

## Testimony of James Cron (2)

DIRECT EXAMINATION (Resumed)

12

13 BY MR. GREG DAVIS:

14 Q. Sir, again, you are James Cron; is

15 that right?

16 A. That's correct.

17 Q. The same James Cron that testified

18 yesterday in this cause?

19 A. Yes.

20 Q. Okay. Mr. Cron, I believe when we

21 left yesterday, we were talking about certain marks that

22 you saw on the kitchen floor that day on June 6th, 1996,

23 when you were at 5801 Eagle Drive. Do you recall that?

24 A. Yes.

25 Q. Okay. And, I believe that we last had

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1 referred to State's Exhibits 43-A and 43-B. Do you

2 recall that also, sir?

3 A. Yes.

4 Q. Okay.

5

6 (Whereupon, the following

7 mentioned items were

8 marked for

9 identification only

10 after which time the

11 proceedings were

12 resumed on the record

13 in open court, as

14 follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Sir, let me ask you, if you will, to

18 look at State's Exhibit 43-C and 43-D. Do you recognize

19 those two photographs, sir?

20 A. I do.

21 Q. Do they truly and accurately depict

22 the floor there at 5801 Eagle Drive as it appeared on

23 June 6th, 1996, sir?

24 A. Yes.

25

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1 MR. GREG DAVIS: Your Honor, at this  
2 time, we will offer State's Exhibits 43-C and 43-D.  
3 MR. DOUGLAS MULDER: No objection.  
4 THE COURT: State's Exhibit 43-C and D  
5 are admitted.  
6  
7 (Whereupon, the items

8 Heretofore mentioned  
9 Were received in evidence

10 As State's Exhibit Nos. 43-C  
11 and 43-D for all purposes,  
12 After which time, the  
13 Proceedings were resumed  
14 As follows:)  
15  
16 BY MR. GREG DAVIS:

17 Q. Again, Mr. Cron, if you will please  
18 step down, just for a moment.  
19  
20 (Whereupon, the witness

21 Stepped down from the  
22 Witness stand, and  
23 Approached the jury rail  
24 And the proceedings were  
25 Resumed as follows:)

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1 BY MR. GREG DAVIS:  
2 Q. Mr. Cron, let me ask you first:  
3 Looking here at State's Exhibit 43-C, does that appear to  
4 be essentially the same photograph we have here in  
5 State's Exhibit No. 43-A?  
6 A. Yes.  
7 Q. Does it show a little bit more of the  
8 floor than we show here in 43-A?  
9 A. It does, yes.  
10 Q. Okay. And again State's Exhibit 43-C,  
11 can you refer, for the members of the jury, the marks  
12 that you were referring to yesterday that you believe to  
13 be roll marks?  
14 A. Yes, sir. It was these marks on the

15 left side of the photograph here and here.  
16 Q. Okay. And an additional mark up here  
17 that I am pointing to now?  
18 A. Yes.  
19 Q. Okay. And again, when you saw these  
20 marks, the vacuum cleaner, was it still in the position  
21 that is shown here in this photograph?  
22 A. Yes, it was.  
23 Q. Officer Mayne had not yet moved it; is  
24 that right?  
25 A. That's correct.  
Sandra M. Halsey, CSR, Official Court Reporter  
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1 Q. And, looking here at State's Exhibit  
2 43-D, are we looking, essentially, at the same portion of  
3 the floor as shown here in State's Exhibit 43-B?  
4 A. Yes.  
5 Q. Okay. And again, looking at this, do  
6 we see the same marks that you have indicated earlier,  
7 looking at the previous photograph that we see here?  
8 A. Yes.  
9 Q. Okay. Do you see any other marks on  
10 State's Exhibit 43-D that you believe may be roll marks  
11 also?  
12 A. This could possibly be some at the  
13 bottom center of the photograph.  
14 Q. Okay. And again, 43-D was taken after  
15 the vacuum clean had been lifted off of the floor by  
16 Officer Mayne; is that right?  
17 A. That's right.  
18 Q. Let me ask you, Mr. Cron, did you have  
19 an opportunity -- do you recognize State's Exhibit 93  
20 here?  
21 A. I do.  
22 Q. Okay. And, do you recognize this to  
23 be the photograph shown of the vacuum cleaner shown in  
24 State's Exhibit 43-A?  
25 A. Yes.  
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1 Q. Did you have an opportunity to observe  
2 this vacuum cleaner while it was still laying on the  
3 floor?  
4 A. I did.  
5 Q. And what, if anything, did you observe  
6 on State's Exhibit 93 as it was on the floor?  
7 A. There was some traces of blood, or  
8 what appeared to be blood.

