients you deal
with, or

7 do you have just one or two?

8 A. In that particular case, she was
the
9 only patient that I had at that time.

10 Q. Okay. So, your total attention
is
11 devoted to her at that time?

12 A. Correct.

13 Q. Okay. Was she the type of
critically
14 ill patient that you usually take care of?

15 A. Not what we usually see, no. I
would
16 not have considered her a critically ill patient.

17 Q. Okay. And you say she was alert
and
18 awake; is that right?

19 A. Correct.

20 Q. She had come out of surgery; is
that

21 correct?

22 A. That's correct.

23 Q. Okay. How alert was she? I

mean, did

24 she answer your questions?

25 A. Yes. Answered questions

Sandra M. Halsey, CSR, Official Court Reporter

911

1 appropriately, was aware of where she was,
approximately

2 what time it was, that she had just left the
operating

3 room. Again, was answering questions appropriately.

4 Q. Okay. Now, you've seen people
that

5 have suffered the effects of anesthesia; is that
right?

6 A. Yes. Very frequently.

7 Q. Okay. That's something you deal
with

8 every day?

9 A. Um-hum. (Witness nodding head
10 affirmatively).

11 Q. Okay. Do different people react
12 differently?

13 A. They do, yes. Some people may
not

14 respond as well to the anesthesia, some people
do. It

15 just depends on the individual's make up and
chemistry.

16 Q. Okay. Some people come out of
it

17 pretty quickly?

18 A. Yes.

19 Q. Okay. How about Ms. Routier?

How did

20 she appear to you? Was she under the effects of
it at

21 all?

22 A. No, not as far as I could tell
at that

23 point in time.

24 Q. Okay. She seemed alert and
lucid?

25 A. Completely.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Okay. What did you do once
she
2 arrived in the room? What were part of your
duties?

3 A. Well, the first thing we do
when a
4 patient arrives is, we connect them to our
monitoring
5 system that we have, which monitors the heart rate.
And
6 in her case, she had an arterial monitor that we
connect
7 to our monitors also.

8 So the first thing I did was
connect
9 her to our monitors to establish that her vital
signs
10 were stable. And then to do a head to toe
assessment on
11 her.

12 Q. Okay. What's a head to toe
13 assessment?

14 A. Where you, well, initially you
will
15 look at their neurologic stats, and then you will go

16 through the different body systems and assess if
there's

17 any difficulties or problems with them.

18 Q. Okay. Did you find any problems
with

19 her at all?

20 A. Nothing, other than the surgical
21 dressings that she had was out of the ordinary.

22 Q. These IVs, what arm were they in?

23 A. She had IVs in her left arm, and
she

24 had an arterial monitor in her left radial artery.

25 Q. Could you point on your wrist
where

1 that is?

2 A. It's inserted right in this area
here.

3 And what that is, is that is a direct monitor of
blood

4 pressure. It's a small catheter that they insert
into

5 the radial artery, and then we connect it to our
monitors

6 and it directly monitors blood pressure through the
7 catheter.

8 Q. Okay. Do you also -- she had a
9 dressing on her; is that right?

10 A. Correct. She had a dressing on
her

11 right neck, right up in here, and she had a dressing
on

12 her right forearm.

13 Q. Okay. Did you look over her, or
14 assess her for wounds, things like that?

15 A. Yes.

16 Q. Did you see any other injuries on
her

17 other than where the dressing was?

18 A. No, I did not.

19 Q. Okay. That's something you

carefully

20 check for?

21 A. Yes.

22 Q. Okay. Did she talk to you while
you

23 were making your assessment?

24 A. Yes, she did.

25 Q. Okay. Now, were you asking her

Sandra M. Halsey, CSR, Official Court Reporter

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1 questions?

2 A. No, I did not.

3 Q. Okay. You were just going about
your

4 business?

5 A. Um-hum. (Witness nodding head
6 affirmatively).

7 Q. Okay. What comments did she make
to

8 you?

9 A. The first comment that she made
was,

10 she stated, "How could anyone do this to my
children."

11 Just kind of an unsolicited rhetorical type of
question,

12 "How could anyone do this to my children."

13 Q. You didn't ask her how she was,
or

14 what happened, anything like that?

15 A. No, I did not.

16 Q. Now, did you know what had
happened,

17 why she was there in the hospital?

18 A. I was just aware that she had --
she

19 was involved in a trauma, but the extent of which and
the
20 particular circumstances I was not aware of at the
time,
21 no.

22 Q. Were you aware that her children
had
23 died?

24 A. I was aware that her children --
at
25 the time I was under the belief that both of her
children

1 had come into our ER, and that yes, that they were
both
2 dead.

3 Q. Okay. Well, did this cause some
4 concern for you?

5 A. It did. Especially before I
received
6 her, because I did not know what she was aware of. I
did
7 not know if she was aware that both of her children
were
8 dead, or what condition they may be in. I had no
9 knowledge of what she would be aware of, and was
unsure
10 what condition mentally and emotionally she would be
in
11 when I received her. So I was somewhat concerned as
to
12 how I was going to deal with that situation when she
came
13 into the intensive care unit.

14 Q. Okay. Did she make some other
15 comments to you?

16 A. She did. Again, she stated,
several

17 times, "How could anyone do this to my children?"

And at

18 one point in time she also stated aloud, that she had

19 picked up the knife after the attacker dropped it,

and

20 she was concerned that maybe her fingerprints had

21 obscured the attacker's fingerprints. And she was,

22 again, kind of questioning whether she should have

done

23 that or not.

24 Q. Okay. Now, when she made this
25 statement about picking the knife up and obscuring
the

1 fingerprints with her prints, had you asked her
anything

2 about the incident?

3 A. No, absolutely not.

4 Q. That was just an unsolicited
response

5 to you?

6 A. Yes, it was.

7 Q. Now, was she just awake and alert
at

8 this time?

9 A. Yes.

10 Q. She was just not -- in some type
of

11 shock, and just droning on and on, in her sleep?

12 A. No, not at all. It wasn't a
13 consistent -- she wasn't speaking consistently.

This

14 took place over maybe a matter of the first half
hour or

15 40 minutes that she came out, because, again,
initially I

16 do my assessment, and then I've got my paperwork
that

17 I've got to do, which I kind of stepped away from

the bed

18 at that time, and filling out my paperwork. And

back and

19 forth between the little table we do our

paperwork on and

20 the bed, many times through that initial half

hour or so.

21 So it wasn't a continuous dialogue that she had.

22 Q. She would just make these

comments --

23 A. Periodically.

24 Q. -- periodically. And where's

your

25 desk when you're working at it?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. Again, it's more or less a
bedside

2 table that we use. And it's within maybe 6 or 8
feet

3 from the bed.

4 Q. Okay. Do you recall -- when she
says,

5 "I picked the knife up. I wondered if I obscured the
6 fingerprints." When she started wondering about
that,

7 did you answer her in any way?

8 A. No, I really -- you know, I had
9 nothing to say. I couldn't -- there was
absolutely no
10 response that I could give her.

11 The only thing that I did say
was,

12 "That I'm sure the police will do whatever they
can."

13 Q. Okay. Did she ask for, or --
complain

14 of any pain?

15 A. She did. Again, after she was in
the

16 intensive care unit for approximately 45 or 50
minutes,

17 she was complaining of some pain to her right neck
and

18 her right forearm and asked if she could have some
pain

19 medication for that.

20 Q. Okay. Right neck and right
forearm?

21 A. Right.

22 Q. Are you talking about the injury
that

23 was cut?

24 A. Right. Where her injury was.

25 Q. Okay. Did she complain of pain

Sandra M. Halsey, CSR, Official Court
Reporter

1 anywhere else in her body?

2 A. No, she did not.

3 Q. Okay. Did you give her any
pain

4 medication at that time?

5 A. No, I did not. I was informed
that

6 the Rowlett police wanted to speak with her. And
so I

7 called my administrative supervisor, who had been
in

8 contact with the police, to find out if she knew when
9 they may be coming up to question her, or speak with
her.

10 I was concerned that I was going to give her some
pain

11 medication and it was going to make her very
lethargic or

12 sleepy when they came up to speak with her.

13 So I contacted the administrative
14 supervisor. She said that the Rowlett police
would be

15 there in approximately 10 minutes. And they, at
the

16 time, I believe were down in the emergency room, I'm

not

17 too sure. But they did not come up in the 10 minute
18 period.

19 And then she complained once again
of

20 pain. We normally have a pain scale, so we have some
way

21 of quantifying how much pain patients are actually
22 experiencing, because everyone experiences pain a
little

23 differently. And we usually ask people to grade it
on a

24 1 to 5 scale. And she graded her pain on about a 3,
on a
25 1 to 5 scale.

1 Then, at that time I did
administer

2 some pain medication to her, a very small amount.

3 Q. What type of pain medication did
she

4 receive?

5 A. She received Demerol, 25
milligrams,

6 and Phenergan, which are two drugs we use. They work
7 together very well to relieve pain.

8 Q. Okay. Did you give her a large
dose?

9 A. I actually gave her a very small
dose.

10 The normal dose -- they give you a range of normal
11 dosages with most drugs, and then the lower range for
12 Demerol is usually about 50 milligrams, and I gave
half

13 of that, which was 25 milligrams.

14 So she received a very small
dose.

15 And I gave that to her with the intention that --
since

16 her pain was not a real high level that it would
take the

17 edge off if she was experiencing any pain, but
would not

18 completely subdue her or make her lethargic or
sleepy.

19 Q. Okay. You wanted her to be
alert when

20 the police were coming to talk to her?

21 A. Yes.

22 Q. When you gave her the
medication was

23 she alert?

24 A. Yes.

25 Q. Okay. And, were you present
when

Sandra M. Halsey, CSR, Official Court
Reporter

1 investigators from the Rowlett Police Department
came and

2 talked to her?

3 A. Yes, I was.

4 Q. Okay. Did she remain alert
throughout

5 that interview?

6 A. Completely.

7 Q. Okay. How close were you to
the

8 officers when they were interviewing her?

9 A. At times I was standing at the
10 bedside, and at other times I was at the bedside
table

11 doing notes or charting.

12 Q. Okay. How many officers came
and

13 talked with her?

14 A. There were two.

15 Q. Were they uniformed or plain
clothes?

16 A. They were plain clothes.

17 Q. And did she agree to speak to
them?

18 A. Yes.

19 Q. Okay. And approximately how

long were

20 they there?

21 A. They were there until I left at
about

22 7:05. I ended my shift about 7:05.

23 Q. About what time did that
interview

24 begin. Do you remember?

25 A. They probably got there about
6:00

Sandra M. Halsey, CSR, Official Court
Reporter

1 o'clock, 6:05, so they were approximately an hour.

2 Q. Okay.

3 A. Fifty minutes maybe. While I
was

4 there.

5 Q. Okay. Since you were in close
6 proximity, were you able to overhear their
questions and

7 her answers?

8 A. Yes.

9 Q. And did they ask her questions
about

10 the incident that occurred?

11 A. Yes.

12 Q. What do you remember her
telling about

13 what happened there?

14 A. The two detectives were
standing at

15 bedside, and they asked her to just kind of start
at the

16 beginning, and proceeded in a very methodical way
of

17 asking her what had happened.

18 And, I do remember much of the
19 responses that she had given, but there were times

when I

20 was not standing near the bed and was busy doing

21 something else.

22 I don't remember what she

exactly

23 said, as far as how it all started or how she was

-- what

24 awakened her.

25 The first thing that I recall,
is her

Sandra M. Halsey, CSR, Official Court
Reporter

1 stating that she was fending off an attacker with
her
2 hands.

3 Q. Okay. And where was she when
she was
4 fending off the attacker?

5 A. A couch, sofa, something like
that.

6 Q. What's the next thing you
remember her
7 telling the detectives?

8 A. She went on to talk of how she
did
9 that and how the attacker at that point -- or
shortly
10 after that time, left, ran out of the house from
there.

11 Q. Okay. What's the next thing
you
12 remember her saying?

13 A. She did say that the attacker
dropped
14 the knife, I believe, in the garage.

15 Q. Okay.

16 A. And that, once again, that she

picked

17 up the knife, and at that point in time she said,
you

18 know, "I picked up the knife. I shouldn't have
picked up

19 the knife, because that -- I probably covered up
the

20 fingerprints. I shouldn't have picked up the
knife."

21 Q. The same thing that she had
told you

22 earlier?

23 A. Exactly.

24 Q. Did the officers ask about a
25 description of this assailant?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. Yes, they did. And initially,
they
2 actually started by asking her ethnic background,
skin
3 color, things like that, build, type of clothes that
the
4 attacker might be wearing. And at that point in
time,
5 she stated that he was wearing a dark baseball-type
cap,
6 dark T-shirt and jeans.

7 Q. Okay. Did she say anything about
if
8 it was a white man, black man, Hispanic man?

9 A. I don't recall. And I don't
recall
10 her giving any particular description of any facial
11 features, or anything like that. The detectives did
ask
12 her what the general build of the -- the attacker
was.
13 And they used themselves as examples. You know,
they
14 said, "Was the attacker built
like" -- the two detectives

15 were Detective Frosch and
Patterson. If the attacker was
16 built like either one of the two
of them. And at that
17 point and time she said that the
attacker was built
18 similar to Detective Frosch.

19 Q. Okay. Were
Detectives Patterson and
20 Frosch, are they different sizes?

21 A. Yes. Detective
Frosch is much taller
22 than Detective Patterson.

23 Q. And she said
that the attacker was

24 built like Detective Frosch?

25 A. Correct.

Sandra M. Halsey, CSR,
Official Court Reporter

1 Q. Okay.

2

3 MR. TOBY L.

SHOOK: Could I have just

4 a moment to have Detective Frosch
brought in, Judge?

5 THE COURT:

Okay.

6 As soon as he's
presented, I'm going

7 to take a morning break.

8 MR. TOBY L.

SHOOK: Okay, Judge.

9 THE COURT:

Officer, if you will come
10 on up, please. Or Detective,
excuse me.

11

12 BY MR. TOBY L. SHOOK:

13 Q. For
identification purposes, is this

14 Detective Frosch?

15 A. Yes, it is.

16 Q. And, is this
the man Darlie Routier

17 pointed to as having the build of
the assailant?

18 A. Yes, it is.

19 Q. Okay.

20

21 MR. TOBY L.

SHOOK: And, if you could

22 just turn around for us. Turn and
face the jury, please.

23 Thank you.

24 THE COURT:

Okay. Ladies and

25 gentlemen, let's take a 15 minute
break.

Sandra M. Halsey, CSR,
Official Court Reporter

1
2 (Whereupon, a
short
3 Recess was
taken,
4 After which
time,
5 The proceedings were
6 Resumed on the record,
7 In the presence and
8 Hearing of the defendant
9 And the jury, as follows:)
10
11
12 THE COURT: All right. Are both
sides
13 ready to bring the jury in and resume?
14 MR. TOBY L. SHOOK: Yes, sir, we
are
15 ready, your Honor.
16 MR. DOUGLAS MULDER: Yes, the
defense
17 is ready to resume.
18 THE COURT: All right, bring the
jury
19 in, please.

20

21

(Whereupon, the jury

22

was returned to

the

23

courtroom, and

the

24

proceedings

were

25

resumed on the

record,

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1 in open court, in
the
2 presence and
hearing
3 of the defendant,
4 as follows:)

5
6 THE COURT: Let the record
reflect

7 that all parties in the trial are present and the
jury is
8 seated.

9 All right, Mr. Shook.

10 MR. TOBY L. SHOOK: Thank you,
Judge.

11

12

13 DIRECT EXAMINATION (Resumed)

14

15 BY MR. TOBY L. SHOOK:

16 Q. I believe we left off where you
were

17 explaining where Mrs. Routier had pointed to
Detective

18 Frosch as having a similar build of the attacker?

19 A. Correct.

20 Q. Okay. Did the detectives ask her
21 about stolen property?

22 A. They did, in the course of their
23 questioning, ask her if she noticed anything at all
was

24 stolen or missing from the home, and she said no.

And

25 she went on to state how she had some jewelry laying
out

1 in the open, and how that that was not stolen. And
then
2 went into great detail on the type of jewelry that it
3 was, and talking about the type of rings, different
4 baguettes, and excuse me, I'm not that well versed on
5 jewelry terminology, but she went into what seemed to
me
6 to be great detail, on the actual jewelry that was
laying
7 around.

8 Q. Okay. How long did the -- when
you
9 left at 7:00 they were still there; is that right?

10 A. Correct.

11 Q. Could you describe how the
detectives
12 conducted the interview.

13 A. Very methodical. Very -- they
were
14 very unobtrusive. I mean, they just simply asked
her to
15 tell them what she knew. And then after she made
the
16 statement, they would go back and go over the
statement
17 in more detail. For instance, asked about the

attacker.

18 They took her back and asked if the attacker had a
hat

19 on, what type of build, what type of skin color,
facial

20 features, clothing, et cetera, et cetera.

21 Q. Okay.

22 A. That was the first time I had
ever

23 heard anyone being questioned, and it seemed to be
very

24 methodical.

25 Q. Did they badger her in any way
or

1 anything like that?

2 A. Not at all, no.

3 Q. Did they try to suggest answers
to
4 her?

5 A. Not at all.

6 Q. Or give her answers in any way?

7 A. No.

8 Q. Okay. Did she appear during
this

9 entire interview to understand the questions?

10 A. Completely.

11 Q. Did she appear to be alert in
every
12 way?

13 A. Yes.

14 Q. Okay. You've seen victims of
shock;

15 is that right?

16 A. Correct, yes.

17 Q. Was she under shock at all from
what

18 you could tell?

19 A. No.

20 Q. Suffering in any way from this

21 anesthesia in any way?

22 A. No.

23 Q. Okay. The slight amount of pain

24 medication you gave her, did she seem to be

effected by

25 that in any way?

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1 A. No.

2 Q. Okay. Now, you said there is --
is
3 there a blood pressure alarm that was hooked up to
her?

4 A. Correct.

5 Q. If you could explain that to the
jury.

6 How is that hooked up?

7 A. Again, it's -- you have an artery,
8 it's called your radial artery, which runs down
through

9 this portion of your arm. And they have this small,
what

10 they call a catheter, which is actually a small tube
like

11 an IV catheter that they would insert, but they
insert

12 into the radial artery. And, it directly monitors
the

13 actual pressure in that artery, so it's the most
accurate

14 means that we have of determining blood pressure. Is
15 gives you a direct measure of what the pressure is.

16 So she had a catheter inserted

into

17 this artery, and then a line that comes out and is
18 connected to the machinery.

19 Q. Does that have an alarm
installed on

20 it?

21 A. Yes, it does.

22 Q. Okay. And, what is that alarm
for?

23 A. The alarms are set in case the
blood

24 pressure were to drop too low or to go too high.

The

25 machine will alarm to alert you, just in the event
that

1 you weren't at that particular time happening to
look
2 right at the monitor, which has the readout of what
the
3 blood pressure is, because it's a continuous
monitor. It
4 monitors the blood continuously. So the alarm will
alarm
5 to let you know something's wrong.

6 Q. Had the alarm gone off with Mrs.
7 Routier?

8 A. Yes, it did.

9 Q. When did it go off?

10 A. It went -- it alarmed when the
11 detectives were questioning her.

12 Q. Okay. And when you heard the
alarm go

13 off, what did you do?

14 A. At the time I was seated at the
15 bedside table, slightly behind the detectives. They
were

16 right at the bedside. And when the alarm went off I
17 immediately stood up and looked at the monitor, and
it

18 was alarming what we call a false alarm. It was

alarming

19 an extremely high blood pressure reading, which, in
most

20 cases, is false.

21 And, as I walked over and looked,
it

22 was because she was moving her left arm, and bending
her

23 wrist. And with those types of monitors,
essentially

24 what happens is if you move your left arm, or the
arm

25 that the monitor is in, they're very sensitive, so
if you

1 bend your wrist or bend your arm up, you can
essentially

2 pinch off the catheter, or fool the catheter, which
will

3 cause it to read the false high pressure in there.
And

4 that's what hers was doing at that point in time.

5 Q. So she's moving her arm around
and

6 that's causing it --

7 A. That's causing it to alarm, yes.

8 Q. Okay. Did you explain that to her
and

9 the detectives?

10 A. Yes. At that time -- I walked
over

11 there, and both of the detectives turned to me and
they

12 were concerned because they didn't know -- weren't

13 familiar with the equipment, they just heard the
alarms

14 going off and immediately asked me if everything was

15 okay. At which time I told them, the same thing
that I

16 explained to you, that it was a false alarm, and

17 explained that also to Mrs. Routier. And explained
to
18 her, that if she could just keep her left arm stable
and
19 relatively still, that it would no longer alarm like
20 that.

21 Q. Okay. Now, when she was in your
care,
22 did you notice that -- did she seem upset to you
23 somewhat?

24 A. She was -- her eyes were tearful,
but
25 she had a very flat affect.

1 Q. Okay.

2 A. Didn't seem to have a lot of
emotion.

3 Q. Okay. Is that what you mean by
flat
4 affect?

5 A. Yes.

6 Q. Was that the reaction that you
were
7 expecting when you heard the background of why she
was
8 admitted?

9 A. Actually no. I was, again, as
I
10 stated earlier, I was concerned that maybe this
person
11 would be emotionally distraught or hysterical.
Didn't

12 really know what to expect, but that was kind of
what I

13 thought I might be experiencing and in store for.
So, I

14 was thinking that I would need to prepare for a
patient

15 that was in that emotional state.

16 Q. Okay. But you saw this flat
affect?

17 A. Yes.

18 Q. Okay. You did see some tears; is
that
19 right?

20 A. Yes.

21 Q. What type of tears did you see?

22 A. Her eyes would kind of welled up
a

23 little bit with water, with tears, and an occasional
tear

24 drop. And she still had on her eye makeup. And so,
I
25 don't know how much of that ran from the tears at
that

1 time, or -- but, you know, some of the eye makeup was
--
2 had run down onto her upper checks.

3 Q. Okay. You made note of that in
your
4 nurse's notes; is that right?

5 A. Yes.

6 Q. Do y'all keep notes there by the
7 bedside?

8 A. Yes.

9 Q. What are those called?

10 A. They're our nurses' notes. They
call
11 them focus notes.

12 Q. Okay. And what are the purpose of
13 focus notes?

14 A. Essentially, in the intensive care
15 unit, we have two ways of charting patient care or
16 patient condition. We have got an assessment flow
sheet,

17 which saves us time. Where, as I stated earlier, we
look

18 at each system, each system in the body and there are
19 different sections. And there are standard
assessment

1 on with the patient's care.

2 That's essentially what the notes
are

3 for.

4 Q. All right. Let me show you
what's

5 been marked as State's Exhibit 52-A and ask you, is
that

6 a photograph of Mrs. Routier?

7 A. Yes, it is.

8 Q. Okay. Do you see the large bruise
9 there all along her right arm?

10 A. Yes, I do.

11 Q. Okay. Now, as your experience as
a

12 nurse there at Baylor, have you seen bruises and
injuries

13 like that often?

14 A. Yes.

15 Q. Okay. Do y'all call that a blunt
16 trauma, causing this type of bruises?

17 A. Just by looking at the photograph
I

18 would -- my experience would lead me to believe that
that

19 was caused by some sort of blunt trauma.

20 Q. Okay. Now, while she's in your
care,

21 do you make a careful assessment of her physical
22 conditions, injuries, things like that?

23 A. Yes. Yes.

24 Q. Okay. At any time, did you see
any
25 injury to her right arm, that would have caused this
type

1 of bruising?

2 A. I did not. When I was taking care
of
3 her, the only thing on her right arm was the actual
4 injury that she had to the upper right arm, which had
a
5 dressing on it. And, I did not see any other
bruising or

6 swelling that would be consistent with something like
7 that to any other areas of the arm.

8 Q. If Mrs. Routier had received some
9 severe blunt trauma, or blunt trauma, enough to cause
10 that type of bruising, let's say on the 6th of June,
11 around 2:30 in the morning, would you have seen
evidence
12 of those injuries on her right arm?

13 A. I would have seen, probably not to
14 that extent, but I would have seen the beginnings of
it.

15 Q. Okay. This would have been -- you
saw
16 her from 5:00 to 7:00; is that right?

17 A. Right.

18 Q. So, we're talking about two and a
half
19 to three and a half, almost four hours later?

20 A. Right.

21 Q. You would have seen some evidence
of

22 that injury?

23 A. Right.

24 Q. And these are things you check

for;

25 right?

1 A. Correct.

2 Q. You didn't see it?

3 A. No.

4 Q. Okay. Also State's Exhibit No.

52-N.

5 Do you recognize -- it shows a photograph of a hand,
6 bruising to the left wrist and arm area?

7 A. Yes.

8 Q. Did you see any evidence of that
type

9 of injury?

10 A. I did not.

11 Q. Okay.

12 A. At that time, no.

13 Q. And can we see where on that
14 particular, in this photograph, let's just assume
this is

15 Mrs. Routier's hand, that -- where you had IVs hooked
up?

16 A. What you can see on the photograph
is,

17 if you look at this little spot here, that would have
18 been where the arterial monitor was inserted. This
was

19 obviously taken after that was removed at some point

in

20 time.

21 Q. Okay. She didn't have any IVs
hooked

22 up to her right side, did she?

23 A. No.

24 Q. You didn't see any evidence of
25 injuries here to the left side?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. No, I did not.

2 Q. Again, is that something you would
3 have looked for?

4 A. Yes.

5 Q. Okay. Now, did the Rowlett Police
6 contact you sometime later, I think actually in July,
on
7 the first day of July, and have you write out an
8 affidavit?

9 A. Yes, they did.

10 Q. Okay. And where did that take
place?

11 A. At the Rowlett Police Department.

12 Q. Did you execute a three-page
13 affidavit?

14 A. Yes, I did.

15 Q. Did you just kind of write it out
in
16 your own words?

17 A. Um-hum. (Witness nodding head
18 affirmatively).

19 Q. Do you recall who asked you to do
20 that?

21 A. Detective Frosch.

22 Q. Okay. Let me show you --

23

24

25

MR. TOBY L. SHOOK: If I could get
this marked.

Sandra M. Halsey, CSR, Official Court Reporter

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1
2 (Whereupon,
the
3 exhibit were
4 marked for
5
Identification
6 only, as
State's
7 Exhibit No.
55.)

8

9 BY MR. TOBY L. SHOOK:

10 Q. Let me show you a three page
document

11 marked State's Exhibit 55. And take a look at those
12 three pages, please.

13 A. Okay.

14 Q. Does that appear to be a copy of
the

15 affidavit that you gave to the Rowlett Police
Department?

16 A. Yes, it does.

17 Q. Okay.

18

19 MR. TOBY L. SHOOK: Judge, that's

all

20 the questions I have. And I will give -- turn the
21 affidavit over to him.

22 THE COURT: Mr. Mulder.

23 MR. DOUGLAS MULDER: Judge, I have

not

24 seen this. Would you bear with me while I read it
25 quickly?

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: All right.
2
3 (Whereupon,
after
4 a short
pause,
5 until the
6 defense read
7 the
exhibit,
8 the
proceedings
9 were
resumed
10 as follows:)
11
12

13 CROSS EXAMINATION

14
15 BY MR. DOUGLAS MULDER:

16 Q. Mr. Wielgosz, you have no doubt
had an
17 opportunity to read this statement, or perhaps have a
18 copy of it yourself, do you not?

19 A. Yes, I do.

20 Q. So you were able to, I guess,
review

21 it as much as you wanted to in preparation for your
22 testimony today?

23 A. I did review it, yes.

24 Q. Okay. And is it fair to say, Mr.
25 Wielgosz, that prior to the time that you gave this

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1 statement, you were questioned to some degree by the
2 detectives?

3 A. Prior to that date?

4 Q. Right. In writing out the
statement.

5 A. Well, that was the first time the
6 police had contacted me.

7 Q. Okay. So, you had seen them on
the
8 6th of June only, and only on that date?

9 A. Correct.

10 Q. Okay. And saw them for -- I
believe

11 you said you got off at 7:00 o'clock. So, whatever
time

12 they got up there until your shift was over?

13 A. Right.

14 Q. You left promptly at 7:00, I
assume?

15 A. Approximately 7:00, 7:05.

16 Q. Okay. And is it -- you didn't
hear

17 anything from them until July the 1st of 1996?

18 A. Correct.

19 Q. Did they come to Baylor Hospital
to

20 see you?

21 A. They called me and asked me if I
would

22 be able to come out to the Rowlett -- they contacted
me

23 at work.

24 Q. Okay.

25 A. Because I work nights. They
contacted

Sandra M. Halsey, CSR, Official Court Reporter

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1 me while I was at work and asked me if I would come
out

2 to the Rowlett Police Department.

3 Q. When you got off work?

4 A. No. We set up a date several days
5 after that.

6 Q. Okay. And so they contacted you a
7 couple of days before July the 1st?

8 A. Correct.

9 Q. And you made arrangements. Did
you go

10 out there on your day off?

11 A. Yes.

12 Q. Okay. And, I guess renewed your
13 acquaintanceship with both Frosch and Detective
14 Patterson?

15 A. Well, presented myself to them.

16 Q. Shook hands with them?

17 A. Right.

18 Q. They said, "remember us?"

19 A. Yes.

20 Q. You said, "Yeah, I remember y'all.

21 You were the ones that came up there to see Ms.
Routier?"

22 A. Right.

23

Q. Words to that effect?

24

A. Yes.

25

Q. They said, "Do you remember," I

assume

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1 they said, "Do you remember at that time that we were
up
2 there talking to her -- do you remember back if she
3 appeared to be alert at that time?" Did they ask you
4 that?

5 A. They did ask me if she was alert
at
6 that time.

7 Q. Okay. And had you, in preparation
for
8 this meeting, I bet you had gone back and reviewed
your
9 notes, hadn't you?

10 A. No, I had not --

11 Q. Had not? Okay.

12 A. -- had the opportunity to do
that at
13 that point in time.

14 Q. Okay. But you're telling this
jury
15 that prior to the time that you went out and met
with
16 them July the 1st of 1996, you had not had an
opportunity
17 to review your notes?

18 A. I did not review my notes.

19 Q. Okay. So, and you're sure about
that?

20 A. Yes.

21 Q. Okay. So, at any rate, you
visited

22 with them. About how long did y'all talk before
they

23 asked you to give a statement?

24 A. I would say approximately 15
minutes.

25 Approximately 15 minutes.

1 Q. Okay. Y'all just basically
chatted

2 about what had gone on, on the 6th, while they were
3 there?

4 A. I actually asked them several
5 questions, asked them why they were interested in
having

6 me come out to fill out a statement.

7 Q. Okay.

8 A. And they answered my questions.
And

9 then we went on to ask me -- they asked me at that
point

10 in time they asked me to fill out the
affidavit, fill out

11 an affidavit.

12 Q. Did they -- let me ask you
this: When

13 is the last time you saw the prosecutors before
today,

14 before this morning, in here in court?

15 A. I did see the prosecutors
yesterday.

16 Q. Okay. And yesterday
evening?

17 A. No, yesterday morning.

18 Q. Morning? Which ones did you
see?

19 A. I saw Prosecutor Shook.

20 Q. Okay. You talked to him
yesterday
21 morning?

22 A. Just in passing.

23 Q. Sure. Just passed the time
of day

24 with him, "Good morning, how are you, Toby"?

