

## Testimony of Jody Cotner

### 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  
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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  
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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?

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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.

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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  
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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.  
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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 out  
6 of surgery recently; is that right?  
7 A. Yes, sir.  
8 Q. Did Mrs. Routier, did she seem to be  
9 suffering from grogginess from the anesthesia or anything  
10 like that?  
11 A. Not that I recall, no, sir.  
12 Q. Okay. Did she seem fully awake and  
13 alert?  
14 A. Yes.  
15 Q. Okay. Now, as part of your duties,  
16 did you ask her questions?  
17 A. Yes, I did.  
18 Q. Okay. In fact, did you inquire about  
19 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  
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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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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.

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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  
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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  
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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  
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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,  
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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 look 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?

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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?  
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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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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.  
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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  
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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  
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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  
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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?

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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 care givers 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  
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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  
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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.

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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  
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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?

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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.

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1 A. I can say this is possibly from her  
2 art line.

3 Q. Okay. Are you saying that in your  
4 expert opinion, do you think that that was occasioned by  
5 some of the treatment there at Baylor?

6 A. Well --

7 Q. Either by the IV? Or by the --

8 A. The insertion of the art line?

9 Q. Is that what you're saying?

10 A. Well, I'm saying this could be the

11 result of the arterial line, yes, sir.  
12 Q. All right. It could be. All right.  
13 That is one thing that could have caused it. Right?  
14 A. Yes, sir.  
15 Q. The arterial line that was hooked up  
16 to her while she was in surgery?  
17 A. Yes, sir, it monitors her blood  
18 pressure.  
19 Q. Okay. Do you know whether or not 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  
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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.  
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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.

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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.

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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  
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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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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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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

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1 RECROSS 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.

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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

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.