9 Q. Okay. If we could position the vacuum  
10 cleaner here on the floor, is this essentially the  
11 position that the vacuum cleaner was in when you saw it  
12 here on the floor?

13 A. Yes.

14 Q. Okay. And just, if you could in  
15 general, show us where you observed blood that day?

16 A. Here again, I can't pinpoint exactly  
17 where I saw the blood. I would have to look at  
18 photographs to compare it. But there was some blood on  
19 the handle area, a little blood on the body of the  
20 vacuum, some blood on the wheels.

21 Q. Okay. Today, we have got tape on the  
22 wheels, I take it?

23 A. Yes.

24 Q. The tape was not on the wheels back on  
25 June 6th; is that right?

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1 A. That's right.

2 Q. So, you were able to observe blood  
3 while the vacuum cleaner was on the floor?

4 A. Yes. And there was some blood up in  
5 this area, in this area here.

6 Q. Okay. And you're pointing toward --  
7 what I am going to call the top of the bag portion of the  
8 vacuum cleaner?

9 A. Yes, below the handle on the top of  
10 the bag.

11 Q. All right. Do you recall how Officer  
12 Mayne lifted this vacuum cleaner off of the floor?

13 A. Yes. I was standing in this position,  
14 and he was at the base, and he handled it, and here  
15 again, exact position he put his hand, I don't recall,  
16 but it was in this area here he picked it up.

17 Q. Okay.

18 A. Somewhere in this area.

19 Q. Okay. And again, did you have an  
20 opportunity, once the vacuum cleaner had been lifted up  
21 off of the floor, did you have an opportunity to look at  
22 the vacuum cleaner a little bit more?

23 A. Yes.

24 Q. Okay.

25 MR. GREG DAVIS: Thank you. You can  
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1 go back up to the witness stand.

2 THE WITNESS: Okay.

3  
4 (Whereupon, the witness  
5 Resumed the witness  
6 Stand, and the  
7 Proceedings were resumed  
8 On the record, as  
9 Follows:)  
10  
11 (Whereupon, the following  
12 mentioned items were  
13 marked for  
14 identification only

15 after which time the  
16 proceedings were  
17 resumed on the record  
18 in open court, as  
19 follows:)  
20

21 BY MR. GREG DAVIS:

22 Q. Mr. Cron, let me show you photographs  
23 that have been marked as State's Exhibit 46-A, 46-B,  
24 46-C, 46-D, 46-E, 46-F and 46-G. Do you recognize those  
25 photographs, sir?

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1 A. I do.

2 Q. Do they truly and accurately depict  
3 the blood that you saw on the vacuum cleaner, State's  
4 Exhibit 93, on June 6th, 1996, sir?

5 A. Yes.

6

7 MR. GREG DAVIS: Your Honor, at this  
8 time we will offer State's Exhibit 46-A through 46-G,  
9 inclusive.

10 MR. DOUGLAS MULDER: No objection.

11 THE COURT: State's Exhibits No. 46-A,  
12 B, C, D, E, F and G are admitted.

13 MR. GREG DAVIS: Okay.

14

15 (Whereupon, the items

16 Heretofore mentioned  
17 Were received in evidence  
18 As State's Exhibit Nos.  
19 46-A through 46-G

20 For all purposes,  
21 After which time, the  
22 Proceedings were resumed  
23 As follows:)  
24  
25  
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1 BY MR. GREG DAVIS:  
2 Q. Mr. Cron, if you could step down  
3 again, we can go over these photographs with the jurors.  
4  
5 (Whereupon, the witness

6 Stepped down from the  
7 Witness stand, and  
8 Approached the jury rail  
9 And the proceedings were  
10 Resumed as follows:)  
11  
12 BY MR. GREG DAVIS:

13 Q. Okay. Mr. Cron, looking at State's  
14 Exhibits 46-A and 46-B, are we looking at the handle  
15 portion of the vacuum cleaner?  
16 A. Yes.

17 Q. What do we see in State's Exhibit 46-A  
18 and 46-B?  
19 A. Okay. In 46-A, there is some red  
20 discoloration on the handle, what appears to be blood or  
21 apparent blood. And the same on the side view of the  
22 handle in 46-B, there is red blood substance -- looking  
23 substance on the side of the handle.  
24 Q. How would you characterize the blood  
25 that you saw on the handle?  
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1 A. More of drops, smears, smears.  
2 Q. Smears on the handle?  
3 A. Yes.  
4 Q. Let me ask you whether or not the  
5 blood that you saw on the handle, would that have been  
6 consistent with an individual actually holding the handle  
7 while having blood on their hands?  
8 A. Yes. Um-hum. (Witness nodding head  
9 affirmatively).  
10 Q. State's Exhibit Nos. 46-C, D and E,

11 starting with 46-C, are we looking at, again, the top  
12 portion of the bag of this vacuum cleaner, sir?