25 A. Correct.

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Reporter

1 Q. And when did you come down
here?

2 A. We came down here Monday
night.

3 Q. Okay. You say "we," who did --
did

4 you come down with someone?

5 A. I came down on -- we flew down
out of

6 Love field in Dallas, with several other subpoenaed
7 witnesses.

8 Q. Okay. Who did y'all come down
with?

9 A. There were several other Baylor
10 employees.

11 Q. Do you know who they were?

12 A. I do know who they are, yes.

13 Q. Could you share that with us,
please?

14

15 MR. TOBY L. SHOOK: Judge, I'll
object

16 to relevance, who he came with.

17 THE COURT: Overruled. I'll let
him

18 answer that question. Go ahead.

19 THE WITNESS: I came down with
several

20 of the nurses from the 4 ICU. And also a nurse from
the

21 emergency room, and one of the residents.

22

23 BY MR. DOUGLAS D. MULDER:

24 Q. Do you remember what their names
were?

25 A. I was not acquainted with these
people

1 before we actually came to Kerrville. So, I still am
not
2 aware of all of their last names, but at this point
in
3 time I do know their first names.

4 Q. Tell us their first names, if you
5 would, please.

6 A. There is a nurse, first name
Paige,
7 and a nurse, first name Jody. Another nurse, first
name
8 was Jody. There is a nurse Denise and Dr. Dillawn
was
9 the resident.

10 Q. Okay. So we've got two Jodys, a
Paige
11 and a Denise?

12 A. That's correct.

13 Q. Okay. Y'all have been staying out
at
14 the Holiday Inn, haven't you?

15 A. Correct.

16 Q. I assume you have lunch together,
or
17 eat dinner together, things like that while you're

18 waiting here to testify?

19 A. At times.

20 Q. Okay. Kind of allowed you to, I
21 guess, get acquainted a little bit better?

22 A. To some extent, yes.

23 Q. I mean, not much to do out there,
is

24 there, except watch TV?

25 A. No, there's not a lot to do.

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1 Q. Pretty cold to go outside, rainy?

2 A. Yes.

3 Q. Have y'all talked about your
4 testimony?

5 A. Actually we have been instructed
not
6 to.

7 Q. Okay. And, had you met with the
8 prosecutors back in Dallas?

9 A. Yes, I did.

10 Q. And when was that?

11 A. I don't remember the exact dates,
12 sometime in November.

13 Q. Okay. And where was it that y'all
14 met?

15 A. They had come out to my apartment.

16 Q. Okay. Who came out there?

17 A. Investigator Bosillo and Attorney
18 Shook.

19 Q. Okay. Is that the only contact
you
20 had with them?

21 A. Previous to that I had contact
with

22 Investigator Bosillo at Baylor Medical Center.

23 Q. And he just -- did he have your

24 affidavit with him when he came out to visit with

you?

25

A. I do not recall if he had the

Sandra M. Halsey, CSR, Official Court Reporter

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1 affidavit at that time.

2 Q. But he talked to you at that time,
did

3 he?

4 A. Yes, he did.

5 Q. Was that the first contact you had
6 with anyone from the DA's office?

7 A. Correct.

8 Q. Okay. So you met with Mr. Shook
how

9 many times?

10 A. Once.

11 Q. Okay. And then passed the time of
day

12 with him here the other day?

13 A. Correct.

14 Q. Okay. You didn't participate in
any

15 dress rehearsal or anything, did you?

16 A. No.

17 Q. Okay. Now, do you have -- did
the

18 detectives, when they talked to you, did they ask
you,

19 "Do you recall when I questioned her

about such and such?

20 And do you recall when I asked her
about the

21 description?" Did they ask you
anything like that?

22 A. No, they simply
asked if I recalled

23 them questioning her.

24 Q. And that's it?

25 A. The detectives?

Sandra M. Halsey, CSR, Official
Court Reporter

1 Q. Yes, sir.

2 A. When I was in
Rowlett?

3 Q. Yes.

4 A. Yes.

5 Q. Okay. And you're telling the
jury

6 that you didn't have -- you didn't go over your
notes

7 when you -- in preparation for the -- in
preparation for

8 your interview with them when you gave your
affidavit?

9 A. That's correct.

10 Q. Okay. And this may be -- I
don't mean

11 to be splitting hairs here, but you notice when
you gave

12 a description on your affidavit how you described
her?

13 Are you familiar with it enough or would you like
to look

14 at it? Or do you have your own copy?

15 A. No, I would like to look at it.

16 Q. Okay. Did you find anything in

there

17 where you described her as crying, visibly upset?

18 A. Yes.

19 Q. Okay. And that's what you say

20 exactly, crying, visibly upset?

21 A. Correct.

22 Q. Okay. And that was in your

affidavit

23 as well?

24 A. Yes.

25 Q. Okay. You had told us
something here

Sandra M. Halsey, CSR, Official Court
Reporter

1 about -- and I assume you didn't take any notes at
the

2 time, did you?

3 A. Take any notes at what time?

4 Q. At the time that this interview
was

5 going on at the Rowlett Police Department?

6 A. Right. No, I did not.

7 Q. And were you tending to other
things

8 or were you just --

9

10 THE COURT: I think the jury
is having

11 a tough time hearing. You might want to raise
your voice

12 a little.

13 Can everybody hear him?

14 Okay. Speak into that

microphone loud

15 then. Go ahead.

16

17 BY MR. DOUGLAS MULDER:

18 Q. Okay. They had asked you when
you

19 gave your affidavit to make it as complete as you
20 possibly could, didn't they?

21 A. They simply asked if I would
write an
22 affidavit.

23 Q. Okay. And were you told or
did you
24 understand that you should make it as -- of
course,
25 you're the type of guy that, you know, as a nurse
you

Sandra M. Halsey, CSR, Official Court
Reporter

1 make things as complete as you possibly can
anyway, don't

2 you?

3 A. We do, yes.

4 Q. And it is part of your
business to be

5 accurate, isn't it?

6 A. That's correct.

7 Q. That's why you put, that when
she came

8 into your unit she was visibly upset, and she was
crying?

9 A. That's what I stated.

10 Q. Not just tears, a little water
in the

11 eyes, but she was actually crying, wasn't she and
that's

12 what you put down there?

13 A. I did put down that she was
crying,

14 yes.

15 Q. Okay. You put it down because
it's

16 true, isn't it?

17 A. She was crying.

18 Q. All right. And, you told the
jury
19 about how you listened to them question her; is
that
20 right?

21 A. That's correct.

22 Q. Okay. In your statement you
said
23 that, and I believe you testified to this too,
that you
24 had been advised by someone that the Rowlett
Police
25 Department officers were there and wanted to
question Ms.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Routier; is that right?

2 A. That is correct.

3 Q. And you said that's why you
delayed

4 giving her any medication. Correct?

5 A. Well, that's why I called to
find out

6 how long they may be, yes.

7 Q. And you delayed any medication
at that

8 point, did you not?

9 A. Approximately 10 minutes, yes.

10 Q. Okay. And then, so -- I think
you

11 noted in there, that you were advised that they
wanted to

12 question her at about 6:00 o'clock, or
thereabouts?

13 A. I don't recall the exact time.
At the

14 time that I called down, they said -- they said
that they

15 would be there in approximately 10 minutes.

16 Q. All right. And they didn't
show up,

17 did they?

18 A. Correct.

19 Q. So you went ahead and
administered

20 some medication to her, some Demerol and then
another

21 drug that keeps your stomach from being upset?

22 A. Correct.

23 Q. Okay. And about what time was
that

24 done?

25 A. Approximately 5:50.

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Reporter

1 Q. Okay. Did you chart it in
there at

2 6:05?

3 A. I may have.

4 Q. Okay. And that would be the
time that

5 it was actually given then, I guess, wasn't it?
Wouldn't

6 it be? Whatever is the charted time?

7 A. Well, that would be the most
accurate

8 time.

9 Q. Okay. And then you said it
was about

10 how long before they came up?

11 A. Approximately 10 minutes.

12 Q. Okay. Of course you had other
things

13 you were attending to, you weren't just standing
there

14 waiting on them, were you, tapping your foot?

15 A. Waiting on the police?

16 Q. Yeah.

17 A. No, I was waiting on -- I was
18 attending to the patient.

19 Q. Okay. And you had other

chores, I

20 assume, like making notes on your charts, and
things like

21 that?

22 A. Yes.

23 Q. Okay. The point I'm making
is, you

24 weren't just standing there tapping your foot
waiting for

25 the police officers to get up there, were you?

Sandra M. Halsey, CSR, Official Court
Reporter

1 A. No, I was not.

2 Q. Okay. The police came up
about 15

3 minutes or so after you had administered the
Demerol?

4 A. I would say 10 to 15 minutes,
yes.

5 Q. That's what you're saying,
you're

6 saying 10 to 15 minutes, if I understand it
correctly?

7 A. Yes.

8 Q. So that is going to put
them up there

9 at about, what, 6:15, or 6:20, something like
that?

10 A. Approximately, yes.

11 Q. Okay. And, did you have
anything else

12 to attend to at this time?

13 A. The patient.

14 Q. And that's it?

15 A. Correct.

16 Q. Were there other patients
in ICU?

17 A. Yes, there were.

18 Q. About how big is this ICU
room?

19 A. The particular room has --
they're set
20 up in different pods, they call them.

21 Q. Okay.

22 A. And, each pod has four
beds. In this
23 particular case, this was the only patient in
this pod.

24 Q. Okay. But how many other
pods did you
25 have?

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Reporter

1 A. Are there on the unit or
was I

2 responsible for?

3 Q. No, on the unit.

4 A. There are seven.

5 Q. Okay. I mean, I may have the
wrong

6 conception of this, but I visualize a room -- is
it as

7 big as this room?

8 A. Each pod?

9 Q. No, the entire room.

10 A. It's not an entire room, it's
actually

11 a portion of an entire floor.

12 Q. Okay.

13 A. With a hallway. And off the
hallway

14 are separate rooms which we call pods. They each
have

15 four beds in them, four patients.

16 Q. All right. Well, there's some
privacy

17 in there where they were able to question her; is
that

18 right?

19 A. Yes.

20 Q. And you were just -- you just sat
21 there and listened? Is that your story, pretty
much?

22 A. Well I was there while they
were
23 questioning her performing my responsibilities.

24 Q. What were your
responsibilities?

25 A. Again, tending to the patient
and

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Reporter

1 monitoring the patient, and doing all of the
paperwork

2 required to admit the patient into the intensive
care

3 unit.

4 Q. How much paperwork is involved
in

5 that?

6 A. Well, do you want pages, or -- I
don't

7 know how you want me to quantify that.

8 Q. Well, I want to know if you're
just

9 making a couple of check marks and signing your
name, or

10 if there's something that requires, you know, some
11 thinking.

12 A. Well, there's quite a bit that
13 requires a lot of thinking, yes.

14 Q. Okay. Well, all right. Well, I
15 assume you're tending to your stuff, and letting the
16 police -- you don't anticipate at that time, that
you're

17 going to be down here testifying, did you?

18 A. No, I did not.

19 Q. So you're making sure that what
you're

20 doing is accurate, as opposed to monitoring the
police

21 interrogation? Is that fair to say?

22 A. I was not monitoring the police
23 interrogation, but I could not help but overhear
portions

24 of it.

25 Q. I understand. But it's kind of
like

1 when you're working on a project and the TV set is
on.

2 Something like that?

3 A. Well, I don't think that that's
4 necessarily an accurate analogy.

5 Q. You don't like that analogy?

6 A. No.

7 Q. All right. You've done that,
haven't

8 you? Where you'll have the TV set on, maybe
somebody

9 else is over here watching TV and they're
concentrating

10 on that and you're doing paperwork, and you don't
know

11 whether the Cowboys are winning or losing.

12 A. I'm not a big Cowboys fan, so I
13 wouldn't know.

14 Q. Well, that's a better analogy.

You're

15 not a big Cowboy fan, so you wouldn't be paying
16 attention, so you would be tending to your business,
17 whatever you're doing. Right?

18 A. Correct.

19 Q. Okay. So you tried to be as

accurate

20 as you could in this State's Exhibit No. 55. And
you

21 told us -- you said something about a struggle; is
that

22 right? Is that right?

23 A. I didn't use the word struggle.

I

24 said that --

25 Q. What did you say? A struggle
with her

1 attacker or something like that?

2 A. Was defending herself.

3 Q. Defending herself, right. Would
you

4 show me in there where you say that?

5 A. I don't have it stated in the
6 affidavit.

7 Q. Do you want to look through the
whole

8 affidavit so you can make sure?

9 A. Okay. No, I don't state that
10 specifically in this affidavit.

11 Q. Okay. I guess you weren't --
that

12 didn't seem important to you at the time?

13 A. Well, I didn't think that I was
going

14 to be required to state in detail their entire
15 questioning.

16 Q. Well, you know, just a casual
reading

17 of this, you spend more time, really, on the jewelry
and

18 rings and stuff like that, don't you?

19

20 MR. TOBY L. SHOOK: Judge, I'll
21 object, if he's going to just keep referring to the
22 document in general, then we would object to that,
unless
23 it's put in evidence.

24 THE COURT: Sustained.
25

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1 BY MR. DOUGLAS MULDER:

2 Q. Yes, sir. You actually -- but you
do

3 address the jewelry to some extent, don't you?

4 A. I do. That was something that
stuck

5 out very specifically in my mind.

6 Q. Okay. Mr. Wielgosz, in your
position

7 as a nurse, you have seen, I guess, people who have
been

8 victims of trauma, I guess, on a daily occurrence, do
you

9 not?

10 A. Yes.

11 Q. Okay. Could you give us your --
based

12 on your expertise and experience and whatever, can
you

13 give us your best estimate or guesstimate as to how
old

14 these bruises are?

15 A. Can you be more specific?

16 Q. Well I don't know how.

17 A. Well, I don't understand the

question:

18 "How old they are".

19 Q. Oh, okay. Can you tell us,
obviously,

20 whoever -- if these are a result of trauma -- well,
let

21 me put it to you this way: If these are a result of
22 trauma, are you saying that it must have happened
after

23 she was discharged from your care, from your
hospital?

24 A. I did not say that. I simply
stated

25 that the bruising on the right arm is not consistent
with

1 anything that I assessed or noted at the time that I
took
2 care of the patient.

3 Q. All right. Are you saying that
you
4 would have noticed it had it been there, or are you
5 saying that you should have noticed it, had it been
6 there?

7 A. I'm saying that if there was
anything
8 that would have caused that amount of bruising, that
I
9 would have noticed it.

10 Q. Well, surely, if -- you have been
11 bruised before, haven't you?

12 A. Yes, I have.

13 Q. Did you ever bump yourself or run
14 against a table and bump your hip, and all of a
sudden

15 you're getting out of the shower and you look down
and
16 you see it, and you think, gosh, when did I do that?
All
17 of a sudden it's black and blue, and you think back
and

18 it was three or four days ago. Has that ever
happened to

19 you?

20 A. That has happened to me, yes.

21 Q. Okay. Well, I'm not suggesting
that

22 you overlooked these bruises, but it's been my

23 experience, and I suspect your experience with
bruises,

24 that you get an injury and you don't see anything,
maybe

25 a slight swelling immediately, and then as the hours
and

1 the days go on, it gets worse and worse and worse
until

2 it finally peaks and starts to fade?

3 A. Well, it's been my experience
that to

4 cause the bruising that's that severe, that there
would

5 have been, at that time, a hematoma that would have
been

6 apparent. That would have been a large amount of

7 localized swelling at the sight that the trauma took

8 place, and it would

then have taken 24 or 48

hours for it

9 to become that apparent

and severe throughout the

entire

10 arm.

11 Q.

Okay. Now, did you see Ms.

Routier on

12 the 7th?

13 A. No,

I did not.

14 Q. Did

you see her on the 8th?

15 A. No,
I did not.

16 Q.

Okay. So, your
observations of her
17 are, I guess, limited
to from 05:00, as you
described it,

18 until 07:00?

19 A.

That's correct.

20 Q.

Okay. And she wasn't up
there, and no
21 one had called any
attention to any bruising on
her; is

22 that right?

23 A.

Excuse me?

24 Q. No

one had said to you that she
had
25 been bruised? You
didn't note that -- that was
not noted

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CSR, Official Court Reporter

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1 in the chart when you
got her, and she didn't
complain of

2 bruises?

3 A.

Well, I was the initial
nurse that --

4 I did the initial
assessment after she came
out of the

5 OR. And at that time
there was no bruising there
and

6 nothing that would
indicate any trauma.

7 Q.

Okay. Did you examine her
hands?

8 A. Yes,
I did.

9 Q. Did
you notice anything
remarkable on

10 her hands, either of
her hands?

11 A.

There was blood on her
hands, dried

12 blood.

13 Q.

Okay.

14 A. The

very, very slight, seemed
like a

15 very slight cut,
possibly, on the left hand,
I believe.

16 Q. Did
you note that in your chart?

17 A. That
was not noted.

18 Q. How
do you know it wasn't noted?

19 A.
Well, I don't recall seeing
that in

20 the chart --

21 Q. Have
you been over your chart?

22 A. I
have been -- I have since
looked at

23 the chart, yes.

24 Q. And

when did you last look at

the

25 chart?

Sandra M. Halsey,
CSR, Official Court Reporter

1 A.

Tuesday.

2 Q.

Tuesday?

3 A. Yes.

4 Q. Okay. And did you go
through her

5 entire chart?

6 A. No.

7 Q. Just looked at the two hour
window

8 that you had?

9 A. I looked at the entries that
I made on

10 the focus notes.

11 Q. Okay. So you know that you
didn't

12 note the injuries to her hand?

13 A. Correct.

14 Q. Why is that?

15 A. There was a -- what looked
like a very

16 minor paper cut to the hand.

17 Q. Okay. Okay. Did you notice
any other

18 injuries to her hands?

19 A. No, I did not.
20 Q. Okay. Did you -- you said
she was
21 bloody?
22 A. Yes.
23 Q. Did she have blood on her
arms?
24 A. No, she had blood on her
hands,
25 fingers and hands.

Sandra M. Halsey, CSR, Official Court
Reporter

1 Q. Had you -- and you're
telling the jury

2 that somebody had apparently cleaned her arms
and had not

3 cleaned her hands?

4 A. I'm not telling them that,
I'm just

5 telling them that the only thing that she had
on her when

6 I saw her was blood on her hands.

7 Q. Okay.

8 A. And fingers.

9 Q. Inasmuch as, and I guess
you've told

10 us that you weren't attending to other
patients, so other

11 than the paperwork that you had to handle, I
assume,

12 before got off work, she was your only patient?

13 A. Correct.

14 Q. All right. Any reason you
didn't wash

15 her hands?

16 A. That was not a priority at
the time.

17 Q. Well, so, the paperwork was

the number

18 1 priority?

19 A. The paperwork -- once she is
stable,

20 when we assess her and determine that she is
stable, her

21 vital signs are stable, then yes, we need to
have our

22 charting and paperwork done.

23 Q. And that's what you were
primarily

24 concerned with?

25 A. And, also to review the
orders, they

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Reporter

1 come out from the OR with a list of orders from
the
2 physicians, which we have to check very
carefully.

3 Q. Didn't say anything about cleaning
her
4 hands in the physician's orders, I guess?

5 A. No.

6 Q. Okay. You know, obviously I don't
7 have your vast experience, but I couldn't assess --
if
8 someone's hand was bloody, the first thing I would
do, is
9 wash it off and see if it was hurt.

10

11 MR. TOBY L. SHOOK: Judge, we'll
12 object to what Mr. Mulder might do.

13 MR. DOUGLAS D. MULDER: Well, I'm
14 suggesting to you --

15 THE COURT: Well, I think this is
--

16 that's overruled. I'll let him ask the question.

17 Go ahead.

18

19 BY MR. DOUGLAS M. MULDER:

20 Q. Well, you know, again, I don't
have
21 your vast experience, but if I saw blood on
somebody's
22 hand, I'd probably think maybe their hand was cut.
So
23 what I would probably do, was wash their hand and I
could
24 assess it then. I wouldn't just eyeball it and say
25 "bloody hand". I don't understand why you didn't
clean

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1 the hands.

2 A. Again, that was not a priority.
And,

3 as far as the blood on the hand, her hand was not
4 completely covered with blood.

5 Q. Oh, now it just had some blood on
it?

6 A. No, her hand was not completely
7 covered with blood. She had blood on the hand. And
I

8 never stated that it was covered with blood.

9 Q. Okay. But -- so you could tell
10 that -- what could you tell from that? Just tell us
--

11 she didn't -- her hand wasn't totally bloody?

12 A. I don't understand the question.

13 Q. Well, I mean, so -- you were the
one

14 that said that she had blood on her hands.

15 A. Correct.

16 Q. Okay. I asked you simply how you
17 could assess it without washing the blood off, and
you

18 said it wasn't a priority.

19 A. Washing the blood off was not a

20 priority.

21 Q. Okay. Did she have blood on her
arms?

22 A. Not that I recall.

23 Q. Well, they wouldn't bathe her
arms

24 while she was being operated on, would they?

25 A. Well, I don't know what they did
when

1 they operated on her.

2 Q. Okay. Well, they said when she
came

3 into the emergency room, she was covered in blood.
They

4 wouldn't bathe her in route from the operating room
to

5 your room, would they?

6 A. Again, I have no knowledge of
what was

7 done between the time the patient was admitted to
the

8 hospital and they came to me in the intensive care
unit.

9 Q. Are you saying that she didn't
have

10 blood on her arms?

11 A. I'm saying the only blood I
recall was

12 on her hands.

13 Q. Did she have blood on her feet?

14 A. She did not, that I recall.

15 Q. Well, is that a kind of a
definite

16 maybe?

17 A. I do not recall blood on her
feet.

18 Q. Okay. Are you saying that you
looked
19 at her feet?

20 A. Yes.

21 Q. Okay. And you're telling the
jury

22 under oath that she had no blood on her feet?

23 A. Correct.

24 Q. All right. I just want to make
sure
25 we understand each other.

1 This is a -- it is safe to say, a
two
2 and a half page affidavit that you were asked to
write?

3 A. Correct.

4 Q. Okay. Actually, the only thing
that
5 it says in there, and I will hand it to you, so that
you
6 can make sure that what I say is accurate, but if I
read
7 that thing right, the only thing it says in there
that
8 she responded to, was a description --

9
10 MR. TOBY L. SHOOK: Well, Judge,
I'll
11 object to this as improper impeachment. I mean, if
he's
12 got a quarrel with something that's in the
affidavit, he
13 can go specifically to it, but characterizing the
14 affidavit is improper impeachment.

15 THE COURT: Sustained.

16

17 BY MR. DOUGLAS D. MULDER:

18 Q. Let me just ask you: Is there

19 anything, other -- that she describes in there,

other

20 than what the assailant was wearing, and she talks

about

21 the jewelry not being stolen?

22 A. In this particular affidavit?

23 Q. In the affidavit that you wrote.

24 A. That is what is stated in the

25 affidavit, no, sir.

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1 Q. Okay. So the only thing -- you
just
2 talked about the police being methodical with her
and
3 starting at the beginning, and a description of
the
4 assailant?

5
6 MR. TOBY L. SHOOK: Again,
Judge, I'll
7 object to just generally describing the affidavit.
If he
8 wants to put it in evidence, that's fine, but
that's
9 improper impeachment.

10 THE COURT: I'll sustain the
11 objection.

12 MR. DOUGLAS MULDER: Judge,
this is
13 past recollection recorded.

14 THE COURT: Thank you.

15 MR. DOUGLAS MULDER: I'm
entitled to
16 go into it.

17 THE COURT: Well, let's ask the

next

18 question then. Thank you.

19

20 BY MR. DOUGLAS D. MULDER:

21 Q. Did you put anywhere in your
notes, or

22 in the affidavit, anything about Mrs. Routier
having a

23 flatness of affect?

24 A. No, I did not.

25 Q. That's just something that you

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Reporter

1 remembered; is that right?

2 A. That's is correct.

3 Q. Okay. People deal with grief
in

4 different manners, don't they?

5 A. Yes.

6 Q. Is it fair to say?

7 A. Fair to say they do that.

8 Q. And, you know, I don't know
what

9 tragedy you may have experienced in your lifetime,
but

10 certainly you have been in contact with those who
have

11 experienced tragedy, and they can be up one minute
and

12 down the next, and flat the next, and it just runs
the

13 gamut of human emotion, doesn't it?

14 A. Well, I don't know if you can
15 characterize it completely that way, but it
varies.

16 Q. Well, that is 95 percent
correct, what

17 I said, wasn't it?

18 A. Well, I can't comment.

19

20 MR. DOUGLAS MULDER: I believe
that's

21 all, thanks.

22 THE COURT: Anything, Mr. Shook?

23 MR. TOBY L. SHOOK: Judge, we
will

24 offer State's Exhibit No. 55.

25 THE COURT: Any objection?

1 MR. DOUGLAS MULDER: Judge, it's
2 improper and it's bolstering, but I don't have an
3 objection to it. And he knows it's improper, and
you
4 should admonish him for doing that.

5 MR. TOBY L. SHOOK: Well, Judge,
we
6 would like a legal objection.

7 THE COURT: Well, are you going
to
8 object or not?

9 MR. DOUGLAS D. MULDER: No, sir,
I
10 don't have an objection. In fact, I was thinking
about
11 putting it in myself.

12 THE COURT: All right. Well,
thank
13 you. State's Exhibit 55 will be admitted.

14
15 (Whereupon, the item
16 Heretofore mentioned
17 Was received in
evidence

18 As State's Exhibit
No. 55

19 For all purposes,
20 After which time, the
21 Proceedings were

resumed

22 As follows:)

23

24 MR. TOBY L. SHOOK: I don't have

any

25 further questions.

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1 THE COURT: All right. Thank
you.

2 You may step down. You're under
the

3 Rule, which simply means don't discuss your
testimony

4 with anybody who has testified, don't compare it.
You

5 may talk to the attorneys for either side. If
someone

6 tries to talk to you about your testimony, please
tell

7 the attorney for the side who calls you.

8 THE WITNESS: Thank you.

9 THE COURT: Have a nice trip
back.

10 All right. Ladies and
gentlemen, by

11 agreement we will break now until 1:00 o'clock for
lunch.

12 Thank you.

13

14 (Whereupon, a short

15 Recess was

taken,

16 After which

time,

17

The proceedings

were

18

Resumed on the

record,

19

In the presence

and

20

Hearing of the

defendant

21

And outside the

presence.

22

of the jury, as

follows:)

23

24

THE COURT: Who is the next

witness

25 Phyllis Jackson or Paige Campbell?

1 MR. TOBY L. SHOOK: The State
calls
2 Phyllis Jackson.
3 THE COURT: All right. Bring the
jury
4 in, please.
5
6 (Whereupon, the jury
7 was returned to
the
8 courtroom, and
the
9 proceedings
were
10 resumed on the
record,
11 in open court, in
the
12 presence and
hearing
13 of the defendant,
14 as follows:)
15
16 THE COURT: All right. Be
seated,
17 please. Let the record reflect that all parties in

the

18 trial are present and the jury is seated.

19 Ma'am, if you will raise your

right

20 hand, please.

21

22 (Whereupon, the witness

23 was duly sworn by

the

24 Court, to speak

the truth,

25 the whole truth

and

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Court Reporter

1 nothing but the
truth,
2 after which, the
3 proceedings were
4 resumed as follows:)

5
6 THE COURT: Do you solemnly
swear or
7 affirm that the testimony you are about to give
will be
8 the truth, the whole truth, and nothing but the
truth, so
9 help you God?

10 THE WITNESS: I do.

11 THE COURT: All right. The Rule
of
12 Evidence has been invoked. That simply means when
you're
13 not testifying, you have to remain outside the
courtroom.

14 Don't talk about your testimony with anybody who has
15 testified.

16 In other words, don't compare it.
You
17 may talk to the attorneys for either side. If

someone

18 tries to talk to you about your testimony, please
tell

19 the attorney for the side who calls you. Okay?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. State
your

22 name and spell your last name for the Court
Reporter.

23 THE WITNESS: Phyllis Jackson,

24 J-A-C-K-S-O-N.

25

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1 Whereupon,

2

3 PHYLLIS JACKSON,

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. Ms. Jackson, how are you
employed?

15 A. I'm employed by Baylor Health
Care

16 System Police Department.

17 Q. Okay. And, you're a police
officer

18 with them?

19 A. Yes, sir, I'm a corporal in
patrol.

20 Q. How long have you been with
them?

21 A. Six years.

22 Q. Does Baylor Hospital have its
own

23 police department?

24 A. Yes, sir, we do.

25 Q. Okay. And what is your
jurisdiction?

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Reporter

1 A. Anywhere on the Baylor Health
Care
2 System Property, whether it's in Dallas, or any of
the
3 affiliates that are nearby.

4 Q. Okay. They have more than just
one
5 central location; is that right?

6 A. That's correct.

7 Q. About how big is your
department?

8 A. We have about 50 sworn officers.

9 Q. Okay. And you've been with them
six
10 years?

11 A. Yes, sir.

12 Q. Okay. Let me ask you if you
were on

13 duty on July -- I'm sorry, June 6th, 1996?

14 A. Yes, sir, I was.

15 Q. What time did you come on duty?

16 A. That evening I came
on at 10:15.

17 Q. Okay.

18 A. On the 5th.

19 Q. Okay. So that would

be the 5th of

20 June?

21 A. Correct.

22 Q. And, where were you
assigned?

23 A. In the Robert's
Building.

24 Q. Okay. And, what were
your duties
25 there?

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Court Reporter

1 A. To patrol the floors,
just walk

2 through, check doors, make sure
everything is locked up.

3 Relieve other officers for breaks if
necessary.

4 Q. Okay. Sometime in
the early morning

5 hours were you contacted to help assist
with some

6 witnesses and some victims?

7 A. I went down to the
emergency

8 department and one of the fellow
officers told me of the

9 Routiers being at the hospital, and he
needed a break, so

10 I relieved him for a break.

11 Q. Okay. And about what
time was that?

12 A. It was about 4:45.

13 Q. In the morning?

14 A. Yes, sir.

15 Q. Okay. Did you meet
Darin Routier at

16 that time?

17 A. Yes, sir, I did.

18 Q. And where was he
located when you met
19 him?

20 A. He was in family room
number 1,
21 outside of the emergency department.

22 Q. And how was he
dressed?

23 A. He had on blue jeans
and a white
24 t-shirt.

25 Q. Okay.

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Court Reporter

1

2

(Whereupon, the

following

3

mentioned item was

4

marked for

5

identification only

6

after which time the

7

proceedings were

8

resumed on the record

9

in open court, as

10

follows:)

11

12 BY MR. TOBY L. SHOOK:

13

Q. Let me show you what's been

marked as

14

State's Exhibit No. 54 and ask you if you can

identify

15

that Polaroid photo.

16

A. Yes, sir.

17

Q. Is that a photo of Darin Routier?

18

A. Yes, it is.

19

Q. How he appeared that day?

20

A. Yes, sir.

21

22

MR. TOBY L. SHOOK: Okay. We'll

offer

23 State's Exhibit 54.

24 THE COURT: What is that number,

Mr.

25 Shook?

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1 MR. TOBY L. SHOOK: Number 54.

2 THE COURT: Thank you. All
right.

3 MR. DOUGLAS D. MULDER: No
objection.

4 THE COURT: All right. State's
5 Exhibit 54 is admitted.

6
7 (Whereupon, the item
8 Heretofore mentioned
9 Was received in
evidence

10 As State's Exhibit
No. 54

11 For all purposes,
12 After which time, the
13 Proceedings were
resumed

14 As follows:)

15

16

17 BY MR. TOBY L. SHOOK:

18 Q. Shortly thereafter, did you come
to

19 meet some Rowlett detectives?

20 A. Yes, sir, I did.

21 Q. Okay. And did you take them to

a

22 certain location in the hospital?

23 A. Yes, sir. After Officer Avilar

24 returned from break I escorted Detective Patterson

and

25 Frosch from the Rowlett Police Department up to 2-
south

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1 ICU.

2 Q. Okay. And, what was at that
3 particular location?

4 A. They wanted to interview Mrs.
Routier.

5 Q. Okay. And did you take them
actually

6 into her room?

7 A. Yes, sir, I did.

8 Q. Who was present there?

9 A. Chris Wielgosz. He's an RN.

10 Q. Okay.

11 A. He was there. Sheila Jackson,
she's a

12 night administrator. She was inside the room. She
asked

13 me to come in to discuss media and stuff if they
showed

14 up at the hospital.

15 Q. Okay. So did you talk to Mrs.
Jackson

16 at that time?

17 A. Yes, sir, I did.

18 Q. Did the Rowlett detectives then
begin

19 to talk to Mrs. Routier?

20 A. Yes, sir, they did.

21 Q. Okay. Did you stay in the room
for

22 any length of time after that?

23 A. I was in the room, and then I had
to

24 leave on some calls and then I came back to the
room.

25 Q. So you were in and out of the
room?

1 A. Yes.

2 Q. Okay. And how close were you to
the

3 detectives and Mrs. Routier?

4 A. Initially when I went in, I was
about

5 20 feet away, but upon leaving and reentering,
probably

6 as close as seven feet.

7 Q. Okay. Were you able to observe
her

8 and the detectives?

9 A. Yes, sir.

10 Q. And, were you able to hear the
11 conversation they were having?

12 A. Parts of it.

13 Q. When you were in the room --

14 A. While I was in the room.

15 Q. And not occupied with something
with

16 Ms. Jackson?

17 A. That's correct.

18 Q. Okay. Did -- well, what was Mrs.
19 Routier -- what was her appearance at the time?

20 A. She was awake, oriented, she

answered

21 the questions that the officers asked.

22 Q. Did she seem to understand the

23 questions they were asking?

24 A. Yes, she did.

25 Q. Okay. And were you able to hear
her

Sandra M. Halsey, CSR, Official Court Reporter

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1 answers as to some of the questions they asked her?

2 A. Yes, I was.

3 Q. Okay. Were you there when she
talked

4 about how this attack had occurred?

5 A. Yes, sir. On -- what I heard
was,

6 when she said that she awoke with a man on top of
her.

7 Q. Okay. And what did she say
happened

8 then?

9 A. And, she described him as a white
male

10 with shoulder length, dark-colored hair, and she
said

11 they struggled. And as he fled, she picked up a
knife

12 and chased him to the garage area.

13 Q. Okay. Did she -- and she said
this

14 man was on top of her when she woke up?

15 A. That's correct.

16 Q. Okay. Did she say where she was
when

17 this happened?

18 A. She said she was in the living
room,

19 that her and her two sons had fell asleep in front
of the

20 television that evening.

21 Q. Okay. Had she said why they were
22 sleeping downstairs or anything like that that you
23 recall?

24 A. She had said that she had been
25 sleeping downstairs for about a week because she had
been

1 real restless and she didn't want to keep waking Mr.
2 Routier up.

3 Q. Okay. And then she chased this
man

4 out, and he dropped the knife; is that right?

5 A. She said she had picked the knife
up

6 and chased him. And, once she realized she was
wounded,

7 she came back and had laid the knife on the kitchen
8 counter top.

9 Q. Okay. What's the next thing that
you

10 remember her telling them?

11 A. She said Mr. Routier came to the
top

12 of the stairs and then that he came on downstairs.

13 Q. Okay. And then what happened?

14 A. The next thing I remember is, she
was

15 saying that she wore rings on all 10 of her fingers,
and

16 she described most of them in specific detail. That
she

17 had taken them off earlier that evening and laid them

on

18 the kitchen counter top.

19 Q. Okay. So she had had rings on
20 earlier, on every finger, and put them on the kitchen
21 counter top?

22 A. Yes, sir.

23 Q. And, what was her description of
the

24 rings?

25 A. There was one she said she wore on
her

1 forefinger that was a quarter carat. And then some
of
2 the others were described as clusters of gems set in
3 gold.

4 Q. Okay. And then the description of
the
5 attacker was a white male?

6 A. Yes, sir. She said a white male,
7 shoulder length, dark hair, wearing a ball cap.

8 Q. Okay. And did she go into any
other
9 details about him, other than that?

10 A. She said that -- Detective Frosch
was
11 in the room, and she said that the assailant was
about
12 the same build as Detective Frosch.

13 Q. Okay. Did she have him face one
way
14 or the other when she was doing that?

15 A. Well, she said that she could not
16 describe his face, that all she could describe was
from
17 the back. So, Detective Frosch had turned around.
And

18 she said that he was about the same build.

19 Q. About the same build, same size?

20 A. Yes, sir.

21 Q. Okay. Did she say anything about
any

22 windows being open, anything like that?

23 A. Yes, sir. She said the window in
the

24 garage had been opened due to the cat being out in

the

25 garage because the cat was in heat.

1 Q. Okay. The Rowlett
detectives, how did

2 they ask questions?

3 A. They did an interview, how
you

4 interview any victim of any crime, just trying
to figure

5 out what had happened at the home.

6 Q. They weren't interrogating
her?

7 A. No, sir, not at all.

8 Q. Anything like that, were
they?

9 A. No, sir.

10 Q. Was it a pretty long and
methodical

11 process?

12 A. They kind of went with, at
the

13 beginning -- the parts that I heard -- from the
beginning

14 towards, till, you know, the paramedics and all
that got

15 there. And, they just asked questions and she
answered

16 them. Or sometimes, you know, she might have

made

17 another statement and they went from there.

18 Q. You weren't in the room for
the entire

19 interview, were you?

20 A. No, I was not.

21

22 MR. DOUGLAS MULDER: Object

to the

23 leading.

24 THE COURT: Sustained. Let's

phrase

25 our questions properly, please.

Sandra M. Halsey, CSR, Official Court
Reporter

1

2 BY MR. TOBY L. SHOOK:

3 Q. And, at sometime later did
these

4 detectives contact you to execute an affidavit?

5 A. Yes, sir, they did.

6 Q. Do you remember when that
was?

7 A. Well, it was a few days after
the

8 night of the meeting her on June 6th.

9 Q. Did you do that for them?

10 A. Yes, sir, I did.

11 Q. Okay.

12

13

14 (Whereupon, the following

15 mentioned item was

16 marked for

17 identification only

18 after which time the

19 proceedings were

20 resumed on the record

21 in open court, as

22 follows:)

23

24
25

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1 BY MR. TOBY L. SHOOK:

2 Q. Let me show you what's been
marked as

3 State's Exhibit 56, and ask you if that's a copy of
the
4 affidavit you gave?

5 A. Yes, it is.

6 Q. Okay.

7

8 MR. TOBY L. SHOOK: That's all
the
9 questions I have, Judge.

10 THE COURT: All right.

11 MR. DOUGLAS MULDER: Can I see
that
12 exhibit? Thank you.

13

14

15 CROSS EXAMINATION

16

17 BY MR. DOUGLAS MULDER:

18 Q. You said the detectives -- Mrs.
19 Jackson?

20 A. Yes, sir.

21 Q. Contacted you a few days after
this

22 incident?

23 A. Yes, sir.

24 Q. And you gave them a statement

that

25 day?

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1 A. Not that particular day. That
2 affidavit is, the date on it where I signed it was
when
3 it was notarized.

4 Q. Okay. Well, did you type up the
5 statement, or did they type up the statement?

6 A. I typed it up.

7 Q. You typed it up yourself?

8 A. Yes, sir.

9 Q. I take it you typed it up from
notes
10 that you had made?

11 A. I typed it up from memory.

12 Q. You typed it up from memory?

13 A. Yes, sir.

14 Q. Okay. And, did you have it
notarized

15 at or about the time that you gave the statement?

16 A. I had it notarized when I took it
to

17 the Rowlett Police Department.

18 Q. And I assume they contacted you
and

19 said, "give us statement." And, you got back to
them in

20 your usual prompt fashion?

21 A. Yes, sir.

22 Q. The statement is dated sometime in

23 July; is it not?

24 A. Yes, sir, it is.

25 Q. And that's what you meant by a few

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1 days later?

2 A. No, sir, they contacted me before
the

3 3rd of July.

4 Q. Okay. Well, at any rate, your
story

5 is that you took no notes?

6 A. It was not my investigation.

7 Q. Right.

8 A. So, no, sir, I did not take any
notes.

9 Q. And who else was in that room at
that
10 time?

11 A. Chris Wielgosz.

12 Q. Okay.

13 A. He's an RN.

14 Q. Was he taking notes?

15 A. He was tending to her medical
needs.

16 Q. What was he doing, if you could
tell
17 us?

18 A. He was sitting near her bedside
and

19 occasionally he would -- she had some kind of
monitor or

20 something hooked up, and he would tell her not to,
you

21 know, move her arm or something.

22 Q. How many times did that happen?

23 A. A few times.

24 Q. Two times or three times?

25 A. About three.

1 Q. About three times? And he would
tell

2 her "Don't move your arm, you're setting off the
alarm"?

3 A. Yes.

4 Q. Okay. What else was he doing?

5 A. I believe he was charting. I'm
not

6 sure.

7 Q. Making notes about what she was
8 saying?

9 A. I don't know.

10 Q. Okay.

11 A. I was not near him. He was on
the

12 further side of the room than where I was, so I was
not

13 overlooking his shoulder seeing what he was doing.

14 Q. I take it it was a room about
this

15 size?

16 A. It's not quite this large.

17 Q. Not -- it's for four people, so
it

18 wouldn't be quite this big?

19 A. Well, it's for four people, but
it's

20 still not quite this large.

21 Q. Gosh, four people, they would
have

22 plenty of room, wouldn't they?

23 A. Well --

24 Q. In a room this size.

25 A. Well, okay. I don't understand
your

1 question.

2 Q. How big was this room? You said
it

3 wasn't quite this size.

4 A. The ICU pods are just a little
beyond

5 the doors there, not all the way to the back.

6 Q. How many beds in each pod?

7 A. Just four.

8 Q. Four. And were there any other
people

9 in the other beds?

10 A. No, sir.

11 Q. Okay. How many of y'all were in
this

12 room at the time you say you were there?

13 A. About five of us.

14 Q. Okay. Who were they?

15 A. Well, six of us.

16 Q. Okay.

17 A. Mrs. Routier, Detective Patterson,
18 Detective Frosch, Sheila Jackson and Chris Wielgosz.

19 Q. Sheila Jackson?

20 A. Yes, sir.

21 Q. And who was she?

22 A. She's a nursing administrator.

She's

23 a nurse who is the nursing administrator at nighttime

at

24 Baylor.

25 Q. Okay. And why was she there?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. She was there because that's --
2 anytime media is expected and all, you know,
incidents
3 when media is expected, she will go. And then she
wanted
4 to talk to the Rowlett officers to see if they knew
if
5 her name had been released yet, and if the hospital
had
6 been released.

7 Q. Did she stay there for the entire
8 time?

9 A. No, sir, she was in and out as
well.

10 Q. She was in and out and you were in
and
11 out?

12 A. Yes, sir.

13 Q. Okay. I mean, where does Sheila -
-

14 what was Sheila --

15 A. Jackson.

16 Q. Where does Sheila Jackson office?

17 A. She offices on -- now on the
first

18 floor of Truett.

19 Q. Where was she officing at that
time?

20 A. I'm not exactly sure. They had
just
21 relocated the offices. So, I'm not real sure if she
was
22 on the first floor of Roberts or on the first floor
of
23 Truett.

24 Q. Was Ms. Jackson taking notes?

25 A. No, she was not.

1 Q. Okay. Was Mr. Wielgosz taking
notes?

2 A. I do not know what Mr. Wielgosz
was
3 doing.

4 Q. Okay. You said he was charting.

5 A. I believe he looked like he had a
6 chart in his hand, but I do not know what he was
doing
7 for sure.

8 Q. Okay. Do you know if the Rowlett
9 Police Officers recorded this conversation that was
had?

10 A. I do not know.

11 Q. Okay. Well, did you see a video
12 camera there?

13 A. I did not see any type of
recording
14 device.

15 Q. Okay. So, you're telling us that
16 there was not a video camera there?

17 A. I'm not telling you that. I'm
telling
18 you I do not know. I did not see any type of
recording
19 device.

20 Q. Well, I mean, that's something
that

21 you would see if it were there, isn't it?

22 A. If it was a tape recorder, it
could be

23 in a pocket.

24 Q. Okay. But how about a video
recorder,

25 that couldn't be in a pocket, could it, and do much
good?

1 A. No, sir, I did not see one.

2 Q. Okay. You didn't see a video
3 recorder?

4 A. No, I did not.

5 Q. And you don't know anything about
--

6 or at least, you didn't see a tape recorder where it
was

7 exposed?

8 A. Correct.

9 Q. Okay. Were either of the
detectives

10 taking notes?

11 A. Yes, I believe they were.

12 Q. Okay. You were, I think you said
13 seven feet from the bed; is that right?

14 A. That's correct.

15 Q. And -- but you weren't taking
notes,

16 you're sure of that?

17 A. I'm sure of that.

18 Q. Okay. And which of the
detectives

19 were taking notes?

20 A. Detective Frosch.

21 Q. All right. And did you see him
22 actually take notes?

23 A. I saw him take -- write in the,
what

24 we call a whip-out book.

25 Q. In a whip-out book? Do you carry
a

1 whip-out book, too?

2 A. Yes, I do.

3 Q. Okay. And you had your whip-out
book

4 with you at that time?

5 A. Yes, sir, I did.

6 Q. Okay. But it wasn't your
7 investigation, so no reason for you to take notes?

8 A. That's correct.

9 Q. All right. Were you there when
they

10 initially arrived and began this interrogation?

11 A. Yes, sir, I was.

12 Q. And then you left at some point?

13 A. I left and I returned.

14 Q. All right. How long had you been
15 there when you left?

16 A. Probably between 5 and 10
minutes.

17 Q. Okay. And how long did this
entire

18 interrogation last?

19 A. It was -- the interview, I'm
not

20 exactly sure, but I would say at least 30 minutes.

21 Q. Okay. All right. Now, when
you --

22 were you there when it ended?

23 A. I was outside in the hallway.

24 Q. What were you doing out there?

25 A. Talking to Mrs. Jackson again.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. You had lost interest in
the
2 interview?

3 A. It was not my investigation, I
was
4 trying to take care of the hospital needs and our
needs.

5 And they had asked if we could get Mr. Routier a
pair of
6 scrubs --

7 Q. Okay.

8 A. -- to put on, and that's what I
was
9 trying to do.

10 Q. You were asking Sheila Jackson
about
11 some scrubs?

12 A. Yes, sir.

13 Q. Does she handle the scrubs as
well as
14 the publicity?

15 A. She handles everything
16 administratively at Baylor at nighttime.

17 Q. Okay. Now, where did you go when
you
18 left?

19 A. I -- which time?
20 Q. How many times did you leave?
21 A. A few times.
22 Q. Is that two or three or four?
23 A. I was in and out of the room
several
24 times, probably about three times.
25 Q. About three times?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. Yes.

2 Q. Where did you go the first time
you
3 left?

4 A. I had a call to respond to.

5 Q. Okay.

6 A. It was a disturbance in the
emergency
7 department.

8 Q. Oh, there was a disturbance in
the
9 emergency department?

10 A. Yes, sir.

11 Q. And so you went down there?

12 A. I headed that direction and then
it
13 was canceled.

14 Q. Okay. How far did you go?

15 A. I got down to the basement.

16 Q. Okay. From what floor was this
on?

17 A. Second floor.

18 Q. Okay. You got, I assume, walked
down
19 the hall to the elevators?

20 A. That's correct.

21 Q. Is that what you did?

22 A. Yes, sir.

23 Q. And I assume you had to wait for
an
24 elevator?
25 A. They run pretty quickly at
nighttime.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Maybe your experience is
different

2 from mine.

3 A. Well, during the daytime, it's
4 different.

5 Q. Well, during any time.

6 A. Well, during daytime you can't
get

7 them, but at nighttime the service elevator goes
pretty

8 quickly.

9 Q. Especially when you're in a
hurry.

10 But at any rate you got in an elevator?

11 A. Yes.

12 Q. And got down to the basement?

13 A. Yes.

14 Q. How many floors down is that from
the

15 second floor? Is it three or four?

16 A. It would just be, the first floor
is

17 beneath the second and the basement is below that.

18 Q. Just one basement level?

19 A. Yes, sir.

20 Q. Did you go to the emergency room?

21 A. No, I did not.

22 Q. So you had a radio with you, I
assume?

23 A. That's correct.

24 Q. So you're in this interview room
and
25 your radio is there that can be activated; is that
right?

1 A. Yes, sir.

2 Q. Okay. So you left in response to
your
3 activated radio?

4 A. That's correct.

5 Q. And did you pick it up and check
out?

6 A. Yes.

7 Q. Say, "I will be down there"?

8 A. Yes, I did.

9 Q. About how long did that take?

10 A. Not very, just a matter of a few
11 minutes. Once I got to the basement, they said
"Cancel.
12 Everything was under control."

13 Q. I assume you're out of the
elevator by
14 that time?

15 A. I had just exited it.

16 Q. Well, you had to push the button
and
17 wait for an elevator again, didn't you?

18 A. Yes, sir.

19 Q. Okay. And then you go back up to
this

20 room where they're having the interview --

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

23 Q. -- on a matter that's not of your
24 concern? That's your story; is that right?

25 A. It's not a matter of an
investigation

Sandra M. Halsey, CSR, Official Court Reporter

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1 that my department was investigating.

2 Q. Okay. Well, the only thing you
were

3 supposed to do was take the -- show the police
officers

4 where she was?

5 A. I was showing them where she was,
and

6 I was going to bring them back down when they needed
to

7 come back down.

8 Q. You didn't think they could find
their

9 way out of there?

10 A. It's a big hospital. They were
not

11 familiar with the hospital.

12 Q. Okay. What I asked you was: You
13 didn't think they would be able to find their way

out of

14 there?

15 A. No, I didn't.

16 Q. Okay. So, at any rate you went
back

17 up; is that right?

18 A. That's correct.

19 Q. Okay. And how long were you
there

20 before you left again?

21 A. Probably 10 minutes.

22 Q. You were there about 10 minutes?

23 A. Maybe, probably about 10.

24 Q. Were they asking her questions,

or was

25 she just narrating this?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. They had asked a few questions,
and a

2 few times she would add to whatever they asked.

3 Q. Okay. And, at this time were you
4 still some 20 feet away from her?

5 A. No, sir, I was a little closer.

6 Q. Did you go up there and say,
"Excuse
7 me, but I, you know, had an emergency here and had
to

8 leave and could somebody bring me up to date on
what's

9 happened in the 5 or 10 minutes I've been gone?"

10 A. No, sir.

11 Q. You didn't do that?

12 A. No, sir.

13 Q. Well, did you look on Mr.

Frosch's

14 notes to see where he was?

15 A. No, sir, I did not.

16 Q. And, again, you didn't take
notes?

17 A. No, sir, I did not.

18 Q. Okay. And, how long were you
there

19 before you had to leave again?

20 A. I just said 10 minutes.
21 Q. Okay. Where did you go when you
left
22 this next time?
23 A. Out into the hallway.
24 Q. All right. And what was your
purpose
25 in doing that?

Sandra M. Halsey, CSR, Official Court Reporter

1001

1 A. At that time Mrs. Jackson was
out in

2 the hallway, and she had asked me if she could
speak to

3 one of the investigators.

4 Q. All right. And what did you tell
her?

5 A. I told her I would see what I
could do

6 for her.

7 Q. Okay. That didn't take long, I
8 wouldn't guess, did it?

9 A. No.

10 Q. Okay. A minute, two minutes?

11 A. Three.

12 Q. Three minutes?

13 A. Yes, sir.

14 Q. Okay. So you ducked back in?

15 A. Yes, sir.

16 Q. And, you know, "Excuse me, I
don't

17 want to interrupt, but could one of you step out in
the

18 hall?"

19 A. Well, Detective Patterson was
looking

20 my way, so I asked if he could speak to the
21 administrator.

22 Q. Okay. And did he?

23 A. Yes, he did.

24 Q. Okay. He was the one who wasn't
25 taking notes?

Sandra M. Halsey, CSR, Official Court Reporter

1002

1 A. That's correct.

2 Q. Okay. So he went out in the
hall?

3 A. Yes.

4 Q. You saw him go out there?

5 A. Yes.

6 Q. Did you go out there with him?

7 A. Yes, I did.

8 Q. And what did y'all talk about out
in
9 the hall?

10 A. Media. If it had been released
that
11 she had been brought to Baylor Hospital. And about
12 getting Mr. Routier scrubs at that point.

13 Q. Getting Mr. Routier scrubs?

14 A. Yes.

15 Q. Okay. And, you weren't in charge
of
16 scrubs?

17 A. No, sir.

18 Q. Who wanted to get him scrubs?

19 A. Detective Patterson. Well, he
didn't
20 say scrubs, but just something else to wear.

21 Q. Okay. They wanted his clothes,
didn't

22 they?

23 A. Yes, sir.

24 Q. Okay. And you would give him
scrubs

25 rather than just handing him a blanket, or a towel
or

room

22 by the emergency department.

23 Q. That would be down on what floor?

24 A. The basement.

25 Q. Okay. Had you seen him when you
were

Sandra M. Halsey, CSR, Official Court Reporter

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1 down there to attend to the scuffle in the emergency
2 room?

3 A. I did not go to the scuffle in
the
4 emergency room.

5 Q. No, I know you didn't, but --

6 A. I had seen --

7 Q. He wasn't in the emergency room,
he
8 was in the family room, wasn't he?

9 A. That's correct. But I didn't
make it
10 all the way down there.

11 Q. Well, the family room is next to
the
12 emergency room, or in that area, isn't it?

13 A. Yes, it is.

14 Q. Okay.

15 A. But it's not near the elevators.

16 Q. Okay. Did you back into the
pod?

17 A. Yes, I did.

18 Q. Okay. And --

19 A. Or actually, I just kind of stood
in

20 the doorway.

21 Q. Was the doorway open?

22 A. Yes, it was.

23 Q. Okay. And how about Mr.

Patterson.

24 What did he do?

25 A. He went back around by her
bedside.

1 Q. Okay. Where was he -- in
relation to

2 her bedside, would you tell us where Mr. Patterson
was?

3 A. Near her feet. Not way down on
the

4 end, but on that -- if she's laying in the
bed, he was on

5 her left side, down towards the end of the
bed.

6 Q. Okay.

7 A. Not at the end of the
bed, but the

8 side over there.

9 Q. Were her feet covered?

10 A. Yes, they were.

11 Q. What were they covered
with?

12 A. They were covered with a
sheet.

13 Q. Okay. Did you see her
hands?

14 A. Yes, I did.

15 Q. Okay. Did you notice
anything unusual

16 about them?

17 A. No, I did not.

18 Q. When I say "unusual," I

mean were

19 they, for example, bloody?

20 A. No, they weren't.

21 Q. Okay. You're sure about

that, I

22 assume, you have a fairly keen senses of

observation?

23 A. Yes, sir.

24 Q. You're sure about the

hands being not

25 bloody?

Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. Yes.

2 Q. That's something a
trained
3 investigator like you would remember, isn't
it?
4 A. I'm not an investigator,
sir.
5 Q. Well, you're a trained --
6 A. Patrol officer.
7 Q. Pardon?
8 A. I'm a patrol officer.
9 Q. All right. Well, patrol officers
10 investigate from time to time, don't they?
11 A. Initially.
12 Q. Okay. But, you're trained as an
13 observer, aren't you?
14 A. Yes, sir.
15 Q. In fact, that's what you were
there
16 for, you were there to learn, weren't you?
17 A. Yes, sir.
18 Q. Okay. So, you're telling us that
19 you -- you're telling this jury under oath you
remember
20 her hands not being bloody?

21

A. That's correct.

22

Q. Okay. Do you remember any marks

on

23 her?

24

A. She had bandages on her.

25

Q. Where did she have the bandages?

Sandra M. Halsey, CSR, Official Court Reporter

1007

1 A. On her neck and on her right arm.

2 Q. Okay. And where was the bandage
on
3 the right arm, if you recall?

4 A. It was about right here.

5 Q. Okay. Have you seen photographs
of it
6 since?

7 A. Yes, sir, I have.

8 Q. And who showed you those
photographs?

9 A. Prosecutor Shook.

10 Q. Okay. When did he do that?

11 A. I believe I saw them on Tuesday.

12 Q. This is Thursday.

13 A. Yes, sir.

14 Q. Do you remember when it was
Tuesday?

15 A. Around noon.

16 Q. At the
YO?

17 A. Yes,
sir.

18 Q. Is that where you're staying?

19 A. Yes, sir.

20 Q. When did you come down here?

21 A. Monday.

22 Q. Okay. In preparation for your
23 testimony here today?

24 A. Yes, sir.

25 Q. Okay. Have you had plenty of
time?

Sandra M. Halsey, CSR, Official Court Reporter

1008

1 A. More than enough.

2 Q. All right. Had you seen the
pictures
3 at another, -- any other time?

4 A. No, sir.

5 Q. Okay.

6 A. Other than on TV.

7 Q. You've followed the case, have
you
8 not?

9 A. Kept up with it.

10 Q. Well, just as a -- I mean, we
11 understand it wasn't your investigation, because you
12 don't do investigations, but you felt like you were
kind
13 of a part of it?

14 A. I was curious about it.

15 Q. Okay.

16 A. Yes, sir.

17 Q. Okay. Did you have occasion to
18 observe her arms in any more detail, other than
the
19 bandage?

20 A. That was it.

21 Q. Okay. Would you notice --
have

22 noticed if her -- if her arms were bloody?

23 A. Yes, sir, I

would have.

24 Q. Okay. And are

you telling us that

25 you, at least eye-balled her arms
and --

Sandra M. Halsey, CSR,
Official Court Reporter

1009

1 A. When she was
describing the rings she

2 had her hands up.

3 Q. Okay. And
that's when you could see

4 that her hands weren't bloody?

5 A. That's correct.

6 Q. And you
remember that?

7 A. Yes, I do.

8 Q. Okay. And at
the same time you

9 examined her arms with your well-
trained eye; is that

10 right?

11 A. Well, I was
looking in her direction,

12 yes, sir.

13 Q. You don't know
whether or not she had

14 blood on her feet, do you?

15 A. No, sir, I do
not.

16 Q. Okay. Now, how
long when you went

17 back in for the -- what is this,
the third time?

18 A. I believe
that's correct.

19 Q. Actually the
fourth time you went into

20 the room, you left three times.
Were you going back in

21 now?

22 A. I stayed more
in the doorway, just

23 waiting for the investigators to
finish.

24 Q. And where would
that -- I get the
25 impression this is a big room. Is
it as wide as this

Sandra M. Halsey, CSR,
Official Court Reporter

1010

1 room?

2 A. Yes, sir.

3 Q. Okay. Is it
wider?

4 A. I don't believe
so.

5 Q. That's curious. It's just the
same

6 width as this room?

7 A. No, not exactly, but it looks
8 approximately.

9 Q. So it was about square, was it?

Back

10 to where that man is?

11 A. Just a little beyond those doors.

12 Q. Okay. Where was the room from
where

13 the -- or the door to the room from where her bed
was?

14 A. Well, as you entered the doorway,
her

15 bed was there to the left. There's beds on either
side,

16 one here, one here, one there and one there. Down
the

17 middle is a computer and a sink and all kinds of

medical

18 stuff.

19 Q. Okay. So, the fourth time you
entered

20 the room, you -- and at no time did you say, "Hey,

21 fellows, I'm here to learn. Could you bring me up

to

22 date on what's going on?"

23 A. No, I did not.

24 Q. Okay. And, how long were you in

there

25 the fourth time you entered the room?

Sandra M. Halsey, CSR, Official Court Reporter

1011

1 A. Until they came close to
finishing up.

2 Probably the amount of time, it was probably at
least 30

3 minutes while we were up there.

4 Q. Okay. All right. You're saying
from

5 start to finish it was probably 30 minutes; is that
6 right?

7 A. I believe so, yes, sir.

8 Q. Okay. And you were there,
whatever

9 time it took, until they finished up?

10 A. Yes, sir.

11 Q. Okay. Did Mrs. Routier, did she
12 cooperate with them?

13 A. Yes, she was very cooperative.

14 Q. Okay. Was she pleasant to them?

15 A. Yes, she was.

16 Q. Okay. How long was Sheila
Jackson in

17 the room with y'all?

18 A. I'm not sure the length of time
that

19 she was in there.

20 Q. Okay.

21 A. Like I said, when I left -- so I
don't

22 know if she remained in there or if she left or not,
so I

23 really don't know.

24 Q. Okay. Was she there when you got
25 back?

Sandra M. Halsey, CSR, Official Court Reporter

1012

1 A. She was on that floor.

2 Q. What does that mean?

3 A. Well, she was still in that ICU
unit.

4 I don't know if she was particularly in -- if you're
5 referring to the first time, she was still in the
room.

6 And then other times after that we were out in the
7 hallway together. But I do not know the amount of
time
8 she spent in the room.

9 Q. Okay. Did she -- when y'all
initially

10 came up there, was she a part of the group that came
up?

11 A. She was already in the room.

12 Q. She was in the room?

13 A. Yes, sir.

14 Q. Okay. And, was she in the room
when

15 you left to tend to the emergency?

16 A. Yes, sir.

17 Q. Okay. Was she in the room when
you

18 got back?

19 A. She was still in the room at that
20 time, yes.

21 Q. Okay. Was she still in the room
when

22 you left the next time. As a matter of fact, you
left to

23 go out in the hall to talk to her, didn't you?

24 A. Right. We went out there.

25 Q. Did she motion you out, or did
she

1 call you out or --

2 A. We just went out there.

3 Q. Did you indicate to her you
wanted to

4 go in the hall, or did she indicate to you that she
5 wanted you to go in the hall?

6 A. I believe there was another staff
7 member in the hallway that needed something from
Mrs.

8 Jackson. So she went out and then I went out.

9 Q. Okay. Did she call you out? I
guess

10 that is what I'm trying to figure out.

11 A. No, she didn't.

12 Q. I mean, you just went out to --
you

13 weren't really interested in what was going on in
the

14 pod, so you went out -- she's your boss. Is she
your

15 boss?

16 A. No, she's not.

17 Q. Okay.

18 A. She's just a fellow
administrator.

19 Q. Just another employee?

20 A. Yes.

21 Q. Okay. So you just decided you'd

go

22 out?

23 A. Needed to take care of the

hospital

24 business. And our hospital business is dealing with

the

25 media when they arrived.