13 A. We are.

14 Q. Okay. And can you point out the blood  
15 that's on that photograph?

16 A. Yes, there is some blood on 46-C on  
17 the top of the bag, which is this area here.

18 Q. And if we turn the vacuum cleaner

19 around then, are we looking at the back portion now of  
20 the vacuum cleaner in State's Exhibit 46-D and 46-E?

21 A. Yes.

22 Q. And again, blood there, also?

23 A. Yes, discolorations of blood up on the  
24 side near the cord and on the cord and on -- I don't know  
25 what that is called, anyway, the shaft of the vacuum  
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1 cleaner.

2 Q. Okay. Now, looking at State's Exhibit  
3 46-F and 46-G, are we looking at the base of the vacuum  
4 cleaner here?

5 A. Yes.

6 Q. And again, would you just point out to  
7 the members of the jury the blood that you see in those  
8 photographs?

9 A. On the two photographs, there's some  
10 blood in this area, which would be the corner of the base  
11 of the vacuum. Let me look, I got a glare here, some  
12 blood in this area here.

13 Q. Now, Mr. Cron, the blood that you  
14 observed on this vacuum cleaner, tell me whether or not  
15 it appeared that some of the blood that you saw on this  
16 vacuum cleaner had been deposited on the vacuum cleaner  
17 when it was standing upright, as it is now?

18 A. It looked like most of it was when it  
19 was in its down position.

20 Q. Okay.

21 A. Laying on the floor, there was some on  
22 the handle, it had been smeared, it could have been when  
23 it was in an upright position.

24 Q. Okay. And then most of it that you  
25 observed would have been deposited while the vacuum  
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1 cleaner was in this position?

2

3 MR. DOUGLAS MULDER: Object to  
4 leading.

5 MR. GREG DAVIS: Is that correct?

6 MR. DOUGLAS MULDER: Leading.

7 THE COURT: We sustain the objection.

8 Let's phrase our question properly.

9

10 BY MR. GREG DAVIS:

11 Q. Mr. Cron, let me ask you whether or

12 not you observed blood that you believe to have been

13 deposited while the vacuum cleaner was laying down?

14 A. I did. The drops were round -- oval

15 to round shapes, which indicates straight drops.

16 Q. Okay. You may go back.

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. GREG DAVIS:

25 Q. Mr. Cron, tell me, when Officer Mayne

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1 lifted this vacuum cleaner, were you in agreement with  
2 that decision at that time?

3 A. Yes.

4 Q. Okay. And, did you have any concerns

5 at that time about Officer Mayne possibly obscuring

6 possible fingerprints on this vacuum cleaner?

7 A. No. And I can elaborate on that if

8 you would like.

9 Q. Yes, sir, if you would.

10 A. Normally, there might be handprints or

11 fingerprints on the handle and I didn't want it

12 disturbed. If something has to be lifted, you usually go

13 to the route of least disturbance on any possible agency.

14 I did mention to him, be careful. Although I felt like

15 he was, but I wanted to make sure he didn't touch the

16 handle itself. Because we could see some blood there and

17 I thought there might be a bloody print on it when we

18 examined it closer.

19 Q. Now, I want to direct your attention

20 to, again, the kitchen floor. And ask you about

21 footprints that you may have seen on the floor. I know,

22 looking at State's Exhibit 43-B, do we see footprints in

23 that photograph, sir?

24 A. Bare footprints, yes, sir.

25 Q. And, just so we can get oriented, what  
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1 direction would these footprints be leading in State's  
2 Exhibit 43-B?

3 A. In 46-B (sic), the prints, I can't say  
4 north, south or west, but they are heading to the lower  
5 right hand corner of the photograph.