Sandra M. Halsey, CSR, Official Court Reporter

1014

1 Q. That's part of your business too?

2 A. Yes, it is.

3 Q. What do you do with the media?

4 A. We have specific areas that the
media

5 can come to. And so, upon arrival we check with
them,

6 make sure that they're aware of it. And make sure
that

7 they stay in the areas that they're supposed to.

8 Q. You don't -- it's not your job
to

9 release information to them?

10 A. That's correct.

11 Q. Have you been down to the
courthouse

12 there in Dallas?

13 A. Many times.

14 Q. Have you been down there
regarding

15 this case?

16 A. No, I have not.

17 Q. Have you been down there as a
witness

18 in cases before?

19 A. Yes, sir, I have.

20 Q. Okay. And were you called down
there

21 by the district attorney's office?

22 A. Are you referring to this case
or any

23 other?

24 Q. No, I'm just talking about case
in
25 general.

1 A. Yes, sir.

2 Q. Okay. You've worked with them,
the

3 security police out at Baylor, don't you?

4 A. Baylor has their own police
5 department.

6 Q. No, I know it, but you've worked
for

7 the district attorney's office, like you work for
the

8 Dallas Police and other police agencies, do you
not?

9 A. That's correct.

10 Q. I mean, that's part of your job,
isn't

11 it? To cooperate with those different agencies?

12 A. Yes, sir.

13 Q. And about how many times have
you been

14 down to the district attorney's office on other
matters?

15 A. Countless times. A lot. I've
been

16 subpoenaed many times for --

17 Q. How long have you been with the

Baylor

18 Police?

19 A. I've been with Baylor six years.

And

20 prior to that I was with Dallas County Sheriff's
Office

21 for four and a half.

22 Q. Okay. Where did you work in the
23 Sheriff's office?

24 A. I was a detention officer and I
worked
25 at intake. But there was numerous times while I
was in

1 intake that I had to go as a witness.

2 Q. Okay.

3 A. So -- on important cases.

4 Q. Okay. Detention, is that sworn
5 personnel?

6 A. No, sir.

7 Q. Okay. When did you leave the
Dallas

8 Sheriff's Office as a detention officer?

9 A. July of '90.

10 Q. July of '90?

11 A. Yes, sir.

12 Q. And you went directly with
Baylor?

13 A. That's correct.

14 Q. Had lined up the job before you
left?

15 A. Yes, I did.

16 Q. Okay. Had you known Officer
Patterson

17 or Frosch before this?

18 A. I did not know them personally.
I had

19 never seen Detective Patterson. Detective Frosch
I had

20 recognized as -- we went through the police

academy about

21 the same time.

22 Q. Okay. How long is that

academy? Is

23 that a nine week program?

24 A. It was an 11 and a half week.

25 Q. Okay. So you recognized him
from the

Sandra M. Halsey, CSR, Official Court
Reporter

1017

1 training, 11 and a half week training program that
you

2 had been in?

3 A. I recognized him from being at
the

4 regional police academy.

5 Q. Okay.

6

7 MR. DOUGLAS D.

MULDER: I believe

8 that's all. Thank you.

9 MR. TOBY L. SHOOK:

Nothing further.

10 THE COURT: You may
step down, ma'am.

11 I assume this witness will be excused
to return to

12 Dallas?

13 MR. DOUGLAS D.

MULDER: Yes, subject

14 to the agreement.

15 THE COURT: All

right. Thank you,

16 ma'am.

17 THE WITNESS: Thank
you, Judge.

18

MR. TOBY L. SHOOK:

We'll call Jody

19 Cotner.

20

THE COURT: All

right. Members of the

21 jury, how is the temperature? Are you

a little warm?

22 Okay. Fine. Leave it like it is.

23

Can you raise your

right hand, please,

24 ma'am?

25

Sandra M. Halsey, CSR, Official
Court Reporter

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1 (Whereupon, the
witness
2 was duly sworn by
the
3 Court, to speak the
truth,
4 the whole truth and
5 nothing but the truth,
6 after which the
7 proceedings were
8 resumed as follows:)
9
10 THE COURT: Do you solemnly
swear or
11 affirm that the testimony you are about to give
will be
12 the truth, the whole truth, and nothing but the
truth, so
13 help you God?
14 THE WITNESS: Yes, sir, I do.
15 THE COURT: All right. Have a
seat
16 right here, please, ma'am. All right.
17
18
19

20

21

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 Whereupon,

2

3

JODY COTNER,

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 tell us your name and
spell

15 your last name for the Court Reporter?

16

A. Jody Roselle Cotner. Last name
is

17

C-O-T-N-E-R.

18

Q. And, how are you employed?

19

A. I'm the trauma coordinator at
Baylor

20 University Medical Center in Dallas, Texas.

21 Q. Okay. How long have you been at
22 Baylor Hospital?

23 A. I've been there 11 and a half
years.

24 Q. Okay. And tell the jury your
25 educational and professional training that you have
for

Sandra M. Halsey, CSR, Official Court Reporter

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1 the position that you hold.

2 A. Okay. I have two bachelors
degrees,

3 one in an unrelated field, and I have a bachelor of
4 science in nursing from Baylor University School of
5 Nursing. I am certified as a provider or an
instructor,

6 in pre-hospital trauma life support, basic life
support,

7 advanced cardiac life support, trauma nurse support
8 course, and advanced trauma life support.

9 I have received speciality
training

10 through the Texas Department of Health, Emergency
Nurses

11 Association, the America Trauma Society, the Texas
12 Department of Transportation, the U.S. Department of
13 Transportation and the National Highway
Transportation

14 Safety Administration.

15 Q. Okay. And you are the trauma
16 coordinator?

17 A. Yes, sir, I am.

18 Q. Okay. Tell the jury what your
duties

19 are as trauma coordinator.

20 A. As trauma coordinator I have a
lot of
21 different duties, or jobs. I am a registered nurse,
and
22 I do hold a Texas license. I am a part of what is
called
23 a trauma team, which is a team of physicians,
nurses, and
24 ancillary personnel that are activated anytime a
major
25 trauma comes into the emergency department. That's
part

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1 of what I do. I don't actually work in the
emergency

2 department, I'm just part of this team.

3 I work with the trauma
physicians. I

4 work with the trauma patient, the injured patient,
and

5 the injured patient's family. I spend quite a lot
time

6 making sure everybody understands what's going on.

7 When people are from out of town
I

8 hook them up with social service to be sure that
they

9 have a place to stay. And, we hook them up with
the

10 chaplains, just -- I have a lot of different things
that

11 I do. I make rounds every morning on all the trauma
12 patients.

13 Q. Are you a little nervous, Ms.
Cotner?

14 A. I am very nervous.

15

16 THE COURT: Just calm down.

17 THE WITNESS: I'm sorry.

18 THE COURT: Just calm down.

19

20 BY MR. TOBY L. SHOOK:

21 Q. Just listen to the question and
try to

22 be as calm as you can. If you don't understand any
of

23 our questions, we'll be glad to repeat them. Okay?

24 A. Okay.

25 Q. If you need anything, you can just
ask

Sandra M. Halsey, CSR, Official Court Reporter

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1 Judge Tolle.

2 How long have you been a trauma
3 coordinator?

4 A. Five years.

5 Q. And what position did you have at
6 Baylor before that?

7 A. Prior to that I spent 5 and a
half, 6

8 years, as a nurse and a supervisor in the surgical
9 intensive care unit there at Baylor Hospital. After
that

10 I worked for about a year in the emergency department
as

11 a staff nurse and then got this position that I have
now.

12 Q. Okay. And the trauma unit, I
guess,

13 you take the patients after they've been operated on
or

14 cared for out of the emergency room; is that right?

15 A. I respond to the emergency
department

16 with the trauma team with the physicians.

17 Q. Okay.

18 A. I act as a third nurse in the room

and

19 do actual patient care, if necessary. Mostly, I play
20 "Go-fer", you know, go get blood or whatever needs to
be
21 done.

22 Q. Okay. So, you're entire 11 years
is,
23 I guess, is you have either been in the emergency
room or
24 surgical end of the emergency room or in the trauma
unit
25 itself?

Sandra M. Halsey, CSR, Official Court Reporter

1 A. That's correct.

2 Q. Okay. Let me ask you if you came
on
3 duty on June 6th, 1996?

4 A. Yes, sir.

5 Q. And about what time did you get to
the
6 hospital that day?

7 A. I usually arrive anywhere from
7:45 to
8 8:30.

9 Q. Okay. Had you been notified
earlier
10 in the morning that there was a case coming in that
might
11 need your attention?

12 A. During the night the trauma
beepers
13 had gone off. And when I'm not in the hospital I
usually
14 just call the emergency room to find out, you know,
what
15 kind of patient it is, and was told that we had two
16 patients coming in, by ground, that were stab wounds.

17 Q. Okay. And when you got to the
18 hospital, did you learn more information at that

time?

19 A. Yes, sir.

20 Q. Okay. On the trauma unit itself,
did

21 you receive a new patient in regards to that call?

22 A. Yes, sir.

23 Q. Okay. About -- do you recall what
24 time that patient arrived on the floor?

25 A. I was not there when she arrived.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. You got there after she was
2 there already?

3 A. Yes, sir. She was -- yes, sir.

4 Q. Okay. First let me show you
what's

5 been marked as State's Exhibit 53-C. Are these
copies of

6 the Baylor records concerning Darlie Routier?

7 A. Yes, sir.

8 Q. Okay. Did you come in contact
with

9 Ms. Routier soon after you arrived?

10 A. Yes, sir.

11 Q. Okay. And did you come in contact
12 with her, in regards -- well, with your duties as
trauma

13 coordinator?

14 A. Yes, sir.

15 Q. Okay. Where was she when you
first

16 saw her?

17 A. She was in bed 29, in 4-North ICU.

18 Q. Okay. And tell the jurors how was
the

19 ICU set up? How are these patients put in rooms?

20 A. Okay. At Baylor we have multiple
21 intensive care units, and they are specialized
units;
22 like cardiac or thoracic surgery, whatever. And 4-
North
23 is a 16 bed unit that is general surgery,
neurotrauma,
24 neurosurgery and general trauma.
25 Q. Okay. And the patients there,
do they

 Sandra M. Halsey, CSR, Official Court
Reporter

1 have -- how many nurses do you have to each
patient?

2 A. We have one nurse to two
patients.

3 Q. Okay. Do they keep -- well, how
much

4 supervision -- how often do they attend to a patient
when

5 they are in that particular unit?

6 A. The patient -- if you're in the
7 intensive care unit you have a nurse in your room all
the
8 time.

9 Q. Okay. It's not like when someone
is
10 taken to the hospital, you call the nurse if you need
11 something or they come around once in a while?

12 A. No, sir. There is a nurse -- the
13 rooms have four beds per room, so there are two
nurses

14 assigned to each room, so there's always a nurse in
the
15 room.

16 Q. About what time did you meet Ms.
17 Routier? Do you recall?

18 A. Sometime in the morning, in the
early
19 morning. After I got there, my routine is just to
go
20 through the unit, check the patients that were
already
21 there, the old trauma patients, and then see if
there are
22 any new patients that are there.

23 Q. And let me ask you this: Do you
see

24 Mrs. Routier in the courtroom today?

25 A. Yes, sir, I do.

1 Q. Would you point her out, please?

2 A. She's sitting over here.

3 Q. The woman here in the green plaid
4 dress?

5 A. Yes, sir.

6

7 MR. TOBY L. SHOOK: Your Honor,

if the

8 record could reflect, the witness has identified the
9 defendant.

10 THE COURT: Yes, sir.

11

12 BY MR. TOBY L. SHOOK:

13 Q. Did you introduce yourself to
Mrs.

14 Routier?

15 A. Yes, sir, I did.

16 Q. What was her condition at the
time

17 that you first met her?

18 A. She was awake, alert, in the bed,
19 just, you know, laying in the intensive care unit.

20 Q. Did you have a conversation with
her

21 at that time?

22 A. Yes, sir, I did.

23 Q. Was she able to understand what

you

24 were saying?

25 A. I believe so, yes, sir.

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1 Q. Y'all didn't have any trouble
2 communicating with one another?

3 A. No, sir.

4 Q. Over your years there at Baylor,
I
5 guess you have seen a lot of patients that have come
6 out
7 of surgery recently; is that right?

8 A. Yes, sir.

9 Q. Did Mrs. Routier, did she seem to
be
10 suffering from grogginess from the anesthesia or
11 anything
12 like that?

13 A. Not that I recall, no, sir.

14 Q. Okay. Did she seem fully awake
15 and
16 alert?

17 A. Yes.

18 Q. Okay. Now, as part of your
19 duties,
20 did you ask her questions?

21 A. Yes, I did.

22 Q. Okay. In fact, did you inquire
23 about
24 why she was there?

20 A. Yes, sir, I did.

21 Q. Okay. What did you ask her?

22 A. I introduced -- well, first I
looked
23 at her chart, and then I introduced myself to her, I
told
24 her who I was and what I did, and I kind of
explained to
25 her what I was there for, to be sure that, you know,
she

1 sees the doctors, or the doctors talk to them every
day.

2 And, as part of my job, I did ask her, "Do you know
what

3 happened? Can you tell me what happened to you?"

4 Q. What did she tell you?

5 A. She told me that she and her sons
had

6 been stabbed. That she had chased a gentlemen
through

7 the house into the garage and that she had picked up
the

8 knife in the garage.

9 Q. Okay. Did she say where she was
when

10 she was stabbed?

11 A. Downstairs in the living room.

12 Q. Okay. Did you meet with her
13 periodically throughout the day?

14 A. Yes, sir, I did.

15 Q. Was she allowed to have her
family and

16 friends in there with her in her room?

17 A. Oh, yes.

18 Q. Did she have numerous friends
and

19 family with her throughout the day?

20 A. Yes, sir, she sure did.

21 Q. And were you in and out of the
room

22 the entire day?

23 A. I was in and out of the room

multiple

24 times, on multiple different occasions.

25 Q. Okay. Did you have another
occasion

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Reporter

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1 later on in the day to talk to her about what
happened?

2 A. Yes, sir, I did.

3 Q. Did she give you some more
details

4 about what had happened?

5 A. Yes, sir, she did.

6 Q. Okay. What was that?

7 A. She told me that Damon, the
little

8 one, she had woke up, he was shaking her and
saying

9 "Mommie" or "Mama," and woke her up. And she --
when she

10 woke up there was blood, and that they had been
hurt.

11 And she got up to go to the kitchen, or something,
and he

12 followed her, and she told him to lay down.

13 Q. Okay. Do you recall anything
else she

14 told you at that time?

15 A. I believe Darin was in the room
at

16 that time.

17 Q. And when you say Darin, you're
talking

18 about Darin, her husband?

19 A. Yes, sir.

20 Q. Okay.

21 A. And I believe that's the
occasion when

22 he said, "That's when I must have heard you
scream, or I

23 heard you screaming and it woke me up," or
something

24 along those lines.

25 Q. Okay. And what did she say in

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1 response to that?

2 A. No, you didn't.

3 Q. Okay. Now, later on did you
try to

4 coordinate some type of rape exam?

5 A. Yes, sir, I did

6 Q. Why was there a rape exam being
7 conducted, or going to be conducted?

8 A. I don't know why it was brought
up. I

9 don't know if it -- I don't know who decided to do
that.

10 One of the residents asked me how do we set up a rape
11 exam for someone in the intensive care unit. And

I

12 called the emergency department and found out who
the

13 OB/GYN that was on call for the day was, and set that
up

14 through Dr. Santos and Dr. Gogel.

15 Q. Okay. Now, did you want to
explain

16 that procedure to Mrs. Routier?

17 A. Yes, sir, I did.

18 Q. Okay. And, what did you say to

her?

19 A. I tried to -- I asked her if she
20 understood what we were going to do. Did she
understand
21 what a rape exam was? I explained to her that we
didn't
22 do a full rape kit at Baylor Hospital, because those
are
23 done at Parkland, but did she understand that it
would be
24 like, just a normal GYN exam. Was she okay with
that. I
25 had asked her, did she think she had been raped.

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1 Q. What was her response when you
asked

2 her that?

3 A. She told me something like, "Well,
4 when I woke up I felt a pressure down there."

5 Q. Okay. Now, you weren't present
when

6 any rape exam was done, were you?

7 A. No, sir, I was not.

8 Q. Okay. At some point during the
day

9 was the defendant's baby brought into her?

10 A. Yes, Drake.

11 Q. Okay. And how old was he?

12 A. I don't know, 8 months old or so,
7 or

13 8 months old.

14 Q. Okay. And, were you present when
he

15 was brought into the room?

16 A. Yes, sir, I was.

17 Q. And what happened when he was
brought

18 into the room?

19 A. Their neighbors, and I don't know
20 their name, brought Drake into the intensive care

unit.

21 And they had kind of been waiting for a while,
because

22 everybody had been talking about him coming. They
gave

23 him to Darin, and Darin was holding him. And she
didn't

24 want Drake -- she had the big dressings on her arm
and

25 her neck.

1 Q. You're talking about the
defendant?

2 A. I'm sorry, yes, ma'am -- yes,
sir.

3 Q. Okay.

4 A. And she didn't want -- she had
IVs and

5 stuff and she didn't want Drake to, you know, grab
or

6 pull it, or be able to touch those dressings. And,
so,

7 when Darin tried to hand her to him she didn't, you
know,

8 she didn't really want to hold him herself.

9 Q. Okay.

10 A. And so, I took him across -- I
was

11 standing on one side of the bed and Darin was on
the

12 other, and so I took him, and papoosed him, you
know how

13 you do little kids, and made him like a football,
kind of

14 under my arm, and leaned over the bed so that, you
know,

15 they could touch cheeks, or you know, she could

kiss his

16 cheek or something, because he was, you know, like
this,

17 you know, wanting his mom.

18 Q. Right.

19 A. And she kind of turned her head.

20 Q. Turned her head from him?

21 A. Away from him.

22 Q. What did you do then?

23 A. I picked him up, kissed him, and
gave

24 him back to Darin.

25 Q. Okay. And what was done with
the baby

1 then?

2 A. Well, he was given, I believe,
back

3 to -- I don't know if he handed him to the lady or
the

4 gentleman, and then they took him out into the
waiting

5 room.

6 Q. Okay. You've spent a whole lot
of

7 time in the emergency room and the trauma unit; is
that

8 right?

9 A. Yes, sir.

10 Q. You have seen a lot of different
types

11 of cases that come in there?

12 A. Yes.

13 Q. Have you seen a lot of victims
that

14 have been involved -- or been assaulted with knives
or

15 sharp weapons?

16 A. Yes, sir.

17 Q. Okay. Are you familiar with the

term

18 "defensive wounds"?

19 A. Yes, sir, I am.

20 Q. Okay. Tell the jury what

defensive

21 wounds are.

22 A. In relation to like a stab wound?

23 Q. Yes. And I'm talking about

stabbing.

24 A. Okay. Generally, if you're

trying to

25 defend yourself against someone who's, you know,
trying

1 to stab you, you will raise your arms, or you will
try to
2 grab the knife away from them. And you see a lot of
cuts
3 across the palm of the hand or all of the fingers or
the
4 thumb will be cut. You see a lot of puncture-type
wounds
5 to the back of the arm or to the hand, because you
6 usually defend yourself like this.

7 Q. You see a lot of them, or just a
few,
8 or how does it work?

9 A. Well, it depends on the
circumstances
10 and it depends on the patient. And usually if
someone is
11 really, you know, put up a big fight, then there are
a
12 lot of wounds.

13 Q. Okay. These are things you have
seen
14 just in the emergency room itself? Basically?

15 A. In the emergency room and
elsewhere.

16 Q. Okay. Now, I guess, how long
were you

17 there that day?

18 A. On the 6th?

19 Q. Yes.

20 A. I was probably there a good 8 or

10

21 hours.

22 Q. In and out of the defendant's
room all

23 day long?

24 A. Off and on, yes, sir.

25 Q. Okay. Did you have a chance to
see

1 her and see the wounds she had received, where they
were

2 dressed and so forth?

3 A. Yes, sir.

4 Q. Okay.

5

6 MR. JOHN HAGLER: While he's
going

7 through the exhibits, your Honor, we'll object on the
8 fact that this witness has not been qualified as a
9 forensic expert. We don't quarrel with her
10 qualifications as a trauma nurse, but under Rule 702
and

11 705 she is not qualified to give an expert opinion as
to
12 the type or nature of the wounds, and whether or not
they
13 are defensive-type wounds.

14 THE COURT: Overruled. Go ahead.

15

16 BY MR. TOBY L. SHOOK:

17 Q. Let me show you some photographs,
18 State's Exhibit 52-G and 52-H and 52-F. Do you
recognize

19 those photographs?

20 A. Yes, sir.

21 Q. Is that how the defendant appeared

in

22 the trauma unit?

23 A. Yes, sir.

24 Q. Okay. And, do those appear to

have

25 been taken the day you were dealing with her?

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1 A. Yes, sir.

2 Q. Okay. Let me show you now what's

3 been marked and entered into evidence as State's

Exhibit

4 52-B. Is that also a photograph of the defendant?

5 A. Yes, sir.

6 Q. Okay. Do you see the large bruise

7 there on her right arm?

8 A. Yes, sir.

9 Q. Okay. Have you seen bruises like

that

10 before in your 11 years experience as a nurse?

11 A. Yes, sir.

12 Q. Okay. What type of bruising is

that?

13 A. It's a big bruise. That's almost

a

14 full arm bruise on the underneath side of her arm.

It

15 looks like some type of a blunt trauma.

16 Q. And is blunt trauma when

something

17 very hard strikes the skin?

18 A. Blunt trauma is, like, car

wrecks, or

19 aggravated assault with a bat or something like

that.

20 Q. Okay. And, would you say that

is a

21 little blunt trauma or a lot of blunt trauma?

22 A. It's a pretty good blunt

trauma.

23 Q. Okay. And, as you said, it

covers

24 most of the arm, doesn't it?

25 A. Most of the under side of the
arm,

1 yes, sir.

2 Q. Okay. And by looking at a
bruise,

3 from your experience as a nurse, can you tell if
they're

4 older bruises, newer bruises, things like that?

5 A. Bruises have different
colorations.

6 Q. Okay. Looking at that bruise in
that

7 particular photograph, does that look like it's been

8 there a few days, a more recent bruise or what?

9 A. Can I took at it again?

10 Q. Let me show you another
photograph

11 also.

12 A. Okay.

13 Q. I mean, now, looking at a bruise
you

14 can't tell the exact age of it, can you?

15 A. No.

16 Q. Okay. But they have different
shades

17 of color?

18 A. Well, older bruises have green

and

19 yellow, they start changing colors. Newer bruises

are

20 purple and red.

21 Q. And what color is that bruise?

22 A. Purple and red.

23 Q. Okay. You observed Mrs. Routier

all

24 day during the 6th; is that right?

25 A. Yes, sir.

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1 Q. Did you see any type of that
injury on

2 that right arm during that day?

3 A. No, sir. And I changed the
dressing

4 on her arm.

5 Q. You personally changed the
dressing?

6 A. I changed the dressing on that
arm.

7 Q. Okay. If she had received some
blunt

8 trauma at, say, 2:30 in the morning on the 6th of
June,

9 do you think you would have seen evidence of that
injury

10 that would have caused that type of bruising?

11 A. Absolutely.

12 Q. Okay. Is that something you
check for

13 there in the trauma unit?

14 A. This bruise is large enough that
it

15 would have been charted over and over and over.

This is

16 a massive bruise.

17 Q. Okay. That's something the
nurses

18 would chart in their charts?

19 A. Yes, sir, it is.

20 Q. Would a bruise like that cause a
lot
21 of pain?

22 A. A bruise like that would be very
sore
23 and very painful to the patient.

24 Q. Okay. You didn't see any
evidence of
25 injury that caused that bruise at all?

1 A. I did not see this bruise, no,
sir.

2 Q. Okay. You say that bruise is
reddish

3 and --

4 A. Purple and red.

5 Q. Purple and red. And that
indicates

6 what to you?

7 A. That it's a fairly recent bruise.

8 Q. Okay. And when you say "fairly

9 recent," what do you mean?

10 A. 24 hours, maybe 48, but no older
than

11 that.

12 Q. Okay. Now, as part of your
duties as

13 trauma coordinator, do you deal with families that
14 have -- may have to deal with families breaking the
news

15 of their relative's deaths?

16 A. Yes, sir, I do.

17 Q. Okay. Do you do that just a few
times

18 or often?

19 A. I do that on a very regular
basis. I
20 see the families of my intensive care unit patients
every
21 day if I can catch them, either in the unit or in
the
22 waiting room.

23 Q. Okay. And does that take some
special
24 finesse, I guess, maybe when you're dealing with
people
25 in that situation?

1 A. Yes, sir.

2 Q. Okay. And when you were in the
3 emergency room, did you have these same dealings
with
4 people?

5 A. Yes.

6 Q. People that have lost relatives,
7 people that have lost loved ones?

8 A. Yes.

9 Q. Have you dealt with mothers that
have
10 lost their children?

11 A. Yes, sir, I have.

12 Q. Have you had to tell mothers that
13 their children have died?

14 A. Yes, sir, I have.

15 Q. Children that are there in your
unit,

16 and they come to the unit. Have you had those
17 situations?

18 A. And they have died in the
intensive

19 care unit?

20 Q. Yeah. Mothers that come to the
21 intensive care unit to see their children and they
die

22 while they're in your care?

23 A. Yes, sir.

24 Q. And also, have you treated --

or have

25 you had mothers there being treated in the unit
and their

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1 children may have died in an accident with them
or
2 something like that?

3 A. Yes, sir.

4 Q. Have you done that on few or
many
5 times?

6 A. Many occasions.

7 Q. Okay. What is the reaction,
usually,

8 of a mother that has lost a child?

9 A. People who lose their
children have a
10 wide range of emotions, but mother's are
inconsolable,
11 basically.

12 Q. Okay.

13 A. You see everything from
absolutely

14 being hysterical, falling in the floor
screaming, crying,

15 and you do have some people that are very stoic,
but, you

16 know, their knuckles are white, and, you know,
you can

17 tell they're really hanging on to everything
just to be

18 able to survive the minute.

19 Q. Okay. They react somewhat
20 differently; is that right?

21 A. Everybody is an individual,
yes, sir.

22 Q. Okay. But are they all
inconsolable?

23 A. Mothers. Mothers are. It
doesn't

24 matter if her kid is 3 or 53. You're still
their mother

25 and they are inconsolable.

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Reporter

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1 Q. Okay. Did you have the
chance in

2 dealing with the defendant on that day to check
her

3 emotions and see how she was dealing with her lose
of her

4 sons?

5 A. Yes, sir, I did.

6 Q. Could you describe her emotional
7 reaction?

8 A. Darlie was kind of withdrawn.
She

9 didn't cry very often. Detached. She just wasn't
very

10 emotional. Just not overtly emotional.

11 Q. Not the emotions that you
usually see

12 with a mother?

13 A. Not typically, no.

14 Q. Not the inconsolable emotions
you see?

15 A. That's correct.

16 Q. Now were some of her other
relatives

17 there?

18 A. Yes, sir, they were.

19 Q. Her mother?

20 A. Yes.

21 Q. Whose name is Darlie Kee, I
believe?

22 A. Yes, sir.

23 Q. Her sister?

24 A. Um-hum. (Witness nodding head
25 affirmatively). Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. What were their reactions?

2 A. Oh, they were -- bless their
hearts,

3 they were hysterical. I probably held her little
4 sister -- I have forgotten her name -- her mom, her
5 mother-in-law, one of the ladies that was a
neighbor.

6 They cried, and they cried, and they cried.

7 Q. Is that the reaction you
normally see?

8 A. That's a typical reaction, yes,
sir.

9 Q. Have you ever seen the reaction
that
10 you were seeing in the defendant in any of your
previous
11 experiences?

12 A. Not in my experience, no, sir.

13 Q. Okay.

14

15 MR. TOBY L. SHOOK: That's all
the

16 questions I have, Judge.

17 THE COURT: Mr. Mulder.

18 MR. DOUGLAS MULDER: Yes, sir.

19

20

21

CROSS EXAMINATION

22

23 BY MR. DOUGLAS MULDER:

24

Q. Mrs. Cotner, of course that

doesn't

25 mean that Darlie was not grieving, does it?

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1 A. No, sir.

2 Q. Okay. And you -- the grieving
process

3 is an individual process, is it not?

4 A. Yes, sir, it is. There are
stages of

5 grief.

6 Q. Sure. And one of those is
anger; is

7 it not?

8 A. Yes, sir.

9 Q. Okay. And you, I take it, had
never

10 met Darlie Routier prior to June 6th of 1996?

11 A. No, sir.

12 Q. And would it not be fair to say
that

13 those who were closest to her would be in a better

14 position than you to evaluate her grief and
grieving?

15 A. They know her better.

16 Q. Sure. And that makes sense,
doesn't

17 it?

18 A. That they know her better, yes,
sir.

19 Q. Sure. Okay. Now, you had given
us
20 your opinion with respect to defensive wounds, for
21 example?

22 A. Yes, sir.

23 Q. And, of course, you aren't
saying that

24 this is not a defensive wound, are you?

25 A. That's not typically where we
see a

1 defensive wound.

2 Q. Well, it depends, and I would
guess,

3 and, again, I don't purpose to have the expertise
that

4 you do, but I suspect that it would depend on the
5 position that the person defending themselves was
in at

6 the time they were attacked, would it not?

7 A. Yes, sir.

8 Q. And whether you saw one, or
whether

9 you saw 101, would be more up to the attacker than
it

10 would be to the person who was being attacked,
would it

11 not?

12 A. It would depend on how much of a
13 struggle there was, yes, sir.

14 Q. Okay. Well, and that's
generally

15 dictated by the person, the assailant, the person
doing

16 the attacking, is it not, the aggressor?

17 A. I assume so.

18 Q. Well, I mean, you don't have to

19 assume. I mean, anybody that is a nurse knows
that,

20 don't they?

21 A. Well --

22 Q. In fact, anybody that can come
in out

23 of the rain knows that, don't they?

24

25 MR. TOBY L. SHOOK: Well, Judge,
I'm

1 going to object to that.

2 THE COURT: Overruled. Let's
phrase

3 your questions properly.

4 MR. TOBY L. SHOOK: That's
improper.

5 THE COURT: Thank you. Go
ahead.

6

7 BY MR. DOUGLAS D. MULDER:

8 Q. You know that is true, don't
you?

9 A. That it depends on the
attacker?

10 Q. Sure. Not the person being
attacked?

11 A. Well, it could, yes, sir.

12 Q. Okay. Now, did you make any
notes,

13 Mrs. Cotner?

14 A. No, sir, I did not.

15 Q. Is there a reason for that?

16 A. I do not do direct patient
care in the

17 intensive care unit.

18 Q. But yet you did -- you changed
the

19 dressing on her injuries?

20 A. Part of my job is to assist
the trauma

21 physicians in what they're doing. And at the
time I was

22 assisting one of the physicians, looking at the
wound,

23 checking it, and I redressed it at his request.

24 Q. Okay. And I would think,
again,

25 you're the expert in this, but I would think that
part of

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1 the nurse's responsibility would be to chart for
the

2 doctors anything unusual that you see.

3 A. The nurses are responsible for
4 charting their stuff, the doctors are responsible
for
5 charting their stuff.

6 Q. Okay. When you see something
7 ordinary, no point in charting that; is that
right?

8 A. And your definition of ordinary?

9 Q. Well, I mean, you chart the
unusual.

10 Don't you?

11 A. Well --

12 Q. Don't you want to alert the
doctor to

13 the unusual, or anything that you think is unusual?

14 A. Yes, sir.

15 Q. I mean, that's the whole purpose
of

16 charting, so the doctor can look and see if the
17 patient's -- I mean, there's anything unusual about
this

18 particular patient, isn't it?

19 A. Charting is so you know what
happened

20 to the patient while they were in the hospital.

21 Q. Okay. Well, did you review her
chart?

22 A. No, sir, I did not.

23 Q. Okay. That's not within the
purview

24 of your duties?

25 A. It is. I have my own -- I keep a

1 trauma registry, a data base on all the trauma
patients,

2 and I acquire my own information. And I only get
that

3 information out of the chart that I need for that
4 purpose.

5 Q. Okay. You're, as I take it,
really

6 more than treatment, you're kind of, I guess for
lack of

7 a better word, kind of a PR person for the trauma
8 patients?

9 A. I coordinate their care. I make
sure

10 the patient sees the doctor, or the family sees the
11 doctor, or coordinate between all of the different
12 specialties to be sure that the patient and their
family

13 have the information that they need.

14 Q. Okay. Would it be -- Baylor
gets

15 sued, don't you? Hospitals get sued?

16 A. The hospital, yes, sir.

17 Q. I don't single Baylor out, but I
guess

18 all hospitals get sued, don't they?

19 A. Yes, sir.

20 Q. Isn't that your experience?

21 A. Yes, sir.

22 Q. And they get sued, I guess they
get

23 sued for negligence on the part of the nurses and

24 negligence on the part of doctors. Isn't that

generally

25 what you're sued for?

1 A. There are a lot of reasons people
sue
2 hospitals.

3 Q. Well, one of them -- all right.
One
4 of them is that they allege, and I'm not saying it's
5 true, and I'm just talking generalities, but they
allege
6 negligence on the part of the caregivers at the
7 hospital, do they not?

8 A. Some do, yes, sir.

9 Q. Okay. That's the most frequent,
is it
10 not?

11 A. I do not know that answer.

12 Q. Well, that is frequent though, is
it
13 not?

14 A. Well --

15 Q. Maybe not the most frequent, but
it's
16 frequent that you're sued for negligence on the part
of
17 the care providers, is it not?

18 A. I've never been sued.

19 Q. Well, I'm not talking about you
in
20 particular.
21 A. Well, you said you. I'm sorry.
22 Q. Okay. Well, you're talking about
you,
23 as a representative of Baylor, we've been talking
about
24 the hospital. I'm not saying that somebody sued
you, or
25 somebody is going to sue you. But has it been your

1 experience -- how long have you been a nurse?

2 A. 11 and a half years.

3 Q. Well, haven't you seen a lot
lawsuits

4 that have come through in the various hospitals?

5 A. There are lawsuits, yes, sir.

6 Q. And one of the primary reasons is
7 negligence, on the part of the care providers, is it
not?

8 A. I don't know.

9 Q. Is that one of the reasons? Have
you
10 ever heard that?

11 A. Yes, sir. I'm sure that's one of
the
12 reasons.

13 Q. Okay. Well, don't y'all carry
14 malpractice insurance?

15 A. The hospital carries malpractice
16 insurance, yes, sir.

17 Q. They carry it on you, don't they?

18 A. Yes, sir, they do.

19 Q. Okay. And, in some places, the
nurses

20 have to have their own policies, don't they?

21 A. Some nurses do choose to carry
their

22 own malpractice insurance.

23 Q. Okay. Because they don't want to
be

24 sued, or if they are sued they want the insurance
company

25 to come in and defend them on --

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1

2

MR. TOBY L. SHOOK: Judge, I'm
going

3

to object to relevance.

4

THE COURT: Overruled. Go ahead.

5

6

BY MR. DOUGLAS MULDER:

7

Q. Isn't that right?

8

A. I'm not sure I understand the
last

9

question.

10

Q. Okay. Well, I assume the reason
they

11

take malpractice insurance is because if they get
accused

12

of being negligent, with respect to the care that
they're

13

providing, they want the insurance company to come
in and

14

defend them and pay the damages if there are
damages. Is

15

that not fair to say?

16

A. You carry malpractice insurance
to

17

protect yourself.

18 Q. Okay. Would it be, in your
judgment,
19 malpractice or negligence for nurses not to see and
chart
20 evidence of trauma and bruises?
21 A. Negligence?
22 Q. Well, would that be negligent?
23 A. We chart those injuries that we
note.
24 Q. Okay. Well, I mean, people get
sued
25 for negligence because they didn't do something when
they

1 were suppose to. They owed somebody a duty because
they
2 were charging them money to take care of them, and
they
3 didn't handle that obligation, that's why they're
sued
4 for negligence. Because they didn't discharge the
duty
5 that they owed the patient; for example, in the case
of a
6 nurse or doctor. Right?

7 A. I guess so.

8 Q. Okay. And in your professional
9 opinion, would it be negligence for a nurse not to
note
10 bruising such as that on the chart?

11 A. It would probably be noted, yes,
sir.

12 Q. That's not my question. I'm
saying if
13 it was not noted, would that be negligence on the
part of
14 a nurse who failed to note it.

15

16 MR. TOBY L. SHOOK: Judge, I'm

going

17 to object. He's going into legal conclusions.

18 THE COURT: Sustain that
objection.

19 MR. DOUGLAS MULDER: Judge --

20 THE COURT: She can state what
she

21 knows but no legal conclusions. Let's ask the next
22 question.

23 MR. DOUGLAS MULDER: Well, my
next

24 question was based on her answer to this question.

25 THE COURT: Well, ask it.

1 MR. RICHARD C. MOSTY: May we
address

2 the Court on this issue?

3 THE COURT: You may certainly
address

4 the Court on this issue.

5 MR. TOBY L. SHOOK: Are we going
to

6 address it in front of the jury or outside?

7 MR. DOUGLAS MULDER: Either way
you

8 want to do it.

9 THE COURT: Come on up here.

10 MR. RICHARD C. MOSTY: You're in
11 charge.

12 THE COURT: Come on up. Whatever
you

13 want to say.

14

15 (Whereupon, a short
16 Discussion was held
off

17 The record, at the
side

18 Of the bench, and

19 Outside the hearing

of

20

The jury, after

which

21

Time the

proceedings

22

Were resumed on

the

23

Record as

follows:)

24

25

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1 THE COURT: All right. Let's take
a 10

2 minute break, please. Thank you.

3

4 (Whereupon, a
short

5 recess was
taken,

6 after which
time,

7 the proceedings were
8 resumed on the

record,

9 in the presence and
10 hearing of the

defendant

11 and outside the
presence

12 of the jury, as
follows:)

13

14

15 THE COURT: All right. Let's go
on

16 the record, please.

17 Please be seated in the courtroom.

18 All right. Let the record
reflect
19 these proceedings are being held outside the
presence of
20 the jury and all parties of the trial are present.

21 What was your question, Mr.
Mulder?

22 MR. DOUGLAS D. MULDER: Judge,
let's
23 get the witness back here, Ms. Cotner.

24 THE COURT: Mr. Mulder.
25 MR. DOUGLAS D. MULDER: Can we get
her

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1 back here?

2 THE COURT: Sure. All right.

3 If you will have a seat, please,
4 ma'am.

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. What was
your
7 question?

8 MR. DOUGLAS MULDER: Well, I asked
her

9 if it would be negligence on the part of the nurse,
or

10 nurses, who were attending to Mrs. Routier if they
failed

11 to chart a bruise that existed, and I held up an
exhibit

12 to show her what I was talking about.

13 THE COURT: Okay. And the State
had

14 an objection.

15 MR. DOUGLAS MULDER: And she said

--

16 her answer was they charted all of the, whatever.

That

17 wasn't my question.

18 MR. TOBY L. SHOOK: Well, Judge --

19 THE COURT: All right. The
Court --

20 and your objection was that that calls for a legal
21 conclusion.

22 MR. TOBY L. SHOOK: Right,
Judge.

23 THE COURT: All right. The Court
24 holds that it does call for a legal conclusion. I
will
25 not let that question be asked. I sustain the
objection.

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1 If she wants to answer that they chart everything,
that's

2 fine. But I'm not going to have her make a decision
on

3 negligence.

4 MR. RICHARD C. MOSTY: We submit
that

5 that's --

6 THE COURT: You may have a running
7 objection on this if you wish.

8 MR. RICHARD C. MOSTY: Well, I
would

9 like to point out that our basis for offering this is
10 under Rule 701 through 705 under the Rules of
Criminal

11 Evidence regarding testimony of expert witnesses.
She's

12 shown to be qualified in the area of nursing. The
State

13 asked her a number of questions about her expertise
as a

14 nurse. And so this is an area within her area of
15 expertise as a nurse, of what is the proper standard
of

16 care of a nurse. And the question is -- does it meet
the

17 proper standard of care for a reasonably prudent
nurse.

18 She is qualified to answer that.

19 THE COURT: But you want her to
say

20 whether it's negligence or not. It's the same
ruling.

21 And you may have a running objection.

22 MR. DOUGLAS MULDER: Well, Judge,
no

23 one -- I mean, this isn't done as a prelim to some
24 lawsuit or anything. I simply want to know if that's
25 evidence of bad nursing if a bruise is there and it's
not

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1 charted.

2 MR. RICHARD C. MOSTY: The
question is

3 simply: Would it fall below the standard care of a
4 nurse? Is it bad nursing?

5 THE COURT: Well, I would ask --
if

6 you ask that question that way, I'll let you do it,
but

7 not as regards to negligence. You know the exact
words

8 you can use.

9 MR. DOUGLAS MULDER: How do you
want

10 me to ask that, Judge?

11 THE COURT: Does it fall below
the

12 standard of care for proper nursing.

13 MR. DOUGLAS MULDER: Well, that's
not

14 even what we're concerned about.

15 THE COURT: Well, that's what
you said

16 it was.

17 MR. RICHARD C. MOSTY: Bad
nursing.

18 MR. DOUGLAS D. MULDER: Well, I
just
19 want to know simply, and I guess I can rephrase it,
but I
20 what I want to know if that's evidence of bad
nursing,
21 you know, if you failed to chart something like
that.
22 Like I said, this isn't done as a prelim to any
lawsuit.

23 THE COURT: Well, negligence is
a
24 legal conclusion. The ruling remains the same as
regards
25 to negligence. I'll sustain the objection. If you
want

1 to rephrase that question.

2 MR. DOUGLAS MULDER: Maybe I can
ask

3 her if it's unprofessional. Would that be all
right?

4 THE COURT: You may want to
rephrase

5 your question. All right. Thank you. Let's
finish up

6 our five minute break.

7

8 (Whereupon, a short

9 Recess was
taken,

10 After which
time,

11 The proceedings
were

12 Resumed on the
record,

13 In the presence
and

14 Hearing of the
defendant

15 but Outside the
presence.

16 of the jury, as
follows:)

17

18

19 THE COURT: Are both sides
ready to

20 bring the jury back in and resume?

21 MR. GREG DAVIS: Yes, sir, the
State

22 is ready.

23 MR. DOUGLAS MULDER: Yes, sir,
the

24 Defense is ready.

25 THE COURT: Bring the jury
back in,

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1 please.

2

3 (Whereupon, the
jury

4 was returned to
the

5 courtroom, and
the

6 proceedings
were

7 resumed on the
record,

8 in open court, in
the

9 presence and
hearing

10 of the defendant,
11 as follows:)

12

13 THE COURT: All right. Let the
record

14 reflect that all parties in the trial are present and
the

15 jury is seated.

16 Mr. Mulder, you may continue.

17

18

19

CROSS EXAMINATION (Resumed)

20

21 BY MR. DOUGLAS D. MULDER:

22

Q. Mrs. Cotner, if one of your folks

at

23

Baylor Hospital, or I guess any nurse at any other

24

hospital for that matter, had failed to note bruises,

25

would that be less than is expected of a nurse, a

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1 registered nurse?

2 A. You're speaking of large bruises?

3 Q. I'm saying that you told us
earlier

4 that if someone had sustained trauma to that extent,
that

5 you would expect there to be some evidence of that
within

6 what period of time?

7 A. The bruise on the picture?

8 Q. Yes.

9 A. That should show up very quickly,
10 within the first couple of hours. You should see
the
11 beginnings of the bruise.

12 Q. What exactly would you see?

13 A. When you have a large bruise,
or a

14 bruise that is covering a large area, or even just
a

15 small bruise, you will begin to see skin
discoloration

16 almost immediately. Sometimes you will just see a
very

17 red area, depending if there's a lot of bleeding into
the

18 soft tissue from the bruise, or if it is going to
cause a

19 bruise, you'll see it develop very quickly.

20 Q. Were her arms bloody, Darlie's
arms

21 bloody when you first saw her?

22 A. She had an IV in one arm and a
large

23 dressing on the other arm.

24 Q. I don't mean to split hairs with
you,

25 but I asked you if her arms were bloody.

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1 A. I did not see in the beginning her
arm

2 itself. It was covered with a bandage. She did have
3 some blood on her hands around the cuticles, on her
4 fingers --

5 Q. Just around the cuticles?

6 A. -- and on her palms. She had an
IV in

7 her left arm her, her left hand, excuse me.

8 Q. Did she have any kind of monitor
on

9 her left wrist?

10 A. At one point she had a left radial
art

11 line.

12 Q. When was that?

13 A. That would have been while she was
in

14 surgery. It was in the chart. I read it. I don't
know

15 if she had it when I first saw her, or if I just
noted

16 that that had been one of the procedures done to
her.

17 Q. Okay. But you're saying she

didn't

18 have blood on her arms; is that right?

19 A. No, sir. I'm saying I don't

know if

20 she had blood, a lot of blood on her arms because she
had

21 a large bandage on one arm and she had an IV and had
been

22 prepped on the other arm.

23 Q. Okay. You have looked at these

24 pictures, haven't you, State's Exhibit No. 52-H?

25 A. Yes, sir.

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1 Q. And State's Exhibit 52-F?

2 A. Yes, sir.

3 Q. Does she have blood on her arm in
that

4 picture?

5 A. Yes, sir, she does.

6 Q. Okay. I would think if, you know,
7 again, if I were a nurse and looking at a person with
a

8 slit throat and some stab wounds, I don't know
whether I

9 would be looking for bruises or not.

10 A. Yes, sir, you would.

11 Q. But if I were, I think I would
have

12 the presence of mind to clean the blood off
somebody so

13 that I could make a sure enough examination and I
would

14 know one way or the other then.

15 A. One of the most important things
is

16 evidence collection, and we are very careful not to
17 destroy any evidence.

18 Q. Well, how do you know, for

example, on

19 State's Exhibit No. 52, if there isn't some bruising
20 beginning right there on her elbow?

21 A. That appears to be dried blood,
sir.

22 Q. Well, I know it does, but there
could

23 be some bruising under the blood, couldn't there?

24 A. Not --

25 Q. Couldn't it be? No chance?

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1 A. That does not look like that to
me,
2 sir.

3 Q. All right. How about 52-H? Does
4 that -- you said that a bruise, when it first begins
to
5 form, will show maybe a reddish color?

6 A. Yes, sir.

7 Q. Does that appear to be on that
same
8 arm?

9 A. This is her right arm. She has
an IV
10 and an art line in her left arm. Are you talking
about
11 here?

12 Q. Yes. Up there. Can't you see
that
13 reddish color there?

14 A. It looks like somebody drew blood
from
15 the -- here?

16 Q. No, inside that, on up her arm.

17 A. No.

18 Q. That is how it looked later on?

19 A. Yes, sir.

20 Q. Okay. Of course you know, I
suspect,

21 when she was discharged from Baylor, don't you?

22 A. I did not see her after she left
the

23 intensive care unit.

24 Q. Do you know when she was
discharged

25 from Baylor?

1 A. I believe she was discharged the
next

2 day, within the next 24 to 48 hours.

3 Q. After you saw her within the next
24

4 hours?

5 A. 24 to 48 hours. I'm not sure
which

6 day she was discharged.

7 Q. Okay. Unlikely that she received
that

8 sort of trauma there at Baylor, isn't it?

9 A. Yes.

10 Q. Okay. And do you have experience
in

11 dealing with people who have received bruises?

12 A. Yes, sir.

13 Q. Okay. Can you tell us, in your
14 judgment -- and this appears to be a photograph,

does it

15 not, of someone's right arm?

16 A. The under side of the right arm.

17 Q. Okay. Approximately how old are
those

18 bruises?

19 A. This bruise appears to me to be

24

20 hours old.

21 Q. 24 hours old?

22 A. Somewhere around 24 hours. Maybe

a

23 little more or maybe a little less.

24 Q. Not about 20?

25 A. Maybe a little more, maybe a
little

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1 less.

2 Q. Well, it could be as little as 12
3 hours old?

4 A. Yes, sir.

5 Q. It could be as little as 8 hours
old?

6 A. Maybe.

7 Q. Could it be as old as 36 hours or
48
8 hours?

9 A. Possibly.

10 Q. Okay. So you're saying that it's
11 somewhere between 8 hours, and could it be as many
as 52
12 hours?

13 A. No, sir.

14 Q. Oh, it can't be 52 hours, but it
could
15 be 48 hours?

16 A. Well, this bruise is turning red,
17 still turning red around the edges here. There
isn't a

18 green discoloration or yellow discoloration.

19 So this bruise is not more than a
20 couple of days old.

21 Q. All right. Well, you said it

could be

22 as little as 8 hours old or as much as 48 hours old?

23 A. Somewhere around those numbers,

yes.

24 You can't date it exactly.

25 Q. How about the bruise on the left
arm,

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1 State's Exhibit No. 52. Is that an M on there? It
looks

2 like a JM, doesn't it? 52, something.

3 A. Yes, sir, I think so.

4 Q. Okay. How about the bruises
shown

5 in --

6 A. On this arm?

7 Q. Yes.

8 A. On her left arm?

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

10 A. This bruise on her left arm
appears to

11 be as a result of her left radial art line. It's
purple

12 in the middle and is turning yellow and green on the
13 outside.

14 Q. Oh, so you're saying that that's
a

15 result of what Baylor did to her?

16 A. Well --

17 Q. Didn't you say that --

18 A. This could be the result of her
19 arterial line.

20

Q. Well, I'm not fussing with you.

21

A. No, I know. I'm just telling you

--

22

Q. I'm just asking how long.

23

A. -- it could be. I can't say that

this

24 is something that someone at Baylor did to her.

25

Q. Okay.

Sandra M. Halsey, CSR, Official Court Reporter

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that

20 was hooked up by Wielgosz after she got out of
surgery?

21 A. No, sir, I do not.

22 Q. Okay. Would that show on the
chart?

23 A. It should be charted on arrival
to the

24 intensive care unit, where her IVs were and whether

or

25 not she had an art line in and what the position
was. We

1 also chart when the dressing is changed.

2 Q. Can you tell us how old these
bruises

3 are?

4 A. Well, they are several days old.

5 Q. Okay. So, if these were taken on
the

6 10th and she was discharged the 7th or 8th, these
could

7 be as many as 72 hours old?

8 A. Well, yes, sir.

9 Q. Okay. And is there some reason
that

10 these were caused there by the arterial line or by
the IV

11 that they aren't charted?

12 A. I'm not sure I understood your
13 question.

14 Q. Well, maybe I can state it a
little

15 more artfully. But I thought you said if you saw a
16 bruise like this you would chart it?

17 A. I would, yes, sir.

18 Q. Okay. It should be charted. Is
that

19 what you're saying?

20 A. Yes, sir.

21 Q. And there may be nurses that
disagree

22 with you?

23 A. Well --

24 Q. You're the final word?

25 A. I'm the final word for me.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. You said, "I would chart
it"?

2 A. Yes, sir, I would. If I pulled
her

3 art line and she developed a bruise like that, it
would

4 be charted.

5 Q. All right. Would you expect it
to be

6 charted or not?

7 A. Yes, sir. I would expect it to
be --

8 to appear in the charting that there was bruising.

9 Q. But we don't have any assurance
of

10 that, do we? That all of the other nurses are as
11 conscientious as you or as observant as you?

12 A. Well, it's practice in the
intensive

13 care units to note just about everything, and ICU
nurses

14 are pretty notorious for that.

15 Q. Okay. Let me just ask it this
way:

16 Are you telling me that if -- you're saying there's

a

17 possibility that this is a result of the IV or the
art

18 line --

19 A. Or the arterial line.

20 Q. -- or the arterial line?

21 A. That's where her right radial art
22 line -- her left radial art line was, excuse me.

23 Q. Matter of fact, you can still see
the

24 hole there in her wrist?

25 A. Yes, sir, you sure can.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. But you're telling me that if this
was

2 done at Baylor, you would expect it to be charted?

3 A. Yes, sir, I would. If that
appeared

4 while she was in the hospital, it would have been
5 charted.

6 Q. Okay. Could it have happened in
the
7 hospital and then appear later?

8 A. I don't believe so.

9 Q. Okay. Would this bruising show
fairly
10 soon?

11 A. Yes, sir, it would.

12 Q. Within how many hours?

13 A. Pretty close to immediately if
it's

14 from an arterial bleed, if the art line leaked, or
if

15 there was some bleeding there, you would note that
there

16 was blood under the skin.

17 Q. But you said this could be as
many

18 hours old as 72?

19 A. Well, it could be several days
old.

20 Q. Okay. It's a pretty iffy
process, I

21 guess, just determining when a particular bruise was
22 occasioned there. It's an iffy situation. If we
said 8

23 to 48 hours in one case and we say up to 3 days in

24 another?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Anywhere from immediately to
three

2 days?

3 A. The bruise -- I'm sorry.

4 Q. The bruise.

5 A. The bruise?

6 Q. On the left
arm?

7 A. On the left
arm?

8 Q. Yes.

9 A. You would have -- if that is from
her

10 arterial line, you would have started seeing it
pretty

11 close to when they pulled the art line in the
intensive

12 care unit.

13 Q. Okay. And, of course, you didn't
see

14 any evidence of that?

15 A. No, sir.

16 Q. Did you look for that?

17 A. No, sir.

18 Q. Okay. Does that mean that it may
have

19 been there and you may not have seen it?

20 A. That's correct.

21 Q. Okay. Just like the blood on the
arm,

22 you may not have seen that?

23 A. I did see the blood on the arm
after I

24 removed the dressing, yes.

25 Q. Okay. Have you written any kind
of a

Sandra M. Halsey, CSR, Official Court Reporter

1 statement or report about what you have testified
here?

2 A. No, sir.

3 Q. Okay. Did you come down Monday
with

4 the rest of the hospital personnel from Baylor?

5 A. Yes, sir.

6 Q. Okay. And I don't guess y'all
7 discussed your testimony or anything, did you?

8 A. No, sir.

9 Q. Have you met with the other
nurses?

10 A. I see them every day at work.

11 Q. Well, no, you see them every day
here

12 too, don't you?

13 A. Yes.

14 Q. Well, when did you first see these
15 photographs, Ms. Cotner?

16 A. The photographs of the bruises?

17 Q. The photographs I've been showing
you,

18 yes.

19 A. Tuesday night.

20 Q. Okay. Is that when you were first
21 asked anything about bruises?

22 A. Yes, sir.

23 Q. It was -- you're talking about
just

24 two days ago?

25 A. Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Had you been -- you have been
2 questioned and told what you were expected to testify
to
3 down here, had you not?

4 A. I have been talked to, yes.

5 Q. I mean, you knew what they were
going

6 to talk to you about down here, didn't you?

7 A. Yes, sir.

8 Q. I mean, they asked you questions
9 before, didn't they?

10 A. Yes, sir.

11 Q. And went over your testimony with
you,

12 didn't they?

13 A. Yes, sir.

14 Q. Okay. And -- but you're saying
that

15 at no time prior to Tuesday did they ever discuss any
16 bruises with you; is that right?

17 A. Not specifically, no, sir.

18 Q. Okay. Who was present when you
had

19 your discussions with the district attorney's
office?

20 A. Mr. Shook and Mr. Bosillo.
21 Q. Okay. And how many times did you
talk
22 with them?
23 A. Three.
24 Q. Three times?
25 A. I believe so, yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. Was that all in Dallas?
2 A. No, sir.
3 Q. You talked to them down here, I
know,
4 on Tuesday. Other than Tuesday?
5 A. Down here?
6 Q. Yes.
7 A. Yes, sir.
8 Q. Well, I said other than Tuesday.
9 A. Yes, sir.
10 Q. You have talked to them other
than
11 Tuesday?
12 A. Yes, sir.
13 Q. Monday?
14 A. No, no, sir.
15 Q. Yesterday? Today?
16 A. Today.
17 Q. Well, you got down here Monday
night,
18 didn't you?
19 A. Yes, sir.
20 Q. Okay. So you talked to them today
21 about it?
22 A. Yes, sir.

23 Q. Okay. Did you talk about the
bruises

24 today again?

25 A. No, sir.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Just talked about the bruises
Tuesday?

2 A. Yes, sir.

3 Q. Okay. And that's when you saw
either

4 those photographs, or photographs like them?

5 A. Yes, sir.

6 Q. Who was it that showed you the
7 photographs?

8 A. Mr. Shook.

9 Q. Okay. And was anyone present with
Mr.
10 Shook at that time?

11 A. Yes.

12 Q. Who?

13 A. Mr. Bosillo was in the room.

14 Q. Any of the other nurses?

15 A. I think so.

16 Q. Well --

17 A. We have met with them, you know,
in

18 and out. I mean, you know, you pass as you're
going in

19 and out and stuff.

20 Q. Well, I understand that, but

part of

21 your training is observation, isn't it?

22 A. Yes.

23 Q. Okay. And you would know if
there

24 were other nurses in there with you, I assume, when

25 you're going through the pictures, wouldn't you?

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Reporter

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1 A. Well, it's hard to remember
every
2 little thing and who is where you are every single
time
3 something happens. I believe some of the other
nurses --
4 I believe some, I believe so.

5 Q. Well, I'm not saying there's
anything
6 wrong with it, but as a matter of fact, you were
there
7 with the other nurses and you were going through
the
8 pictures, weren't you?
9 Mr. Shook was there and his
10 investigator, one of his four or five
investigators were
11 there?

12 A. Yes, sir.

13 Q. Was Dr. Santos there?

14 A. I don't think so.

15 Q. You know Dr. Santos, don't you?

16 A. Yes, sir, I do.

17 Q. Okay.

18

19

MR. DOUGLAS MULDER: I believe

that's

20 all. Thank you.

21

22

23

24

25

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1

REDIRECT EXAMINATION

2

3 BY MR. TOBY L. SHOOK:

4

Q. Ms. Cotner, is there a
difference

5 between a bruise caused by blunt trauma and this
arterial

6 line?

7

A. Usually when you have a bruise
from

8 something like an arterial line or some type of
puncture

9 wound, you also have an accompanying hematoma or
10 swelling, you know, where the blood gathers under
the

11 skin. So there's a little difference that way,
yes, sir.

12

Q. Okay. You talked about when
you took

13 the dressing off, you did see blood on the
defendant's

14 arm; is that right?

15

A. Yes, sir.

16

Q. Is that dried blood?

17

A. Yes, sir.

18

19

MR. DOUGLAS MULDER: Judge,

we'll

20 object to the leading.

21

THE COURT: Sustained. Let's

phrase

22 our questions the right way, please.

23

24 BY MR. TOBY L. SHOOK:

25

Q. What type of blood was that?

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Reporter

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1 A. On her right arm?

2 Q. Yes.

3 A. It was dried blood.

4 Q. And you said -- was some
evidence

5 collected during the day while you were there?

6 A. Yes, sir.

7 Q. Who collected that?

8 A. There was a Rowlett Police
Officer

9 that came and -- I guess I need to explain that we
had

10 decided to clean her up, and we weren't sure that
all of

11 the evidence had been collected, because in any
types of

12 an incident where there is some type of an assault,
you

13 want to be sure that you don't destroy any evidence.

14 And we had started -- not me, but
15 someone had started to clean her up and then hollered
at

16 me and asked me, "Do you know if everything has been
done

17 yet?" And had saved the washrag where she had

started

18 washing her hands.

19 And so I called the Rowlett Police

20 Department, just to be sure that we could go ahead

and

21 clean her up, and they asked us to wait. And since

they

22 were -- that they were going to come out and do some

23 fingernail scrapings and collect, you know,

fingerprints.

24 They wanted to fingerprint Darlie

and

25 Darin, and so I went back and told the nurse not to
bathe

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1 her, that they were going to come. And I told Darlie
and
2 Darin that they were going to come back and that they
--
3 what they wanted to do, and were they okay with that,
and
4 did they understand what was going on, and did they
have
5 any questions.

6 Q. Okay. Was that evidence
collected?

7 A. Yes, sir.

8 Q. That
day?

9 A. Yes,
sir.

10 Q. Okay. And that's why you stopped
the
11 cleaning of the arm and the hands?

12 A. Yes, sir.

13 Q. Okay.

14 A. And then later in the day the
medical

15 examiner came and asked Darlie if she could take
some

16 pictures and look at her wounds. And that's when we
took

17 off the dressing on her neck and they took some
pictures

18 and stuff.

19 Q. Okay.

20

21 MR. TOBY L. SHOOK: That's all

the

22 questions I have, Judge.

23

24

25

1

REXCROSS EXAMINATION

2

3 BY MR. DOUGLAS MULDER:

4 Q. Who was it, Nurse Cotner, who
bathed

5 her or cleaned her up?

6 A. I do not know who gave her her
bath.

7 Q. Would that be on the chart?

8 A. Yes, sir, it should be.

9 Q. Okay. And were you there when
they

10 gathered evidence, as you said?

11 A. I was in the room when they were
12 fingerprinting them.

13 Q. Okay.

14 A. And when the medical examiner was
15 there.

16 Q. Did the medical examiner take
17 pictures?

18 A. There was a lady with her that
did.

19 Q. And what sort of pictures were
those?

20 Were they Polaroids? Do you know a Polaroid camera

when

21 you see one?

22 A. Yes, sir, I do.

23 Q. Were they Polaroid pictures?

24 A. I don't remember. I don't

remember if

25 they were Polaroids or if it was a regular camera.

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1 Q. Do you remember about what time
they
2 came and took those pictures?
3 A. The medical examiner?
4 Q. Yes.
5 A. It was in the afternoon.
6 Q. Okay. Just so I am clear on this,
and
7 I promise you I won't go into it anymore, but are you
8 saying that you -- in your opinion, the bruising to
her
9 left arm was a result of the, either the IV or the
10 arterial line?
11 A. I'm saying the bruising in her
left
12 arm could be a result of the arterial line.
13 Q. Okay. Well, I mean, that isn't --
but
14 you don't have an opinion that that's what it is?
15 A. Well, it's possible.
16 Q. Well, there are a lot of things
that
17 are possible. It's possible that somebody could have
18 snuck in there and done something to her, but it's
not

19 very probable. I mean, is that your opinion? I
don't

20 care. I just want to know where you stand.

21 A. It's a possibility. I do not
know if

22 that's what caused it or not.

23 Q. You talk about along with a dozen
24 other possibilities?

25 A. A lot of things cause bruises.

1 Q. Okay. Does it seem to you
unlikely

2 that she would receive bruises on both arms,
substantial

3 bruises, such as are displayed in the State's
Exhibit 52?

4 Does it seem unusual to you that she would receive
5 substantial bruising like that at separate times?

6

7 MR. TOBY L. SHOOK: Judge, I'm
going

8 to object to speculation.

9 THE COURT: Overruled. He is
going to

10 ask the question again. Go ahead, rephrase it.

11 MR. DOUGLAS MULDER: Let me see
if I

12 can, perhaps put it a little more artfully.

13

14 BY MR. DOUGLAS MULDER:

15 Q. Do you think she -- does it sound
16 unusual to you that she bruised both arms in

different

17 instances?

18

19 MR. TOBY L. SHOOK: Judge, again,

20 that's speculation.

21 THE COURT: Well, I'll let her
answer

22 it if she knows the answer.

23 THE WITNESS: I think it's
possible

24 that the bruises occurred at different times.
25

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1 BY MR. DOUGLAS D. MULDER:

2 Q. Okay. It's just a big
coincidence.

3 Right?

4 A. Well, I don't know.

5 Q. I guess it's also a possibility
that

6 they occurred at the same time?

7 A. Well, I guess it's possible.

8

9 THE COURT: Anything else?

10 MR. DOUGLAS MULDER: I believe
that's

11 all for now. Thank you.

12 THE COURT: All right. This
young

13 lady's going back to Dallas. Do both sides agree to
14 excuse the witness subject to the usual rule?

15 MR. TOBY L. SHOOK: Yes, Your
Honor.

16 THE COURT: All right. Ma'am,
you're

17 under the Rule, which means you'll have to remain
outside

18 the courtroom when you're not testifying. Don't
talk

19 about it with anyone who has testified. In other
words,

20 don't compare your testimony.

21 You may talk to the attorneys for
22 either side. If someone tries to talk to you about
your

23 testimony, please tell the attorney for the side who
24 called you. Okay?

25 THE WITNESS: Yes, sir.

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1 THE COURT: Thank you. Watch
your
2 step going down.
3 Your next witness?
4 MR. DOUGLAS MULDER: Judge, just
so
5 I'm clear on what your understanding of the usual.
6 THE COURT: Well, if they are
subject
7 to recall.
8 MR. DOUGLAS MULDER: All right.
9 MR. TOBY L. SHOOK: We'll call
Dianne
10 Hollon.
11 THE COURT: Dianne Hollon. Come
on
12 up, please, ma'am.
13 Will your raise your right hand,
14 please, ma'am.
15
16 (Whereupon, the witness
17 Was duly sworn by the
18 Court, to speak the
truth,
19 The whole truth and
20 Nothing but the truth,

21

After which, the

22

Proceedings were

23

Resumed as follows:)

24

25

THE COURT: Do you solemnly

swear or

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1 affirm that the testimony you are about to give
will be

2 the truth, the whole truth, and nothing but the
truth, so

3 help you God?

4 THE WITNESS: I do.

5 THE COURT: All right. Have a
seat

6 right here, please. Now, if you'll just speak
loudly in

7 the microphone and just relax.

8 Go ahead, please.

9
10
11
12
13
14
15
16
17
18
19
20
21
22

23

24

25

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1 Whereupon,

2

3

4 DIANNE HOLLON,

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. TOBY L. SHOOK:

15 Q. Tell us your name, please, and
spell

16 your last name for the Court Reporter.

17 A. My name is Lynnette Dianne
Hollon,

18 H-O-L-L-O-N.

19 Q. And how are you employed?

20 A. I'm a nurse at Baylor Hospital.

21 Q. Okay. And could you tell the

jurors

22 your educational background and your professional
23 training for the position that you hold?

24 A. I graduated from Arlington,
University
25 of Arlington.

Reporter Sandra M. Halsey, CSR, Official Court

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1 THE COURT: You may have to
speak a

2 little louder, ma'am, so everyone can hear you.

3 THE WITNESS: I graduated from
the

4 University of Texas at Arlington, in 1989. I
started

5 Baylor in 1990, in the ICU, neurotrauma ICU. I went
then

6 in '92 I became a supervisor. And then I started
working

7 in the surgical trauma intensive care unit. In '95
I

8 added on a position of supervisor/educator for
intensive

9 care nurses in the surgical ICU and the surgical
floor.

10 Q. Okay. Are you a little nervous
up

11 there, Ms. Hollon?

12 A. Just a little bit.

13 Q. All right. Just relax as best
you can

14 and we'll try to put these questions to you as
plainly as

15 possible. Okay?

16 A. Okay.

17 Q. So, how long have you been at
Baylor

18 now?

19 A. Six years.

20 Q. Okay. And what particular part
of

21 Baylor are you employed in right now?

22 A. Intensive care, and then the
floor as

23 an educator.

24 Q. Okay. And what does an educator
do?

25 A. I basically coordinate the
orientation

1 process for the new nurses, new ICU nurses and floor
2 nurses.

3 Q. And your other duties are the
typical

4 duties of an ICU nurse; is that right?

5 A. Correct.

6 Q. Let me ask you if you came --
were on

7 duty back on June 6th, 1996 of this year? Did you
come

8 to work on that date?

9 A. June 6th? Yes.

10 Q. Yes. Okay. What time did your
shift

11 start on that day?

12 A. I get there at 6:45 in the
morning.

13 Q. Okay. And did you receive a
patient

14 by the name of Darlie Routier during your shift?

15 A. Yes.

16 Q. Do you recall what time that was?

17 A. The exact time I don't recall,
but it

18 was around 8:00 o'clock.

19 Q. Okay. And you keep, I believe
they

20 call it focus notes; is that right?

21 A. Yes.

22 Q. Okay. Let me show you State's
Exhibit

23 No. 53-C. Are those copies of Ms. Routier's
medical

24 records that were kept there at Baylor?

25 A. Yes. Well, I don't know if
they're

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Reporter

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1 all here, but yes, these are copies of them.

2 Q. If you could take a moment
maybe to

3 locate your focus notes.

4 A. Okay.

5 Q. Okay. Do those notes reflect
when you

6 received her as a patient?

7 A. She was transferred up to me at
8:05.

8 Q. 8:05 in the morning?

9 A. Yes.

10 Q. And how long was your shift
that day?

11 A. From 6:45 to 7:15 that night.

12 Q. Okay. So, did you have her as
a

13 patient the entire day?

14 A. Yes.

15 Q. And she's in the ICU unit; is
that

16 right?

17 A. Yes.

18 Q. How many patients did you care
for

19 that day?

20 A. Just her.

21 Q. Okay. And when you're in the
ICU, you

22 get rather intensive care; is that right?

23 A. Um-hum. (Witness nodding head

24 affirmatively).

25 Q. Are you there pretty much in
her room

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Reporter

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1 and by her bedside at all times?

2 A. Pretty much. I was in and out
of the

3 room all day long. I was her primary nurse.

4 Q. All right. And what type of
patients

5 do you usually have in the ICU?

6 A. More critical, I should say.
They're

7 usually hooked up to more machines, ventilators,
more

8 monitoring equipment.

9 Q. Did she have any type of IVs
hooked up

10 to her that day?

11 A. Yes, she did.

12 Q. And where was that hooked up?

13 A. One was in her -- they were
both in

14 her left arm. I believe one was in her arm and
one was

15 in her hand.

16 Q. Okay.

17 A. I'm pretty sure.

18 Q. Okay. One was in --

19 A. One was in her left arm and one
was in

20 her left hand, yes.

21 Q. Okay. Now, did you converse
with Ms.

22 Routier through the day?

23 A. Yes.

24 Q. Okay. Describe her condition
when she
25 arrived there in your care.

 Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. She was calm. She really
wasn't --

2 she didn't show a whole lot of emotions.
Occasionally

3 she would get tearful, as I charted that. But
she just,

4 she never did actually burst out crying, sobbing,
nothing

5 like that.

6 Q. Okay. When you say "sobbing,"
what do

7 you mean?

8 A. Like a loud cry. Loud crying.
She

9 never cried.

10 Q. Have you seen that in patients
before?

11 A. Well --

12 Q. Seen the sobbing?

13 A. Not so much in patients,
because more

14 of our patients are usually completely out of it.

15 Q. Okay.

16 A. They're not awake. They're
not alert.

17 Q. Okay.

18 A. But with families, yes.

19 Q. Have you seen that with
families that
20 come to see their relatives that have been
injured?

21 A. Yes.

22 Q. Or families that are present
when
23 their relatives die?

24 A. Yes.

25 Q. Okay. But you did note
throughout the

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Reporter

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1 day that she was tearful at times?

2 A. Yes.

3 Q. Okay. And could you describe
those

4 tears to us, please.

5 A. The times that I noticed her,
you

6 know, her eyes well up with tears is when she was
looking

7 at her boys' pictures. She would kind of put her
hands

8 over her boys' pictures and say, "I can't believe
my

9 babies are gone. My babies are gone." And
that's almost

10 how she said it.

11 Q. Okay. In that tone of voice?

12 A. Yes.

13 Q. Did she say that several times
14 throughout the day?

15 A. Yes.

16 Q. Okay. Did she ever ask about
the

17 boys, anything like that?

18 A. Ask? What do you mean?

19 Q. Ask how they died?

20 A. No. She --

21 Q. How they arrived at the
hospital

22 maybe, or anything like that?

23 A. No. She really never said
anything

24 about her boys, other than touching the picture
and

25 saying, "My boys are gone." She told me a story
about

Sandra M. Halsey, CSR, Official Court
Reporter

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18 family and friends with her throughout the day?

19 A. Yeah. They were in and out all
day

20 long.

21 Q. Okay. During the day, did you
talk to

22 her about what had had happened to her?

23 A. Darlie always was bringing it up,

24 about the story of the intruder coming into the

house, or

25 she had wakened up with the intruder over the top of
her.

1 She felt pressure from him, and she tried to fight
him
2 off and ran out the garage. That's the same type of
3 story that she told me and the different people that
came
4 in throughout the day. I heard that story at least
three
5 times to me and two other people throughout the day.

6 Q. Okay. So, three times just to
7 yourself, and then to other people that would come
in the
8 room?

9 A. Yes.

10 Q. Friends, relatives?

11 A. Yes.

12 Q. Okay. Did you ask her to repeat
the
13 story or would she just do this on her own?

14 A. No, I never asked her to repeat
the
15 story.

16 Q. Okay.

17 A. I asked her to stop talking so
much
18 about it.

19 Q. Okay. Why did you want her to

quit

20 talking about it?

21 A. I felt that she was -- that she
needed

22 her rest. She had been up since whenever this
happened.

23 She had not slept all day. And I felt that it was
better

24 for her to stop concentrating so much on it and
start

25 getting some sleep.

1 Q. Okay. And she said that this man
was
2 leaning over her, she fought him off and chased him
to
3 the garage?

4 A. Yes.

5 Q. Okay. Did she ever give any type
of
6 description of the individual?

7 A. No.

8 Q. Okay. Did she say anything about
his
9 description?

10 A. I kind of was questioning her
about

11 "Did you see his face? Was he wearing a hat? Did
he
12 have long sleeves? Was he wearing gloves? Do you
13 remember anything about him?" And she couldn't
remember
14 anything.

15 Q. Nothing about his face?

16 A. Nothing.

17 Q. Okay.

18 A. What color he was, nothing.

19 Q. Okay. Did you ask her about why

she

20 was downstairs when she was attacked?

21 A. I didn't ask her, but she told me

that

22 she was -- she had been sleeping downstairs on the

23 couches that week after they had bought a big screen

TV.

24 Her and the boys were sleeping on the couch, too,

and

25 they were falling asleep in front of the TV.

1 Q. Were you present in the room when
she

2 was talking about how this man got in?

3 A. Darin said something about the
garage

4 window. I was on one side of the bed and Darin was
on

5 the other. And he was trying, going through the
story

6 trying to figure out, you know, the different
events that

7 had occurred. And he said that, "I'm positive I
locked

8 the window." And I think it was him that said,
"The boys

9 must have unlocked it sometime yesterday or the
day

10 before." Something like that.

11 Q. He was saying that to the
defendant?

12 A. Yes.

13 Q. Okay. Did you -- were you
present in

14 the room when the baby, baby Drake was brought
in?

15 A. Yes.

16 Q. Okay. Do you remember what
time

17 during the day he was brought in?

18 A. No. I don't know what time.
He came

19 in, I want to say, like two times that day. Two
or three

20 times that day.

21 Q. What was her reaction to the
baby?

22 A. The baby was on her left side,
and it

23 was, I don't know who was holding it, one of her
friends

24 or her nieces, I don't know. But the baby was
facing her

25 and she reached up and kind of played with the
toes, "Hi,

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Reporter

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1 Baby, how are you doing?"

2 Q. Did she ever hold the baby?

3 A. No. She never reached up.

She never

4 held her son.

5 Q. Did you also ever hear her
talk about

6 any suspicious cars around the neighborhood,
things like

7 that?

8 A. She mentioned that she had
seen a car

9 in the front of the house across the street, that
she had

10 noticed that didn't look like it fit in that

11 neighborhood. She had seen it there before. And
it

12 appeared to be like watching the house.

13 Q. Did she say when that had
happened?

14 A. She said, but I don't
remember.

15 Q. Did she bring that up several
times

16 throughout the day?

17 A. Yes. To me and to other
people that
18 came in the room. They talked about the car. A
19 suspicious looking car.

20 Q. Okay. Did she give a
description of
21 this car at all?

22 A. She might have, but I don't
remember.

23 Q. Okay. Now, during your care
for her,
24 did you examine her wounds, see how she was doing
25 throughout the day?

 Sandra M. Halsey, CSR, Official Court
Reporter

1 A. Yes.

2 Q. Did she complain of pain at
any time

3 during the day, that you recall?

4 A. I believe from my notes, I
don't

5 really actually recall it, but from my notes it
indicates

6 that she did complain of pain in her right arm.

7 Q. Okay. Right arm?

8 A. Um-hum. (Witness nodding head
9 affirmatively).

10 Q. Okay. Any particular part of
her
11 right arm?

12 A. I assumed it was her
laceration. She

13 didn't say. She just said her right arm.

14 Q. She had a laceration there on
her
15 right arm?

16 A. Yes.

17 Q. Okay. And did you examine
that right

18 arm throughout the day?

19 A. It was -- it had a dressing

over it,

20 and I took the dressing off twice to show one to
the

21 doctor. And I believe we took it off to take
pictures.

22 Q. Okay. Let me show you some
23 photographs that have been marked as State's
Exhibit 52-E

24 and 52-A. Do you recognize those to be
photographs of
25 Darlie Routier?

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Reporter

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1 A. Yes.

2 Q. And do you see the bruises
located
3 there on the right arm?

4 A. Yes.

5 Q. Okay. Have you seen bruises
like that
6 before?

7 A. Yes.

8 Q. Okay. What type of bruises are
those?

9 A. What do you mean what type?

10 Q. What would cause that type of
bruise?

11 A. A severe accident.

12 Q. Okay. Do y'all refer to that as
blunt
13 trauma?

14 A. That's more of a physician term.
I
15 mean, we would call this more of a hematoma.

16 Q. Something you see when a person
has
17 been in an accident?

18 A. Yes.

19 Q. Struck something very hard?

20 A. Yes. Or broke her arm.

21 Q. Okay. Is that a pretty bad
bruise?

22 A. Yes.

23 Q. Did you see any evidence of that
24 injury on her right arm when you cared for her for
those,
25 what was it about 11 hours?

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1 A. No.

2 Q. Okay. Do you think you would
have

3 seen evidence of that injury had it occurred on the
6th

4 of June around 2:30 in the morning?

5 A. Yes.

6 Q. Okay. You were with her for a
total

7 of 11 hours?

8 A. Yes.

9 Q. You didn't see any sign of that
10 injury?

11 A. Nothing that -- there was
nothing on

12 her left (sic) arm that would indicate this type of
13 injury.

14 Q. Okay.

15 A. That would leave this type of a
16 bruise.

17 Q. You're talking about her left
arm or

18 her right arm?

19 A. Her right arm, excuse me.

20 Q. And is that something that you
nurses

21 in the ICU look for and take note of?

22 A. Sure.

23 Q. Okay. Now let me show you some

24 photographs 52-G, 52-F, 52-H. Is that how Mrs.

25 Routier -- you can just look through those.

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Okay.

2 Q. Is that how she looked when she
was in

3 your care?

4 A. Yes.

5 Q. Do you see the right arm in
those

6 photos?

7 A. Yes.

8 Q. Do you see any evidence of
injury of

9 the kind of bruising that you saw on the other
photos?

10 A. No.

11 Q. Okay. Nothing like what we see
here

12 in 52-B?

13 A. No.

14 Q. Okay. And had you seen that
type of

15 bruising or injury that would lead to that bruising
would

16 you have made note of that?

17 A. Yes.

18 Q. And is that something you would

have

19 told the doctors about?

20 A. If I thought that they didn't

know

21 about it, yes.

22 Q. Okay.

23

24 MR. TOBY L. SHOOK: That's all

the

25 questions I have, Judge.

1 THE COURT: First of all, will
the
2 gentlemen who just came in in the first row move to
the
3 second, please. Thank you. We just like to leave
that
4 row behind the jurors clear. Thanks a bunch.

5 All right. Go ahead, Mr. Mosty.

6

7

8 CROSS EXAMINATION

9

10 BY MR. RICHARD MOSTY:

11 Q. Ms. Hollon, I have, I think,
your

12 notes. Are your notes just on two pages?

13 A. My written notes?

14 Q. Yes. Would you show me? I have
a

15 little hard time. There's DN, who I thought was
maybe

16 you. But who is that?

17 A. Here.

18 Q. Let me see. I don't know where
your

19 notes are.

20 A. Okay. My notes start right here.

21 Q. Okay. What is your first -- is

that

22 8:20?

23 A. Yes.

24 Q. And then what is your last note?

25 A. Bottom of the second page.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. At 6:45? Or is that yours on the
2 right?

3 A. Right.

4 Q. Where it says "anxiety"?

5 A. 16:45.

6 Q. I'm sorry 16:45. Is that your
last
7 one?

8 A. That is what it looks like, yes.

9 Q. Do you sometimes put a D?

10 A. DH, yes.

11 Q. Sometimes you put D. Hollon?

12 A. The first note will be my full
name.

13 Q. Okay.

14 A. And then from there I just,
initials.

15 Q. Okay. You just solved a mystery
for
16 me.

17 A. Okay.

18 Q. Ms. Hollon, you came on then at -
-
19 first took Darlie Routier into your care shortly
after

20 8:00 o'clock?

21 A. Yes, sir.

22 Q. And made your first note at
8:20?

23 A. Yes, sir.

24 Q. And at that time she wasn't
just
25 tearful, she was very tearful, wasn't she?

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Reporter

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1 A. That's what I charted.

2 Q. And tell us -- when you chart
these

3 notes, do you try to be accurate and complete?

4 A. I try to chart what I see.

5 Q. Okay. As accurately as you can?

6 A. Yes.

7 Q. And I guess part of that is that
that

8 becomes something that the later nurses can rely on
in

9 reviewing the charts, and the treating doctors can
rely

10 on in understanding how the patient is doing?

11 A. Yes. If they want to read it,
yes.

12 Q. Okay. And are you trained that
you

13 ought to do that right at that time, as you observe
14 something?

15 A. As soon as we have the time,
yeah, we

16 chart it.

17 Q. And is part of that because
18 everybody's memory is somewhat faulty, and you might

19 forget to chart something that is important?

20 A. I consider it to be more you
chart

21 when you have the time to sit down and chart what
has

22 occurred.

23 Q. Do you agree with me that
usually your

24 memory is a little bit better, the closer to the
event

25 and the quicker you can get that down?

1 A. Sure.

2 Q. And then you go look at it. For
3 instance, you might have a patient in there for
months.

4 Correct?

5 A. For months?

6 Q. Yes.

7 A. Yes.

8 Q. And so, you know, your memory
over

9 that period of time, it's helpful to go back and
look at

10 that chart of a month ago, for instance, and see and
11 compare how that patient is doing.

12 A. I don't do that.

13 Q. But you agree with me that it's
14 important, and that your memory is better -- the
closer

15 you can do it to the event the better your
description

16 might be?

17 A. Yes.

18 Q. And not only, you did that, and
then

19 to the right you

have another note. The
first note is at

20 8:20?

21 A.

Yes.

22 Q.

Is it not?

23 A.

Um-hum. (Witness
nodding head

24 affirmatively).

Yes.

25 Q.

Okay. And as a matter
of fact there

Sandra M.
Halsey, CSR, Official
Court Reporter

1 was a chaplain
present?

2 A.
Yes.

3 Q. At 8:20?

4 A. Yes.

5 Q. And he was counselling with
Darlie

6 Routier. Correct?

7 A. Yes.

8 Q. You heard that?

9 A. No.

10 Q. Or some of it, bits and pieces?
Or

11 did you stay away from that?

12 A. Well, I did not really hear the
13 chaplain saying much to her.

14 Q. Okay. But he was there to
counsel

15 with her in her grief?

16 A. Yes, to support her.

17 Q. And you will -- in that kind of
18 circumstance you would defer from your
counselling, you

19 wouldn't counsel someone if the chaplain is there

20 counselling them, would you?

21 A. What do you mean by
counselling?

22 Q. Well, what type of counselling
as a

23 nurse do you do?

24 A. Like when I'm --

25 Q. Other than medical. Do you --

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Reporter

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1 obviously you do some medical counselling.

2 A. Sure.

3 Q. But mine is emotional or
spiritual

4 counselling. The chaplain is there assisting
someone

5 with their grieving process. And the family was
there

6 too, weren't they?

7 A. Sure.

8 Q. Members of the family were there
with

9 the chaplain all together?

10 A. Yeah.

11 Q. And if he's sitting there
assisting in

12 that grieving process, you would stand back and let
him

13 do that, wouldn't you?

14 A. If I had to do something to Darlie
at

15 the time, yes, medically, a touch, holding her hand,

16 touching her shoulder, touching a family member's

17 shoulder. I consider that support.

18 Q. Okay. But in this instance you

19 didn't -- the chaplain was doing fine on his own?

20 A. I mean, I don't remember.

21 Q. You don't remember that part?

22 A. I don't remember what the chaplain
23 said to him, whether I was there at the bedside when
the

24 chaplain was talking to them or not. I don't
remember.

25 Q. Well, that sort of goes back to my

Sandra M. Halsey, CSR, Official Court Reporter

1 point. All of our memories. We remember some things
and

2 we don't remember other things.

3 A. Sure.

4 Q. And these happened just almost
side by

5 side, didn't they?

6 A. I don't know.

7 Q. It was very tearful when the
chaplain

8 was there? That's all at the same time, isn't it?

9 A. That's what I wrote, yes.

10 Q. And you remember part of it?

11 A. Yes.

12 Q. And you don't remember part of it?

13 A. I don't remember what was said.

14 Q. Okay.

15 A. Or what I was doing at the time.

16 Q. So, I'm right, aren't I? You
remember

17 part of what was happening and you don't remember
part of

18 what was happening?

19 A. Yes.

20 Q. As a matter of fact, then again,

at

21 12:00 noon, you said that the patient had continued.

Is

22 that continues or continued?

23 A. Continues.

24 Q. Continues to weep. Indicating

that

25 she had been weeping all morning off and on, I
guess?

Sandra M. Halsey, CSR, Official Court
Reporter

1109

1 A. Yeah.

2 Q. From 8:20 until noon?

3 A. Yes.

4 Q. You noted that she had
continuously

5 wept during that entire period of time, off and on
I'm

6 sure.

7 A. Using weep for lack of a better
term,

8 yes.

9 Q. Well, you thought that was an
accurate

10 term back in June of 1996. You thought that was an
11 accurate term, didn't you?

12 A. Yes.

13 Q. I think you described that she was
14 holding pictures of her children.

15 A. She had an 8 by 11, I guess,
framed

16 picture of both boys.

17 Q. Of both boys?

18 A. Of both boys.

19 Q. And part of your training, you
learn

20 at least a little bit about grief, don't you, as
part of

21 your nursing training?

22 A. Yes.

23 Q. And you know that, first, that

24 everyone reacts different to different emotional

events

25 in their life?

Sandra M. Halsey, CSR, Official Court Reporter

1110

1 A. Yes.

2 Q. And that is -- there are any
number of

3 things that might affect that?

4 A. Yes.

5 Q. Whether you're a male or female?

6 A. Yes.

7 Q. Your ethnic background, for
instance?

8 A. Very much so.

9 Q. Your -- how you're brought up?

10 A. Yes.

11 Q. And you're brought up in a
touching

12 family, some families embrace everyone?

13 A. Yeah.

14 Q. Some families don't embrace
anybody?

15 A. Sure.

16 Q. Correct?

17 A. True.

18 Q. Some families are very excitable?

19 A. Yes.

20 Q. And then within a family you
might

21 have some that are very excitable and some who are
very

22 subdued?

23 A. Yes.

24 Q. Do you have brothers and sisters?

25 A. Yes, I do.

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1111

1 Q. Are y'all different?
2 A. Yes, we are.
3 Q. Do you react differently to
different
4 things?
5 A. Yes.
6 Q. Okay. And that is something that
is
7 common in your nursing experience, isn't it?
8 A. Yes.
9 Q. So, going through the stages of
grief,
10 one of those is denial, isn't it?
11 A. Yes.
12 Q. And that's the kind of thing of
13 saying, "I can't believe my babies are dead." It's
a
14 statement of denial, isn't it?
15 A. Sure.
16 Q. One of the phases of grief.
Correct?
17 A. Yes.
18 Q. And, I guess, did you know a
little
19 bit about what had happened?

20 A. Yes, I did.

21 Q. And did you know that Ms. Routier

was

22 present when all this happened?

23 A. Yes.

24 Q. And did you know that she knew

and had

25 been hysterical on a 911 tape?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. No.

2 Q. "My boys are dead. My boys are
dead.

3 Oh, my God."

4

5 MR. TOBY L. SHOOK: Judge, I'll
6 object. She said no, she didn't know.

7 THE COURT: Well --

8 MR. TOBY L. SHOOK: So, I'll
object to

9 any further questions about the 911 tape.

10 THE COURT: Overruled. Go ahead
and

11 ask the question. Let's just answer them one at a
time

12 if you can. Give her a chance to answer, please.

13 All right. Go ahead.

14

15 BY MR. RICHARD MOSTY:

16 Q. Well, one of the phases, at least
in

17 the people that you have seen, sometimes if they
have

18 seen the traumatic event, they block that, and some
parts

19 of it are sketchy in their memory. You've seen
that,

20 haven't you?

21 A. I can't say that I've seen that,
no.

22 Q. Never seen that in people?

23 A. No.

24 Q. Have you ever been, for instance,
in a
25 severe car wreck?

1 A. No.

2 Q. Have you ever had any kind of
3 traumatic event like that?

4 A. No.

5 Q. So you have no personal
experience of
6 how you might react?

7 A. Not to something that traumatic,
no.

8 Q. Do you deal sometimes with, for
9 instance, automobile accident --

10 A. All the time.

11 Q. -- people?

12 A. Victims. Yes, sir. All the
time.

13 Q. And, for instance, do they
sometimes

14 say, "I looked up and there was a truck, and
that's all I

15 remember seeing was the truck."

16 A. No.

17 Q. You never heard anything
like that?

18 A. No.

19 Q. Okay. They just

described part of an

20 event?

21 A. The kinds of patients we
have, usually

22 do not remember.

23 Q. At all?

24 A. No.

25 Q. Don't remember some bits
and pieces?

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Reporter

1 A. No.

2 Q. Is that because they're
so --

3 particularly when you got them, they aren't
very
4 communicative at all, I guess?

5 A. True. Most of the time.

6 Q. Do you ever spend any time with
less
7 severely injured people? Do you ever spend any time
in,
8 for instance, ER? Somebody comes in and is cut up
and is
9 treated or held for observation and let go?

10 A. I mean, I haven't spent anytime in
ER,

11 but I have had patients that are not severely
injured,

12 that can talk, but that is not something that we,
you

13 know, that's not discussed ever, really. The events
of

14 something.

15 Q. What happened?

16 A. Yeah.

17 Q. As a matter of fact, it seemed
like
18 that's part of what you had said, that you did not
want
19 her talking about it, about this event?

20 A. Right. Usually they don't talk
about
21 it.

22 Q. And you had said that you had
23 encouraged the family not to talk about it, and her
not
24 to talk about it anymore?

25 A. Yes.

1 Q. And then -- but she had, in
that, sort
2 of described on -- I think you said she told the
same
3 story several times to either you or family
members?

4 A. Yes.

5 Q. That someone was on top of her?

6 A. She felt pressure.

7 Q. Felt pressure. I thought I
wrote down

8 on top of her when you testified the first time,
didn't

9 I?

10 A. She woke up with someone on top
of her

11 and she felt pressure. I guess that's what I said.

12 Q. Well, you didn't say "felt
pressure,"

13 the first time, did you?

14 A. I believe I did. I don't know.

15

16 MR. TOBY L. SHOOK: Judge, we
can

17 check the court reporter's notes.

18 MR. RICHARD C. MOSTY: Your
Honor,

19 this is my cross-examination.

20 THE COURT: I understand.

There's no

21 objection. Let's just -- let the witness answer
the

22 questions.

23 Go ahead.

24 THE WITNESS: I believe I said
that

25 that's what she said.

1

2 BY MR. RICHARD MOSTY:

3 Q. Okay. Just now when I asked you
4 what

5 happened, you didn't say "on top of her," you said
6 pressure?

7 A. She felt pressure. That was one
8 of

9 the terms that she said to me. She felt pressure.

10 Because I remember that distinctly because we were
11 asking

12 her, or I was explaining to her that she was gong
13 to have

14 a vaginal exam done. "Do you remember anything
15 about

16 having -- do you remember him doing anything like
17 that?"

18 And she said she felt pressure.

19 She

20 doesn't remember anything else.

21 Q. And then you also talked about a
22 description of the assailant?

23 A. I was questioning her earlier,
24 if she

25 could remember anything about it, yes.

18 Q. Why? If you didn't want her to
talk
19 about the event, and you're telling her not to talk
about
20 it, and the family not to talk about it, why were
you
21 questioning her about the assailant?

22 A. Because this was earlier in the
day.
23 It was earlier in the morning that she was trying
hard to
24 remember what happened, and she was discussing it
with
25 me. And I started asking her some questions about
it.

1 Q. So you questioned her at that
time?

2 A. Yes.

3 Q. And at that time she didn't
describe

4 the assailant at all?

5 A. She couldn't remember him, no.

6 Q. It was entirely gone from the
halls of

7 her memory, as Mr. Mulder would say?

8 A. Well, yes.

9 Q. Now, one thing that I noted that
you

10 said when we were talking about your chart, I think
Mr.

11 Shook asked you about pain?

12 A. Um-hum. (Witness nodding head
13 affirmatively).

14 Q. And, if I remember what you
testified

15 to, you said, "I didn't remember the pain until I
looked

16 at my notes;" is that right?

17 A. I remember her -- giving her
something

18 for pain. I do not remember her specifically
saying "I'm

19 hurting. May I have something for pain?"

20 Q. But you know --

21 A. But I know I gave her something.

22 Q. The point of that was, until you

23 reviewed your notes -- your notes refreshed your
memory

24 on that question about the pain, didn't it?

25 A. No. I remember giving her
medicine

1 for pain.

2 Q. Did you testify earlier that you
3 didn't remember it until -- you did remember some
4 question about pain, and I'm not sure which one it
was,

5 but that you didn't remember some question about
pain

6 until you looked at your notes and then you
remembered

7 it? Isn't that what you testified to?

8 A. I do not recall back on June 6th
her

9 telling me that she was hurting. I remember giving
her

10 something for pain though.

11 Q. Well --

12 A. I know she told me, because it's
in my

13 notes.

14 Q. Well, when you look at your notes,
at

15 11:30, for instance, "patient complaining of pain"?

16 A. Yes.

17 Q. And that's something that you
don't

18 have any
independent
recollection of, but
you know from

19 your notes that it
must have happened?

20 A. Yes.

21 Q. Okay. Now, when did you come down?

22 When did you come
down to Kerrville?

23 A. To Kerrville? On Monday night.

24 Q. Have you written out any report or
25 affidavit or
anything for the police
or the District

Sandra M.

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1119

1 Attorney in this
case?

2 A. No.

3 Q. When did they tell you that --
when

4 were you called and said you need to come to
Kerrville to

5 testify?

6 A. I think I was subpoenaed, I don't
7 remember, either after Christmas or before Christmas.

I

8 don't remember.

9 Q. Okay. And when did you receive
10 instructions to, you know, you need to be in
Kerrville on

11 such and such day?

12 A. When I was given the subpoena.

13 Q. Okay. It said "Come Monday,
January

14 6th?"

15 A. Yes. It came with the subpoena.

16 Q. Okay. And how many times have
you

17 visited with the District Attorney's office, or
any

18 District Attorney representative?

19 A.

From the start?

20 Q.

Yes.

21 A.

Five times.

22 Q.

Five times? And who would
those be

23 with?

24 A. I

met with Toby and Anita and
Bosillo.

25 Q.

Okay. And how long ago
was that?

Sandra M. Halsey,
CSR, Official Court
Reporter

1 A.

Well --

2 Q.

Months?

3 A.

Yes.

4 Q. What do you recall about that
5 conversation?

6 A. Which one?

7 Q. The first one.

8 A. The first one we went over my
notes.

9 We went over different things that she said to me
that

10 day, different things that I noted that day to
myself,

11 that I could remember, that is not written down
anywhere.

12 Just bits and pieces, the things that I recall.

13 Q. And there were four other visits
after

14 that one? When were those?

15 A. Again, one was at the hospital,
you

16 know, like a month after the first, and we basically

went

17 over the same things.

18 Q. Same people?

19 A. No. Toby was with us this time.

It

20 was Anita and Bosillo the first time, and then Toby

and

21 Bosillo. And I only spoke with Anita that first

time.

22 Q. Okay. And the third time?

23 A. The third time they were at the

24 hospital again to talk to somebody else, and since I

was

25 there, I talked to them again.

Sandra M. Halsey, CSR, Official Court Reporter

1 Q. Okay. And who was that?

2 A. Toby and Bosillo.

3 Q. And the fourth time?

4 A. The fourth time was, I believe

Tuesday

5 night this week.

6 Q. Okay. And the fifth time?

7 A. Wednesday night.

8 Q. Okay. Wednesday night?

9 A. Yes.

10 Q. Okay. Now, the -- I don't think I

11 asked you, the fourth time --

12 A. It was this morning, excuse me.

This

13 morning.

14 Q. Okay. Two times since you have

been

15 here?

16 A. Yes.

17 Q. Okay. Let me ask you a couple of

18 questions about these exhibits. Let me show you 52-

H.

19 And do you notice a redness upon Mrs. Routier's

upper

20 arm?

21 A. A little bit.

22 Q. Okay. Is that consistent with
some

23 kind of --

24 A. I don't know. I mean, it could
be a
25 blood pressure cuff probably was there, because we

1122 Sandra M. Halsey, CSR, Official Court Reporter

1 wouldn't have put the blood pressure cuff over here.

2 Q. Do you think that blood pressure
cuff

3 at this stage would still be showing as a redness on
her

4 arm by the time she is up in ICU?

5 A. It could, yes.

6 Q. Okay. Is that your opinion that
7 that's what it was?

8 A. I don't know what it is.

9 Q. Okay.

10 A. It could be.

11 Q. You don't have an opinion?

12 A. No. It could be.

13 Q. It could be. It could be a
number of

14 other things?

15 A. Yes.

16 Q. Okay. Let me show you 52-N. And
do

17 you notice any bruising on that?

18 A. Yes.

19 Q. And is that sort of around the
wrist?

20 A. No.

21 Q. That part? Is that consistent

with

22 something being around the wrist and causing
bruising?

23 A. It doesn't look like it.

24 Q. Do you have an opinion as to what
25 would cause that bruising?

Sandra M. Halsey, CSR, Official Court Reporter

1123

1 A. She had an arterial line in the
left
2 radial. This is from her arterial line here.
3 Q. All right.
4 A. This --
5 Q. The hole there?
6 A. This hole, and this yellowish-
looking
7 stuff up here. This could be from an arterial line,
I
8 don't know. That could be.
9 Q. Okay. Now, do you not note a
bruise
10 that appears to go like that, of a different color,
sort
11 of a different bruise, across what I would call the
12 bottom part of the wrist, since I don't know better.
Do
13 you notice a difference in that bruise? Or a
separate
14 bruise, or --
15 A. I mean, it looks like there's two
16 different bruises there, but I don't know.
17 Q. Okay. So, you can't draw any
18 conclusions from those bruises?

19

A. No.

20

Q. Okay. Now, when did you -- at

the

21

meeting Tuesday night, that was with Mr. Shook?

22

A. Is that Toby's last name?

23

Q. Toby, I mean?

24

A. Yes.

25

Q. You didn't know his last name?

Sandra M. Halsey, CSR, Official Court Reporter

1124

1 A. I couldn't remember it.

2 Q. All right. And besides you and
Toby,
3 who was there? Who was in this meeting?

4 A. Her.

5 Q. Her. Ms. Wallace?

6 A. Yes.

7 Q. Okay. You didn't remember her
name at
8 all?

9 A. No.

10 Q. All right. Who else?

11 A. That was the first night I had met
12 her.

13 Q. Okay. Tuesday night --

14 A. And that is the only time I have
15 talked to her.

16 Q. -- who else was there?

17 A. Bosillo was there, but I wasn't
18 talking to him. I talked to those two.

19 Q. Who else was
there?

20 A. Pardon?

21 Q. Who
else?

22 A. Just

them.

23 Q. Okay. And in the meeting on

24 Wednesday. Who was in on that meeting?

25 A. Excuse me, it wasn't Wednesday,
it was

Sandra M. Halsey, CSR, Official Court Reporter

1125

1 this morning.

2 Q. I'm sorry. This morning?

3 A. Yes.

4 Q. Who was in on that meeting?

5 A. Just Toby and I.

6 Q. You weren't in on a meeting then
with

7 Nurse Cotner and a number of the other nurses the
other

8 night?

9 A. Was that when they brought the
10 pictures? Is that what you're referring to?

11 Q. Well, actually, I'm not referring
to

12 anything, I'm just trying to inquire. Were you in a
13 meeting with the prosecutors and Ms. Cotner, and

Nurse

14 Cotner and several of the other nurses?

15 A. We were told to meet, I believe,
at

16 12:00 noon in there, in their room, Wednesday, I
guess

17 it was.

18 Q. Who told you?

19 A. I don't consider that a meeting,

20 because it wasn't -- we weren't going over our
testimony,

21 really.

22 Q. Oh, okay. Let me make sure
that I am

23 clear. When I talk about meeting, I want to talk
about

24 any time that you were present with Toby and y'all
25 conversed about the case. I don't need to know
about

Sandra M. Halsey, CSR, Official Court
Reporter

1126

1 when you conversed about lunch, or other things,
but when

2 you conversed about the case, I'm not trying to
quibble

3 about what is a meeting or what's not a meeting.

4 A. Okay. Fine.

5 Q. Okay. So, can I call -- who
summoned

6 you to this meeting? Is it okay if I call it a
meeting?

7 A. Sure.

8 Q. Okay. Who summoned you to this
9 meeting Wednesday at lunch?

10 A. I got a call from the operator
of the

11 hotel saying that, you know, they left a message
with

12 her.

13 Q. "They," meaning Toby?

14 A. Yes.

15 Q. Okay. And was it a message
that you

16 were supposed to meet Toby in Toby's room?

17 A. We were suppose to meet at
12:00 noon

18 in Toby's room.

19

Q. And who's "we"?

20

A. Everybody, all the Baylor
people.

21

Q. Okay. And who do you recall
being at

22 this meeting Wednesday at noon?

23

A. The Baylor nurses.

24

Q. Okay. Do you remember -- can
you give

25 me names?

Sandra M. Halsey, CSR, Official Court
Reporter

1127

1 A. Jody Cotner.

2 Q. Cotner?

3 A. Yes. Jody -- I don't know his
last
4 name.

5 Q. Male, E.R. nurse?

6 A. Yes.

7 Q. Fitts or Pitts?

8 A. Yes.

9 Q. Okay.

10 A. Chris, the 2-ICU.

11 Q. Wielgosz?

12 A. Yes. Paige Campbell and Denise
Faulk.

13 Q. Okay.

14 A. I believe that's it. Pat
Dillawn, I
15 believe, was there too.

16 Q. Oh, the doctor?

17 A. Yes.

18 Q. What about Dr. Santos, was he
there?

19 A. No.

20 Q. Okay. And so all of y'all met
with
21 Toby?

22 A. I believe Bosillo was there too.
23 Q. And Bosillo?
24 A. Yes.
25 Q. Okay. And that, I take it, is
the

Sandra M. Halsey, CSR, Official Court Reporter

1128

1 first time you ever saw these pictures?

2 A. Yes.

3 Q. These 52 numbers?

4 A. Yes, for the first time.

5 Q. And did y'all look at all of
these

6 photos?

7 A. Yes.

8 Q. A handful of photos of Mrs.
Routier in

9 the ICU unit?

10 A. And the ones that were not in the
ICU

11 unit.

12 Q. And some later ones?

13 A. Yes.

14 Q. And, I guess, y'all sat around --
how

15 long did this meeting last?

16 A. 45 minutes, an hour, maybe.

17 Q. Okay. And did everybody
participate

18 in it?

19 A. We were all passing pictures
around

20 and looking at them.

21

Q. And discussing --

22

A. And discussing them, yes.

23

Q. What they showed or what they

didn't

24 show?

25

A. Yes.

Sandra M. Halsey, CSR, Official Court Reporter

1129

1 Q. Okay. And, for instance, did Dr.
2 Dillawn express his opinion?

3 A. Sure.

4 Q. Put in his two cents worth?

5 A. Yes.

6 Q. Did you put in your two cents
worth?

7 A. Yes.

8 Q. Did Nurse Cotner put in her two
cents
9 worth?

10 A. Yes.

11 Q. Did Paige put in her two cents
worth?

12 A. Yes.

13 Q. Did -- was Phyllis Jackson the
14 security person there?

15 A. I don't remember her there.

16 Q. Okay.

17 A. Because she wouldn't know what --

18 Q. Wielgosz threw in his two cents
worth?

19 A. Yes.

20 Q. And y'all all talked and sort of
21 brainstormed about what these pictures showed and

didn't

22 show?

23 A. We talked about what we saw.

24 Q. Okay. And you sort of, you know,

I

25 see this and somebody else didn't see that?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. We talked about basically what we
saw

2 in Darlie the day we had her and that it wasn't
there.

3 Q. Okay.

4 A. Those bruises were not there.

5 Q. And y'all talked about bruising
in

6 general, didn't you?

7 A. Yes.

8 Q. And Dr. Dillawn gave you his
opinion

9 of bruising, and how long bruising takes and things
like

10 that, didn't he?

11 A. I don't recall him saying
anything

12 about how long bruising takes, but, yeah, we
discussed

13 all that.

14 Q. All right. And did Toby
throw in his

15 two cents worth too?

16 A. Yeah.

17 Q. And did Bosillo throw in

his two cents

18 worth too?

19 A. I think so.

20 Q. And at the end of that,
did y'all

21 reach a consensus about what your collective
opinion was?

22 A. No.

23 Q. You had just discussed it
all?

24 A. Yes.

25 Q. And then everybody just
happens to

Sandra M. Halsey, CSR, Official Court
Reporter

1 draw their own conclusion?

2 A. Yes.

3 Q. Okay. And that
conclusion was what,

4 as to the age of those bruises?

5 A. My conclusion?

6 Q. Yeah.

7 A. Those bruises were not
consistent with

8 the injury that I saw on her right arm.

9 Q. Okay. What about the
left arm?

10 A. The left arm, I was not
sure.

11 Q. Okay. So, you think on
the left arm

12 that those bruises may have been consistent?

13 A. They could have been
consistent with

14 the arterial line causing that type of
bruise.

15 Q. Okay. So, your opinion
was, at least,

16 that the bruises on the left arm could have
been

17 inflicted on June 6, of 1996; isn't that

right?

18 A. It could have, yes, sir.

19 Q. All right. Okay. And

so, if someone

20 had sustained blunt trauma on their left arm

on June 6,

21 1996, that would be consistent with your

idea of the age

22 of that bruising?

23 A. On the left arm?

24 Q. Yes.

25 A. Bruising was here on her
wrist, and

Sandra M. Halsey, CSR, Official Court
Reporter

1 that could have been consistent with the
arterial line

2 being inserted, yes.

3 Q. Okay. Well, of course,
there is a lot

4 more bruising on the left arm than just
there at the

5 wrist, isn't there?

6 A. Well, I thought it was
the right arm

7 that had the large bruise.

8 Q. You don't remember any
large bruising

9 on the left arm?

10 A. I didn't see any bruising
on either

11 arm the day I took care of her.

12 Q. I'm talking about the
pictures you

13 looked at, at the meeting when y'all had the
14 brainstorming session on Wednesday.

15 A. She had a bruise on her
left wrist.

16 Q. Okay. And, whatever it
was, the

17 bruising that you saw on the left arm, it

was your

18 judgment, that that could have been
inflicted on June 6th

19 at the time of the arterial injury?

20 A. Yes.

21 Q. So whatever the bruising
was on her

22 left arm, when it's photographed on June
10th, in your

23 judgment, could have been four days old?

24 A. May I see the pictures

again?

25 Q. Sure. Now, I don't know
that these

Sandra M. Halsey, CSR, Official Court
Reporter

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1 are the -- these are the pictures that have
been

2 introduced in evidence.

3 A. Okay.

4 Q. So I don't know that these are the
5 ones that y'all sat around and talked about. Do you
want

6 to see the left arm, the right arm, or all of them?

7 A. Well, if you're referring to her
left

8 arm, there's a bruise down here. I don't remember
seeing

9 a picture with her --

10 Q. Well, do you see this bruise going
up?

11 A. It's right here.

12 Q. Okay. But -- and this picture it
13 shows to be taken on June 10th?

14 A. Okay.

15 Q. Correct?

16 A. Yes.

17 Q. Okay. So, in your judgment, that
18 bruise on her left arm could be four days old?

19 A. Could be.

20 Q. From whatever the source of it,

let's

21 don't quibble about what the source of it is, from

22 whatever the source, that is consistent, in

your

23 judgment, with a four day old bruise?

24 A. It could be, yes.

25 Q. Okay. Now, did you say that the
right

Sandra M. Halsey, CSR, Official Court Reporter

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1 arm, you didn't think was consistent with the four
day

2 old bruise?

3 A. I would have noticed something the
day

4 I took care of her on her right arm that would cause
that

5 kind of a bruising and not just the laceration that I
saw

6 on her arm.

7 Q. Okay. So, are you making your
8 judgment not upon the pictures, but upon what your
memory

9 is?

10 A. Well --

11 Q. I mean, you say you would have
seen

12 something that indicated that bruising? Is that
what

13 you're telling me? On the right arm?

14 A. Yes. There would have been
something

15 on her right arm.

16 Q. Okay. But, so, just looking at
the

17 pictures, can you draw any conclusion at all that --
18 setting aside here, you know, your personal
involvement,
19 looking at the pictures, can you draw any
conclusions as
20 to how old the bruises on the right arm are?

21 A. No.

22 Q. None at all?

23 A. No.

24 Q. Okay. Does it seem odd to you

that a

25 person would have those kinds of severe bruises on
both

1 arms that are different ages?

2

3 MR. TOBY L. SHOOK: Judge, I'll
object

4 to speculation.

5 THE COURT: Sustained.

6

7 BY MR. RICHARD MOSTY:

8 Q. Do you feel you're not qualified
to
9 answer that?

10

11 MR. TOBY L. SHOOK: Judge, I'll
object

12 to speculation.

13 THE COURT: Sustained. Go on to
the

14 next question.

15

16 BY MR. RICHARD MOSTY:

17 Q. Well, nurse, if I understood the
18 reason they had you in this brainstorming session on
19 Wednesday, was because you -- the State apparently
felt

20 that you had some opinions --

21

22 MR. TOBY L. SHOOK: Judge, I'm
going

23 to object to sidebar.

24 THE COURT: Overruled.

25 MR. TOBY L. SHOOK: Giving his
opinion

Sandra M. Halsey, CSR, Official Court Reporter

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1 as to what we felt.

2 THE COURT: Overruled. Go ahead.

3 I'll let him ask that.

4

5 BY MR. RICHARD MOSTY:

6 Q. Well, you were invited to this
meeting

7 by -- you were instructed to come to this meeting by
the

8 State, weren't you?

9 A. Yes.

10 Q. I assume that they thought maybe
you

11 had some --

12

13 MR. TOBY L. SHOOK: Judge, I'm
going

14 to object again to what he thinks we thought. It's
15 totally irrelevant and it is speculative. And it is
also

16 sidebar.

17 THE COURT: I'll sustain that
18 objection. Let's ask another question, please.

19

20 BY MR. RICHARD MOSTY:

21 Q. Well, did you express opinions

about

22 those bruises at the brainstorming session on
Wednesday?

23 A. I expressed what I'm expressing
today.

24 I did not see it, a wound on her left arm or her
right

25 arm that was consistent with that type of bruise.

Sandra M. Halsey, CSR, Official Court Reporter

1137

1 Q. You feel qualified to make some
2 estimation of ages of bruises apparently?

3 A. No.

4 Q. No, you don't?

5 A. I mean, I really don't.

6 Q. Do you think that's something
that the

7 nurses really aren't qualified to do? An RN?

8 A. Well, it depends on what kind of
9 injury. If I knew it was a horrible injury, it
would be

10 consistent with that type of a bruise.

11 Q. And as a matter of fact, it
depends

12 upon the person too, doesn't it?

13 A. Sure. Yeah, it does.

14 Q. I bet I bruise differently than
you

15 do.

16 A. Yes, you do.

17 Q. And that's a function of -- what
all

18 kind of variables go into that?

19 A. Bleeding time, her hematocrit,
how

20 much blood she's lost, her clotting factors, all
that

21 type of stuff.

22 Q. Things like age?

23 A. Yes.

24 Q. Size? Size of a person?

25 A. I don't know.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Would that have any effect?

2 A. I don't know.

3 Q. Okay. Don't know? What about
skin

4 coloration; dark-complected people, light-complected
5 people?

6 A. Well, it's harder to see on
7 dark-complected people.

8 Q. And if you're -- you talked about
one

9 of the things was the hematocrit?

10 A. Yes.

11 Q. If, in other words, if you have
lost

12 blood, then there's less blood in the entire system
to

13 flow and to start bruising?

14 A. Well, it's a lot of different
factors,

15 of what your blood is doing at the time. Is it
clotting?

16 Is there -- you know, is there more of this
substance, or

17 that substance, I can't answer all that.

18 Q. Volume, volume of blood, quantity

of

19 blood?

20 A. Yeah.

21 Q. Things like diet? Can that affect
it?

22 I mean, what you've been eating?

23 A. Yes, if you're anemic, yeah.

24 Q. Okay.

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. RICHARD MOSTY: I'll pass the
2 witness.

3

4

5

6

REDIRECT EXAMINATION

7

8 BY MR. TOBY L. SHOOK:

9 Q. Mrs. Hollon, when I called you and
10 asked you questions about any bruises you saw, did I
ever

11 ask you to --

12

13

THE COURT: I think now it's 4:00.

14

15 we're going to stay until five o'clock, I think we'll
16 take another brief 10 minute break. Thank you.

17

18

(Whereupon, a short

19

Recess was

taken,

20

after which

time,

21

The proceedings

were

22

Resumed on the

record,

22

In the presence

and

23

hearing of the defendant

24

And the jury, as

follows:)

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 THE COURT: All right. Are both
sides

2 ready to bring the jury back in?

3 MR. GREG DAVIS: Yes, sir, the
State

4 is ready.

5 MR. DOUGLAS MULDER: Defense is
ready.

6 THE COURT: All right.

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: Let the record

reflect

19 that all parties of the trial are present and the

jury is

20 seated.

21

All right, Mr. Shook.

22

MR. TOBY L. SHOOK: Thank you,

Judge.

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 REDIRECT EXAMINATION (Resumed)

2

3 BY MR. TOBY L. SHOOK:

4 Q. Ms. Hollon, in regards -- well,
I've

5 met with you, obviously, several times; is that
right?

6 A. Yes, sir.

7 Q. Bugged you with a lot of
questions,

8 didn't I?

9 A. Yes, sir.

10 Q. Usually the same ones, sometimes
11 repeat, sometimes I would come up with new ones?

12 A. Yes.

13 Q. This week, calling you at around
noon,

14 do you remember if that was Wednesday or Tuesday?

15 A. It might have been Tuesday. I
don't

16 remember.

17 Q. Okay.

18 A. I'm kind of lost on my days this
week.

19 Q. Okay. Could have been Tuesday
instead

20 of Wednesday?

21 A. Yeah.

22 Q. And asked you some questions and
23 showed you some photos?

24 A. Yes.

25 Q. Okay. Did at any time I suggest
to

Sandra M. Halsey, CSR, Official Court Reporter

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1 you to get together with the other nurses, come up
with a

2 story, come up with a lie, anything like that?

3 A. Absolutely not.

4 Q. Okay. Did I ask you questions
about

5 what you remembered?

6 A. Yes.

7 Q. Okay. And what you saw on her
arms?

8 A. Yes.

9 Q. And the same type of questions I
have

10 asked you in front of this jury?

11 A. Yes, sir.

12 Q. I also told you we were a little
13 behind schedule?

14

15 MR. RICHARD MOSTY: Objection,

16 leading.

17 THE COURT: Sustained.

18

19

20 BY MR. TOBY L. SHOOK:

21 Q. Okay. Well, did I talk about
other

22 things, other than those photos and bruises and
things

23 like that?

24 A. Not that I recall, no.

25 Q. Okay. Give you any idea about,
you

Sandra M. Halsey, CSR, Official Court Reporter

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1 know, maybe when we could possibly get you out of
here to

2 testify?

3 A. I don't remember.

4 Q. Okay. I haven't ever told you to
make

5 a story up, anything like that, have I?

6 A. No, sir.

7 Q. Okay. As far as what you saw on
Mrs.

8 Routier's arm, or what you didn't see, you stand by
what

9 have you told this jury?

10 A. Yes.

11 Q. Okay. And you didn't see those
type

12 of injuries that would cause --

13

14 MR. RICHARD MOSTY: Object to
leading.

15 THE COURT: Yes. Let's phrase our
16 questions the right way, please.

17

18 BY MR. TOBY L. SHOOK:

19 Q. Now, defense counsel talked about

20 certain patients that you have seen that might not
21 remember things that have happened to them, like a
car

22 wreck.

23 A. Correct.

24 Q. Okay. Have you come across that
25 before?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Yeah.

2 Q. Okay. Do they just remember parts
of

3 it or they just don't remember the whole event?

4 A. To tell you the truth, usually
people

5 don't talk about it. And if they do, they don't
remember

6 it. There's nothing to talk about because they don't

7 remember, they don't remember being in the ICU.

8 Q. Okay. It's just all a blank to
them?

9 A. Yes.

10 Q. Entirely?

11 A. Yes.

12 Q. Okay. You made notes in your
nurse's

13 notes, the focus notes about the defendant being
tearful.

14 Would you describe those tears to us, please.

15 A. Her eyes would well up with tears,

16 basically just like I did when I started, but I
never

17 recall tears running down her face.

18 Q. Okay.

19 A. I never recall her using a

tissue to

20 wipe her tears off. I don't remember her doing
that.

21 Q. Okay.

22

23 MR. TOBY L. SHOOK: That's all

the

24 questions I have.

25 THE COURT: Mr. Mosty, anything?

1 MR. RICHARD MOSTY: Yes, sir.

2 THE COURT: All right.

3

4

5

6 RECROSS EXAMINATION

7

8 BY MR. RICHARD MOSTY:

9 Q. Well, have you ever heard the
phrase

10 "A roller coaster of emotions"?

11 A. Maybe. I mean, yes, probably.

12 Q. That's not unusual?

13 A. Yeah.

14 Q. Matter of fact, that's part of
the

15 four stages of grief, is that from anger to denial
to --

16

17 MR. TOBY L. SHOOK: Judge, I'm
going

18 to object to counsel testifying again, what he says
the

19 four stages of grief.

20 THE COURT: Overruled. I think

that

21 maybe within the lexicon of a trauma nurse.

22 All right. Go ahead.

23

24 BY MR. RICHARD MOSTY:

25 Q. And that's the kind of thing you
see

Sandra M. Halsey, CSR, Official Court Reporter

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1 that, you know, people's mood changes. People
laugh at

2 funerals?

3 A. As a stress relief, yes.

4 Q. And you talk -- did you express
an

5 opinion about whether or not people usually block
out a

6 whole event, or selected portions of one? Did you
7 express an opinion on that subject?

8 A. State the question again,
please.

9 Q. Mr. Shook was asking you about
what

10 you saw in terms of people who have been through a
trauma

11 and what their memory was. And as I understood, he
was

12 asking you if people block out the whole event or
parts

13 of it. And did you express an opinion one way or
another

14 on what one would expect on someone whose been
through a

15 traumatic experience, in terms of memory?

16 A. Usually people don't remember the
17 traumatic event, the car wreck, or whatever it
was.

18 Q. Well, what kind of amnesia is
that
19 called?

20 A. Short-term memory loss. I don't
know.

21 Q. But it's called localized, isn't
it?

22 A. I don't know.

23 Q. Okay. Well, tell us what
selective

24 amnesia is. Do you know the four types of amnesia?

25 A. No.

1 Q. Okay. Do you know the
difference

2 between circumscribed amnesia, sometimes called
localized

3 amnesia --

4

5 MR. TOBY L. SHOOK: Judge, I'll
6 object. The witness has already answered she
doesn't

7 know --

8 THE COURT: Well, I'll let him
ask

9 that question.

10 MR. TOBY L. SHOOK: -- about the
four

11 kinds of amnesia.

12 THE COURT: I know, but let him
ask

13 this question, and I think that will clear it up.

14

15 BY MR. RICHARD MOSTY:

16 Q. Do you know the difference
between

17 localized, sometimes called circumscribed amnesia
and

18 selective amnesia?

19 A. I have heard those terms before,
but I

20 don't know the medical definition of them.

21 Q. And one is where the whole event
is

22 blocked, and the other is --

23

24 MR. TOBY L. SHOOK: Judge, I'm

going

25 to object.

1 THE COURT: I'll sustain that
2 objection.

3

4 BY MR. RICHARD C. MOSTY:

5 Q. Do you know, do you know,
whether or

6 not circumscribed amnesia is the blocking of a
whole

7 event?

8

9 MR. TOBY L. SHOOK: Judge, the
witness

10 has answered she doesn't know.

11 THE COURT: I'll let her answer
this

12 question.

13

14 BY MR. RICHARD MOSTY:

15 Q. Do you know that? Whether or
not

16 circumscribed amnesia is blocking of an entire
event?

17 A. No, I don't know that.

18 Q. Do you know whether selective
amnesia

19 is the blocking of part of a traumatic event?

20 A. The term selective means it's

21 selective amnesia, selecting part, yes. But I

don't know

22 the exact definition of it, no.

23 Q. Do you know that those types of

24 amnesia are often times associated with traumatic

events?

25 Do you know?

1 A. No.

2

3 MR. RICHARD C. MOSTY: That's
all I

4 have.

5 MR. TOBY L. SHOOK: Nothing
further.

6 THE COURT: Thank you, very
much.

7 Ma'am, you're under the Rule,
which

8 means you don't talk about your testimony with
anybody

9 who's testified; don't compare it. You can talk to
the

10 attorneys for either side. If someone tries to
talk to

11 you about your testimony, please tell the attorney
for

12 the side who calls you. Okay?

13 This young lady will be excused,
14 subject to recall. Is that agreed?

15 MR. TOBY L. SHOOK: Yes, sir.

16 THE COURT: All right. Thank
you,

17 ma'am. You may step down.

18 Your next witness.

19 MR. TOBY L. SHOOK: We'll call

Paige

20 Campbell.

21 THE COURT: All right. Paige

22 Campbell.

23 Please raise your

right hand, please.

24

25

Sandra M. Halsey, CSR, Official
Court Reporter

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1
witness

(Whereupon, the

2
the

Was duly sworn by

3
truth,

Court, to speak the

4

The whole truth and

5

Nothing but the truth,

6

After which, the

7

Proceedings were

8

Resumed as follows:)

9

10

11 Whereupon,

12

13

PAIGE CAMPBELL,

14

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

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

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

18 open court, as follows:

19

20

21

DIRECT EXAMINATION

22

23 BY MR. TOBY L. SHOOK:

24 Q. Could you state your name, please,

and

25 spell your last name for the Court Reporter.

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Allison Paige Campbell,

2 C-A-M-P-B-E-L-L.

3 Q. And how are you employed?

4 A. I'm a registered nurse at Baylor
and

5 I'm in Dallas.

6 Q. Okay. And could you tell the jury
7 your educational and professional training that you
have

8 for the position that you hold.

9 A. I have two degrees. My first
degree

10 from Texas Tech in Zoology. My second degree I got
at

11 UTA, and I have a Bachelor of Science in nursing.

12 Q. How long have you been at Baylor?

13 A. Two years in February.

14 Q. Okay. And what part of Baylor are
you

15 assigned?

16 A. Well, I'm with ICU and just a
17 neurosurgical trauma.

18 Q. And what are your duties there?

19 A. To put it in a nutshell, I monitor
20 patients, critically ill patients. And that sounds
like

21 a small thing, but they're changing constantly. So
we

22 monitor them, make sure they are hemodynamically
stable,

23 and kind of coordinate the family and doctors.

That's

24 kind of it in a nutshell.

25 Q. Okay. Let me ask you if you came
on

1 duty on June 6th, 1996?

2 A. Um-hum. (Witness nodding head
3 affirmatively).

4 Q. What time were you working that
day?

5 A. I came on at 6:45 in the P.M., in
the
6 afternoon.

7 Q. Okay. And was Darlie Routier one
of
8 the patients there in your wing?

9 A. Yes.

10 Q. Okay.

11 A. She was.

12 Q. In fact, were you assigned as her
13 nurse for sometime during the evening?

14 A. Yes.

15 Q. How long were you her nurse?

16 A. For four hours.

17 Q. Do you see Mrs. Routier here in
the
18 courtroom today?

19 A. Yes.

20 Q. Okay. Would you point her out,
21 please.

22 A. She's over there. Right there.

23 Q. Seated here at the end of the
table?

24 A. Right.

25

Sandra M. Halsey, CSR, Official Court Reporter

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1 MR. TOBY L. SHOOK: Your Honor,
if the
2 record could reflect the witness has identified the
3 defendant.

4 THE COURT: Yes, sir.

5

6 BY MR. TOBY L. SHOOK:

7 Q. And what time did you first meet
Mrs.

8 Routier?

9 A. I would say I took reports at
6:45,

10 and I met her, I would say, 7:00.

11 Q. And what was her -- how was she
when

12 you took over?

13 A. She was calmly laying in bed.

She was

14 laying in bed. No complaints.

15 Q. Okay. Not in critical condition,
was

16 she?

17 A. I wouldn't say she was in

critical

18 condition, no.

19

Q. Okay.

20

A. She was stable.

21

Q. Okay. And did you tend to her
through

22 the night?

23

A. Yes, I did.

24

Q. Were there other people in the
room
25 with her?

1 A. There was friends in the room
with her

2 when I was there.

3 Q. How long were they in there?

4 A. I would say until about 9:00,
9:30.

5 Q. Okay. And did you speak to her?

6 A. Yes, I spoke to her.

7 Q. Okay. Did she seem to be alert
and

8 lucid?

9 A. Yes.

10 Q. Know what was going on?

11 A. Yes.

12 Q. Okay. Did you ask her about what
13 happened, or did that ever come up?

14 A. Yes. I asked her about what
happened.

15 Q. Okay. What did -- what do you
recall

16 her telling you about it?

17 A. The main thing that stands out in
my

18 head from what she said was that a man was over her
and

19 trying to stab her.

20 Q. Okay. At some time during the
night,
21 did you ever look at her left hand and examine some
22 injuries there?
23 A. Yes.
24 Q. Okay. How did that come up? Do
you
25 remember?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. I noticed some cuts on her left
hand,

2 and I said, "What is this from?" And she said,
"This is

3 where I tried to grab the knife." Something like
that.

4 Q. Okay. Now, could you describe
the
5 cuts?

6 A. I can -- they looked like paper
cuts
7 to me. They were scabbed over and just right on the
8 surface, not oozing, or there was no redness around
them
9 or anything.

10 Q. Not serious at all?

11 A. No.

12 Q. Let me show you what's been
marked as

13 State's Exhibit 28-D. Do you see the type of
injuries

14 you're talking about?

15 A. Yes.

16 Q. Point them out to
us.

17 A. Right there and
there.

18 Q. Okay. Right along the fingers
there?

19 A. Right.

20 Q. Okay. Were you also present
when a
21 pelvic exam was done by some doctors?

22 A. Yes.

23 Q. Okay. And did she make any
statements

24 about what happened during that exam?

25 A. All I remember -- the thing that

1 stands out in my mind during that time was that she

--

2 the doctors asked if she could identify the man and
she

3 said, "No, I never saw his face."

4 Q. Never saw his face?

5 A. Um-hum. (Witness nodding head
6 affirmatively).

7 Q. Okay. Did you make notes
throughout

8 the evening, whether Mrs. Routier was crying?

9 A. Yes. At the first of my
assessment I

10 made some notes.

11 Q. Okay. And could you describe how
she

12 was crying to the jury, please?

13 A. She was whining. She was saying
"My

14 babies. My babies." And I never saw a tear run down
her

15 face. I never saw anything like that. She never
asked

16 for a Kleenex. I never felt the need to offer her a

17 Kleenex. She was just whining.

18 Q. Okay. Said the same thing?

19 A. "My babies."

20 Q. "My

babies."

21 A. "My

babies."

22 Q. Okay. Did she make any other

23 statements -- well, let me ask you this: Did

you try to

24 get some of the people out of the room from her?

25 A. Well, in consideration of
what had

Sandra M. Halsey, CSR, Official Court
Reporter

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1 just happened earlier that day, I said, "Okay.
You know,

2 I will be the bad guy here. If you need --
whenever you

3 want to be alone, if you need me to get these
people out,

4 I will get them out. I'll kick everybody out."

5 And she said, she goes, "I
just need a

6 lot of friends and family here in this difficult
time."

7 Q. Okay. Is that how she said
it?

8 A. Yeah. I mean, just --

9 Q. In that same tone of voice?

10 A. No.

11 Q. Okay. What kind of tone of
voice was

12 it?

13 A. Well, she just, "I just need
a lot of

14 friends and family here during this difficult
time."

15 Q. Was she crying at all?

16 A. No.

17 Q. When she said that?

18 A. No.

19 Q. Okay. Now, later on in the
evening,

20 did you bathe her?

21 A. I helped Denise bathe her.

22 Q. Okay. Who was there with you
when

23 that --

24 A. Denise.

25 Q. Is she another nurse?

Sandra M. Halsey, CSR, Official Court
Reporter

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1 A. She is another nurse, yes.

2 Q. About what time did that take
place?

3 A. I think probably around one.

4 Q. Okay. And did Mrs. Routier
have some
5 blood on her?

6 A. Yeah. She had a little bit
of blood
7 -- she had a little bit of blood on her forearm.

8 Q. Okay. And did you wash that
off at
9 that time?

10 A. Yeah, I washed it off.

11 Q. Did you also wash her feet?

12 A. Yeah. I washed her feet off
earlier.

13 Q. What time did that take
place?

14 A. That happened probably around
8:00,
15 because her feet were covered in blood and that
caught my
16 attention, and so I washed that off, after I
assessed

17 her.

18 Q. Okay. Did you notice any
cuts on her

19 feet anywhere when you washed her feet off?

20 A. No, I asked her about it.

And, you

21 know, I asked her, "Did you get cut here? Is
that where

22 all this blood is from?"

23 And she said, "No."

24 And then I inspected her feet

and

25 there were no cuts.

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Reporter

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1 Q. Okay. When you helped bathe
her

2 later, was her arm bathed?

3 A. The part that wasn't dressed.

4 Q. Okay. And when you bathed
the part

5 that wasn't dressed, did you have to move it
around?

6 A. Yes.

7 Q. Okay. Did Mrs. Routier ever
complain

8 of any pain to her arm when you were moving it
around?

9 A. No.

10 Q. Specifically, I'm talking
about her

11 right arm.

12 A. Right. Um-hum. (Witness
nodding head

13 affirmatively).

14 Q. Never complained of pain?

15 A. No.

16 Q. Okay. And during the four
hours you

17 had her, did you examine her and take careful

note of her

18 medical condition?

19 A. Yes.

20 Q. Is that one of your duties as
a nurse?

21 A. Yes.

22 Q. Okay. Let me show you some
photos

23 that have been marked State's Exhibits 52-C and
52-B. Do

24 those photos show some bruising, extensive
bruising to

25 the right arm; is that right?

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Reporter

1 A. Yes.

2 Q. Okay. Did you see any
evidence of

3 that injury for the four hours you had her, in
the

4 evening hours?

5 A. No, I did not.

6 Q. Okay. That's pretty
extensive

7 bruising; is it not?

8 A. Yes.

9

10 MR. RICHARD C. MOSTY:

Objection.

11 Leading.

12 THE COURT: Sustained. Let's
phrase

13 the question the right way.

14

15 BY MR. TOBY L. SHOOK:

16 Q. Well, could you describe the
bruise

17 that you see there in those photos?

18 A. It's an -- it's a long bruise
covering

19 most of her arm. One that looks like, because

it's

20 purple, it's purple coloring, it looks like it
could have

21 happened recently. It looks like one that I
might see

22 after a blunt trauma to the chest, after a
person has

23 come in right from the ER.

24 Q. It's the type of things that
you see

25 when a person comes up that has been in a car
accident;

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Reporter

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1 is that right?

2

3 MR. DOUGLAS MULDER: Object
to

4 leading.

5 THE COURT: Well, I think
we're

6 talking about blunt trauma. Go ahead and answer
it if

7 you know.

8 THE WITNESS: Could you
repeat it?

9

10

11 BY MR. TOBY L. SHOOK:

12 Q. What type of trauma causes
that type

13 of bruising?

14

15 MR. DOUGLAS MULDER: Judge,
that's

16 been asked and answered. She said she would
expect that

17 when somebody had blunt trauma to the chest and
they came

18 from the emergency room.

19 THE COURT: Thank you. I'll
let her

20 answer that question. Go ahead.

21 THE WITNESS: The type of
bruising

22 that I see here, is the same type of bruising
that I see

23 from blunt traumas.

24

25

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Reporter

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1 BY MR. TOBY L. SHOOK:

2 Q. Okay. And what's blunt
traumas?

3 A. Like a hard blow to a part of
the
4 body.

5 Q. Okay. Did you see any
evidence of

6 that injury on her right arm in any of the four
hours
7 when you were with her?

8 A. No.

9 Q. Okay. What time did the next
nurse
10 take over for you?

11 A. 11:00 o'clock.

12 Q. Did you stay on duty at that
time?

13 A. Yes.

14 Q. What did your duties switch to at
that
15 time?

16 A. I became charge nurse, and then I
gave
17 the reports to the next nurse, Denise.

18 Q. Okay.

19

20

MR. TOBY L. SHOOK: Okay. That's

all

21

the questions I have for her, Judge.

22

THE COURT: Mr. Mosty.

23

24

25

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1

CROSS EXAMINATION

2

3 BY MR. RICHARD MOSTY:

4

Q. Mrs. Campbell, then you were in
Mrs.

5

Routier's presence from maybe 6:45 to 11:00?

6

A. Right.

7

Q. And I guess you were doing your -
- did

8

you have another patient?

9

A. No.

10

Q. You were doing your ordinary book
work

11

and paperwork and making your notations and doing

your

12

other responsibilities?

13

A. Um-hum. (Witness nodding head

14

affirmatively). Yes.

15

Q. And when you came on, there was
family

16

there?

17

A. No, there was friends there.

18

Q. Friends there?

19

A. Yeah.

20

Q. And they were there until you

went off

21 or not?

22 A. No, they were there until about
9:30.

23 I went off at 11:00 o'clock.

24 Q. Okay. So, the first hour and 45
25 minutes, 2 hours, there were friends -- was it just

Sandra M. Halsey, CSR, Official Court Reporter

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1 friends or was it family or both?

2 A. Well, most of the times it was
3 friends. I believe her mother came in for a few
minutes

4 at the very end.

5 Q. And they were consoling each
other

6 there?

7 A. Right.

8 Q. Amongst each other?

9 A. Right.

10 Q. And Mrs. Routier had pictures of
her

11 children?

12 A. Um-hum. (Witness nodding head
13 affirmatively).

14 Q. And she was grieving over her
15 children?

16 A. Yeah.

17 Q. "My babies. My babies"?

18 A. Saying "My babies."

19 Q. That's a kind of denial, isn't
it?

20 Maybe as if my babies aren't dead or missing them.

21 A. Well, I don't know what it is.

That's

22 just what I heard her say.

23 Q. Okay. And, you have seen any
number

24 of people react differently to different events,

haven't

25 you?

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1 A. Yes.

2 Q. I mean, people react differently,
3 don't they?

4 A. People react differently, but
there's

5 kind of a commonality when someone experiences a
major,

6 or -- when I see a family member watch another
family

7 member die, there is just kind of a commonality.

8 Q. So you think all people who see a
9 family member die react the same way?

10 A. I didn't say that, no.

11 Q. Okay. That wouldn't be a true
12 statement, would it?

13 A. No, I didn't say that.

14 Q. We all react differently to the
same

15 events, don't we?

16 A. Yeah.

17 Q. And as a matter of fact, one of
the

18 most traumatic and stressful things that a person
can

19 endure, is the loss of someone close to them; isn't

it?

20 A. Sure.

21 Q. And particularly if they see
that.

22 Right?

23 A. I would say so.

24 Q. And it can absolutely just put
them
25 right into a funk, can't it?

1 A. Yeah, it can.

2 Q. And part of -- you have at least
some

3 psychological and psychiatric training as a nurse,
don't

4 you?

5 A. Not really, I mean --

6 Q. You don't get some of that in
nursing

7 school?

8 A. We learn how -- we don't -- we
learn

9 how to listen.

10 Q. Okay.

11 A. And --

12 Q. So, really you don't feel like
you're

13 qualified to judge psychologically how someone ought
to

14 be reacting?

15 A. I'm just talking to you from my
16 experiences.

17 Q. Okay. And there might be
situations

18 where somebody is in a very stressful effect -- have

you

19 heard of, for instance, combat stress? Post
traumatic

20 stress disorder?

21 A. Yeah.

22 Q. Those kinds of things?

23 A. Yes.

24 Q. Can cause depression?

25 A. Yes.

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1 Q. Right?

2 A. Yes.

3 Q. And you know a depressed person
has a

4 flat -- what's called a flat affect? You know that
from

5 your training, don't you?

6 A. Yeah.

7 Q. And if someone is reacting in
the

8 stupor of a stressful event, they might have a
flat

9 affect?

10 A. Yes. They might.

11 Q. Okay. So -- and the point of
that

12 is -- do you have brothers and sisters?

13 A. Yeah, I have a brother.

14 Q. Okay. Are y'all different?

15 A. Are we different?

16 Q. Right. Personality-wise?

17 A. Well, we're different people.

18 Q. Right.

19 A. But we have different
personalities.

20 Q. Well, you react different to
things

21 than he does?

22 A. Because we're different people,
yes.

23 Q. And you react different than
other

24 nurses do to things?

25 A. Yeah.

1 Q. For instance, one nurse might get
up
2 there on the witness stand and have tears in her
eyes as
3 she testified. Right?

4 A. I haven't seen any other nurses.

5 Q. So do you think that would be
unusual
6 for a nurse to do that?

7 A. I'm not in a -- I mean, it's fine
if
8 they do. I mean --

9 Q. Well, some might, some might not.
10 Right?

11 A. Right.

12 Q. Okay. Sort of, that's sort of
how I
13 feel and how I react, and what my emotions are in
life,
14 are unique to me, aren't they?

15 A. Right.

16 Q. And nobody -- there is nobody in
the
17 world that would react to the same event the way I
would?

18 A. No, I mean --

19 Q. Because of my upbringing, of my
age,

20 of my sex, of my ethnic background, all of those
things.

21 A. All I was saying though, I really
22 wasn't saying that. I was just saying there is
23 commonalities, and that's why it stood out in my
head.

24 Q. Okay. But you aren't saying one
thing
25 is usual, or unusual, or proper or improper, are
you?

1 A. Well, all I'm saying is that it
stood

2 out in my head because I haven't seen this in the
past.

3 I haven't seen the way she reacted in the past.

4 Q. All right. Well, you have no
clue as

5 to what her background is, do you?

6 A. No, I didn't.

7 Q. How she was brought up?

8 A. No. I have no clue to anyone's
9 background that I take care of.

10 Q. You don't have any idea what her
life

11 experiences have been?

12 A. No.

13 Q. Right?

14 A. No.

15 Q. How she has typically reacted
to

16 events in the past?

17 A. No.

18 Q. And so you have no basis
whatsoever to

19 decide what her past behavior was and what her

current

20 behavior ought to be?

21 A. That's not even what I was
saying

22 though.

23 Q. Okay. That's exactly what --
you

24 weren't saying any of that, were you?

25 A. No. All I'm saying is there's

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Reporter

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1 commonalities that I see in people grieving.

2 Q. And you aren't here at all to
pass

3 judgment on how someone ought to react in a
stressful

4 situation?

5 A. I didn't say anything about should
or

6 shouldn't.

7 Q. Okay. Good. I just want to make
sure

8 that we're all on the same page, no pun intended by
that.

9 Now, in your notes, you didn't
10 describe her as "tearful," did you?

11 A. I described her as tearful.

12 Q. As "very tearful," didn't you?

13 A. Yes. I described her as tearful.

14 Q. Well, no, actually it was "very
15 tearful," wasn't it?

16 A. Yes. I did in my notes.

17 Q. More so than tearful. I mean,
there

18 is a reason for putting the word "very" there,
wasn't

19 there?

20 A. She was whining, "My babies. My
21 babies."

22 Q. Well, your words. But these notes
are
23 important notes, aren't they?

24 A. Yeah.

25 Q. I mean, that's the -- these notes
can

Sandra M. Halsey, CSR, Official Court Reporter

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1 have life and death implications if they're not
accurate,

2 can't they?

3 A. Well --

4 Q. I'm not saying in this case, but
these

5 focus notes are that important, aren't they?

6 A. The purpose of the focus notes is
to

7 have a way of communicating to the next nurse, you
know,

8 it's a way of continuity of care.

9 Q. And so that everyone knows as
10 accurately as possible what that patient's history
is

11 when they walk in and take over that patient?

12 A. Yes.

13 Q. Okay. And so, you don't put
words

14 down here, that you don't want that next nurse to
rely

15 on. Right?

16 A. Right.

17 Q. You know she is going to, as a
matter

18 of fact, don't you?

19 A. But the next nurse is also going
to do

20 an assessment of her.

21 Q. Sure.

22 A. I mean she shouldn't rely just on
the

23 notes.

24 Q. No. No. And I would never
suggest

25 that she should. But the point is, is that when you
make

Sandra M. Halsey, CSR, Official Court Reporter

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1 that note, you know that that patient's care -- that
the

2 next nurse is going to take that note, and then, of
3 course, she is going to take that and she's going to
plug

4 that into her own observation, and she's going to
make

5 notes to the next nurse. Right?

6 A. She will probably do her
assessment

7 first and then read the notes.

8 Q. Okay. And then she will look for
is

9 my assessment consistent with the last one, or
have we

10 got some change here. Is there something I need
to be

11 worried about or something going on with this
patient

12 here?

13 A. That's what I do, yes.

14 Q. Okay. So you think it's very
15 important that you -- that you accurately portray
what is

16 happening for that next nurse?

17 A. Right.

18 Q. Okay. And you chose the words
"very
19 tearful," didn't you?

20 A. The reason why I chose the words
"very
21 tearful," is because I saw her whining.

22 Q. Okay.

23 A. And if I say, "Whining a lot,"
and
24 this very important document, like you say, I mean,
that
25 gives a negative connotation to the patient.

1 Q. And you didn't want to do that?

2 A. And it was for a lack of better
words.

3 Q. Okay. But you didn't just put
4 moderately tearful, sometimes tearful?

5 A. She was --

6 Q. -- very tearful?

7 A. -- whining a lot.

8 Q. Okay. "Very tearful" is the
phrase

9 you used. Right?

10 A. That is the phrase I used, yes.

11

12 THE COURT: Okay. Let's settle
down.

13 Let's go on to the next question. Very tearful.

Okay.

14

15 BY MR. RICHARD MOSTY:

16 Q. One of the things that you said
was,

17 that you asked her about did she want to be alone?

Did I

18 remember that right?

19 A. I just said, "You let me know
when you

20 want these people to leave, and I'll be the bad guy
and I

21 will get them to leave."

22 Q. Because the fact is that people
who

23 are in a stressful situation sometimes want to be
alone?

24 A. Right.

25 Q. Sometimes they want people with
them?

1 A. Right.

2 Q. Their emotions are going, maybe,
like

3 a roller coaster. Right?

4 A. Right.

5 Q. And you recognize that?

6 A. Right.

7 Q. And you're sensitive to it. And
you

8 want the patient to cope with that situation in the
way

9 the patient is comfortable with, don't you?

10 A. That's right.

11 Q. I mean, you don't want that
patient to

12 cope with it in the way that Ms. Campbell would cope
with

13 it, do you?

14 A. I just wanted her to let me know
if

15 she wanted them to leave.

16 Q. And you didn't want, for instance,
17 another person imposing their will on her of how she
18 ought to be handling this, did you?

19 A. I really just thought of it as, if

you

20 want me to -- if you want these people to leave, I'll
21 tell them to leave.

22 Q. If you want to work through it by
23 yourself, that's fine. If you want to work through
it

24 with people around you, that's fine, whichever you

want

25 to do?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. I didn't say that. I said, "If
you
2 would like for these people to leave, I will tell
them to
3 leave."

4 Q. That's the same thing, isn't it?

5 A. You don't have to worry about
being --

6 worry about offending someone. I'll tell them to
leave.

7 Q. Well, that's the same thing, isn't
it?

8 Let her work through it however she thought it was
9 appropriate?

10 A. Not really. I mean, it was a lot
11 simpler than that. It was just, "If you want these
12 people to leave, I'll tell them to leave."

13 Q. Okay. You didn't give that much
14 thought to it, I guess?

15 A. Actually, no.

16 Q. All right.

17 A. I just wanted to let her know
that.

18 Q. Okay. Now, you said, I think,
that

19 you bathed her?

20 A. I helped to bathe her, yes.

21 Q. Okay. When?

22 A. Around 1:00 o'clock.

23 Q. Okay. And, but earlier than that

you

24 had bathed just her feet?

25 A. I washed her feet.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Washed -- just washed
her feet while
2 she was in the bed?
3 A. Right.
4 Q. And I think you noticed
-- I think you
5 told Mr. Shook that she had some blood on
her forearms,
6 that you noticed?
7 A. Right.
8 Q. And did you wash that
off the second
9 time when you bathed her?
10 A. Right. The only thing I
washed off
11 first was her feet.
12 Q. And that was blood on
what forearm?
13 A. It was on her right.
14 Q. Okay. That's -- and so,
everybody
15 knows the forearm is from the elbow down?
16 A. Right.
17 Q. Wasn't any blood up on
the upper arm,
18 was there?

19 A. Well, I didn't see
anything.

20 Q. Well, you notice those
things, don't
21 you?

22 A. Right.

23 Q. If there were dried
blood up on an
24 upper arm?

25 A. Yeah.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. You would have noticed
that?

2 A. Yes.

3 Q. And you would have
cleaned it,

4 wouldn't you?

5 A. Right.

6 Q. So there wasn't any
dried blood on her

7 upper arm, was there?

8 A. I didn't notice any.

9 Q. Okay. Ms. Campbell,
have you been

10 down here since Monday too?

11 A. Yes.

12 Q. Did you get summoned to
a meeting the

13 other day?

14 A. Which time?

15 Q. Did you get instructed
over at lunch

16 the other day to come meet?

17 A. Which meeting? I mean,
yeah, we only

18 met one time.

19 Q. Who -- how did you know
that -- who is
20 we?

21 A. The other nurses that I
am with.

22 Q. Okay. Did y'all all
come down
23 together?

24 A. We -- they flew us down.
We came on
25 the same plane.

Sandra M. Halsey, CSR, Official Court
Reporter

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1 Q. To where?

2 A. To Kerrville.

3 Q. They flew you to
Kerrville?

4 A. We came on the same
plane to
5 Kerrville.

6 Q. Is that a private --- I just
assumed

7 y'all came on Southwest Airlines. Y'all came on a
8 private --

9 A. No, we came on Southwest
Airlines.

10 Q. Okay. I hadn't seen them land in
11 Kerrville lately, so you got me --

12 A. No, I'm sorry, we went to San
Antonio
13 and drove to Kerrville.

14 Q. You got me a little confused.
15 All right. Did y'all all rent a
car
16 together, all of the nurses, and come up together?
How
17 did you do that?

18 A. Well, we're -- we took a van to

19 Kerrville.

20 Q. Okay. A State van that picked
y'all

21 up?

22 A. Yeah.

23 Q. And when did y'all come in,

Monday

24 evening?

25 A. Yes.

1 Q. Okay. And that was all of the
nurses

2 who have come in here and testified before, and I
guess

3 Denise, who was after you?

4 A. Yes.

5 Q. Okay. And now this meeting that -
- is

6 it okay if I describe that as a meeting the other
day?

7 What would you call it?

8 A. Well, I mean, people met. I mean,
9 people came together. I guess it was a meeting.

10 Q. A gathering, how about that?

11 A. Yeah.

12 Q. Okay. At this gathering -- how
did

13 you know about this gathering?

14 A. I think I was told by one of the
15 nurses to show up there.

16 Q. What did she tell you?

17 A. To show up, and show up at 12:00.

18 Q. Where?

19 A. To meet at 12:00

20 Q. Where were y'all meeting?

21 A. In a room in the hotel.

22 Q. Okay. You don't remember what
room or

23 whose room?

24 A. Room 109. I don't know whose room
it
25 is.

Sandra M. Halsey, CSR, Official Court Reporter

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1 Q. Okay. And who all was present
there?

2 A. I really -- I mean, Dianne,
Denise,

3 myself, Toby, Chris.

4 Q. Toby, the District Attorney?

5 A. I mean, yes -- no, I'm sorry.
Yes, he

6 was there.

7 Q. Okay.

8 A. I don't remember. I mean, there
were

9 several people there.

10 Q. Okay. It was a good sized
gathering?

11 A. Yeah.

12 Q. Dr. Dillawn there?

13 A. Yeah, he was there.

14 Q. And did Toby tell y'all the
purpose of

15 that meeting?

16 A. No.

17 Q. Did he sort of start it off -- and
I'm

18 not suggesting there's anything wrong with this, I'm
just

19 trying to find out what it was all about. Did Toby
tell

20 you why y'all had been --

21 A. I had no idea why we were going to
go
22 there.

23 Q. Did anybody tell you why you were
24 summoned there?

25 A. Why we were asked to come to the

Sandra M. Halsey, CSR, Official Court Reporter

1 meeting?

2 Q. Yes.

3 A. I didn't know why we were going to
4 come to the meeting.

5 Q. Well, when you got there, did
somebody

6 explain the purpose of the gathering?

7 A. Well, yeah, somebody explained the
8 purpose of that.

9 Q. Was that Toby?

10 A. I think so. I think so, yeah. He
11 was --

12 Q. Okay. Up until this gathering,
had

13 you seen any pictures of Mrs. Routier?

14 A. No, I hadn't seen any pictures.

15 Q. And did you at the gathering
see

16 pictures of Ms. Routier?

17 A. Yes.

18 Q. Did y'all have a table and you
spread

19 them all out or what?

20 A. Yeah, there was a table, and
there

21 were some pictures of her there.

22 Q. Okay. And were y'all standing
around?

23 A. Yeah, we were standing around.

24 Q. Okay. And were -- was one

person

25 talking, or were several people talking at once?

Sandra M. Halsey, CSR, Official Court Reporter

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1 A. Several people were talking at
once.

2 Q. Okay. Would you like be looking
at

3 one picture with one nurse and somebody else be
looking

4 at another picture with another nurse, or with Dr.

5 Dillawn or with Toby?

6 A. We were just all kind of looking
at

7 the pictures.

8 Q. I mean, was it like a group

9 discussion?

10 A. Well, I mean, we weren't all
11 talking -- it wasn't like a big group putting in
input to

12 one discussion. We were just all --

13 Q. Well, for instance, did you say,
14 "Well, I noticed this," and somebody else would say,
15 "Well, I noticed that."

16 And somebody else say, "Well, look
at

17 this." And somebody else say, "Well, what's that?"

18 And "What do you think this is?"

And

19 "What do you think caused that?"

20 A. Well --

21 Q. I mean, were those kinds of
questions

22 being brainstormed around the table?

23 A. We were just saying like how this
is a

24 bruise. You know, what kind of bruise this was.

25 Q. You had expressed your opinion, I

Sandra M. Halsey, CSR, Official Court Reporter

1 guess?

2 A. Yeah, I expressed my opinion.

3 Q. Did everybody express their
opinion

4 A. I don't know. Because I wasn't
really

5 listening to everyone.

6 Q. But you heard some of the people
7 expressing their opinions about what it was that they
8 were looking at and what those pictures meant that
they

9 were looking at?

10 A. I heard some people say things,
but it

11 was just kind of a jumble. Everybody was talking at
one

12 time.

13 Q. Well, was it -- you've been
involved

14 in, like, brainstorming sessions? You know what that
is?

15 A. We weren't in a brainstorming
session.

16 Q. Okay. Were y'all sitting there
and

17 saying that, you know, for instance, "I noticed
this."

18 Did you say, "Look at this"?

19 Did somebody point something out
to

20 you and say, "Look at this"?

21 A. Not really. We just looked at the
22 pictures, and I was, like -- we were just -- we just
kind

23 of made comments on it. We didn't say "Did you see
this?"

24 Look at this, or --"

25 Q. You were verbalizing what it was
that

Sandra M. Halsey, CSR, Official Court Reporter

1 you saw?

2 A. Yes, verbalizing what we saw.

3 Q. And everybody else was verbalizing
4 what it was that they saw?

5 A. Yeah.

6 Q. Okay. How long were y'all doing
this?

7 How long did this meeting take?

8 A. It was like 15 minutes, not very
long.

9 Q. And what day was that?

10 A. I don't remember.

11 Q. You don't remember?

12 A. I think it was probably Tuesday.

13 Q. Okay. I sort of lost -- have you
sort

14 of lost track of the days while you have been down
here?

15 A. Yes, I have.

16 Q. So have I.

17

18 MR. RICHARD C. MOSTY: I'll pass
the

19 witness.

20 I'll let you go. If you can

figure

21 out what day it is, and get back to Dallas.

22

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter

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1

REDIRECT EXAMINATION

2

3 BY MR. TOBY L. SHOOK:

4 Q. Mrs. Campbell, this wasn't a real
long

5 meeting, was it?

6 A. No.

7 Q. Did I ever ask you to make up some
8 kind of story or lie about what you were going to
say?

9 A. No.

10 Q. I just asked you questions about
what
11 you remember?

12 A. Right.

13 Q. Okay.

14

15 MR. TOBY L. SHOOK: That's all I
have,

16 Judge.

17 THE COURT: All right. You may
step

18 down, ma'am.

19 Please don't discuss your
testimony

1 Is that agreed?

2 MR. TOBY L. SHOOK: Yes, sir.

3 THE COURT: Both sides?

4 MR. RICHARD C. MOSTY: Yes, sir.

5 MR. DOUGLAS MULDER: Yes, sir.

6 THE COURT: All right. Thank you.

7 You may step down.

8 Ladies and gentlemen, we will be

9 adjourned now until tomorrow morning, 9:00 o'clock.

Same

10 instructions as always. Thank you.

11 If all the spectators will remain

12 seated. Just remain in the courtroom, please. You

can

13 stand up and stretch, but don't go out there until

the

14 jury is gone.

15

16 (Whereupon,

the

17 Proceedings

were

18 Recessed for the

day,

19 To be resumed the

20 Following day,

January

21

10th, 1997, at 9:00

A.M.

22

in open court, as follows:)

23

24

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Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, Official Court Reporter
of
Criminal District Court Number 3, of Dallas County,
Texas, do hereby certify that I reported in
Stenograph
notes the foregoing proceedings, and that they have
been
edited by me, or under my direction and the foregoing
transcript contains a full, true, complete and
accurate
transcript of the proceedings held in this matter, to
the
best of my knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the
exhibits, if
any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this _____ day of
_____, 1997.

Sandra M. Day Halsey, CSR
Official Court Reporter
Criminal District Court

No. 3

21

Dallas County, Texas

22

Phone, (214) 653-

5923

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra

M. Halsey, CSR,

Official Court

Reporter

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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.

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MARK TOLLE, JUDGE

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Criminal District Court Number 3

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Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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