6 Q. Okay. Would this be toward the sink  
7 in the kitchen, or away from the sink in the kitchen?

8 A. Away.

9 Q. Did you see any bloody footprints, Mr.  
10 Cron, that led from the family room toward the utility  
11 room?

12 A. None.

13 Q. Did you see any bloody footprints in  
14 the utility room?

15 A. Let me back up, no bare footprints,  
16 there was a footprint.

17 Q. Okay. I'm talking about bare  
18 footprints here like we see in 43-B?

19 A. There were no bare footprints at all  
20 in the kitchen except by the sink there.

21 Q. All right. The utility room?

22 A. None.

23 Q. Okay. Any bloody bare footprints  
24 leading from the utility room back to the sink?

25 A. No.

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1 Q. Did you see bloody footprints that you  
2 believed to be of different sizes in the kitchen?

3 A. No.

4 Q. Now, did you ever observe anything in  
5 the kitchen that you believed to be a bloody shoe print?

6 A. There was a partial one. I did see  
7 one.

8 Q. Okay.

9

10

11 (Whereupon, the following

12 mentioned items were

13 marked for

14 identification only

15 as State's Exhibit 43-E,

16 F & G, after which time the

17 proceedings were  
18 resumed on the record  
19 in open court, as  
20 follows:)  
21  
22 BY MR. GREG DAVIS:  
23 Q. If you would, look at State's Exhibit  
24 43-G. Tell me whether or not you recognize that, sir?  
25 A. I do.  
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1 Q. Okay. And does that truly and  
2 accurately depict that portion of the kitchen floor as it  
3 appeared on June 6th, 1996?  
4 A. Yes.  
5  
6 MR. GREG DAVIS: Your Honor, at this  
7 time we will offer State's Exhibit 43-G.  
8 MR. DOUGLAS MULDER: We don't have any  
9 objection to it. If we could have him clear it up as to  
10 where that is in the kitchen floor.  
11 MR. GREG DAVIS: I'll have him do  
12 that.  
13 THE COURT: Okay. Go ahead.  
14 Well, it's admitted. Are you going to  
15 object to my admitting it?  
16 MR. DOUGLAS MULDER: No. If he wasn't  
17 going to do that, I would ask to take the witness on voir  
18 dire to establish where that was on the floor. If he is  
19 going to do it, that is fine with me.  
20 THE COURT: All right. State's  
21 Exhibit No. 43-G is admitted.  
22  
23 (Whereupon, the item  
24 Heretofore mentioned  
25 Was received in evidence  
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1 as State's Exhibit No. 43-G,  
2 For all purposes

3 After which time,  
4 the proceedings were resumed,  
5 as follows:)  
6  
7 BY MR. GREG DAVIS:  
8 Q. Okay. Mr. Cron, first of all, what do  
9 we see here in State's Exhibit 43-G?

10 A. It's a partial footprint on the  
11 kitchen floor in what appears to be blood. A heel print  
12 of a shoe or a boot.

13 Q. Do you recall what part of the kitchen  
14 that this was found?

15 A. Yes. Exact measurements I don't have,  
16 but it's about halfway between the end of the counter to  
17 the island counter and the utility room door, heading in  
18 the direction of the utility room door.

19 Q. Okay. Did you see any other bloody  
20 shoe prints there in the kitchen, besides the one  
21 depicted in State's Exhibit 43-G?

22 A. No.

23 Q. Did you ever do anything with 43-G,  
24 the shoe print, shown in State's Exhibit 43-G in an  
25 effort to identify who might have left that track?

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1 A. Yes.

2 Q. What did you do?

3 A. Well, through the Rowlett PD, the  
4 negatives, I had them submitted to the photo lab, Dallas  
5 County Sheriff's Department photo lab for 1 to 1. That  
6 is actual size blowups made.

7 And then I had Rowlett PD take foot  
8 wear impressions of everybody that was at the scene,

9 including my own. I took my shoes there that I was  
10 wearing that night. So I got --

11 Q. Let me ask you: What is a 1 to 1  
12 photograph?

13 A. 1 to 1 is true size, actual size.

14 That is the purpose for placing rulers in crime scene

15 pictures. If a ruler is in a photograph, the photo lab  
16 personnel can -- using the negative, can enlarge the  
17 image from the negative, to where the ruler becomes its  
18 actual size on the photographic paper. And when the  
19 ruler is its true size, when they print it everything in  
20 the picture will be its true size. That is why rulers  
21 are used in crime scene pictures.

22 Q. Well, once you got the 1 to 1

23 photograph of this shoe print, did you compare it against  
24 something?

25 A. To all of the footprints of everybody  
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1 that was present there that morning.  
2 Q. Okay. And were you able to determine  
3 through your comparisons who actually left this shoe  
4 print shown in State's Exhibit No. 43-G?  
5 A. Yes.  
6 Q. Who was it?  
7 A. It was Sergeant Matt Walling. I may  
8 be mispronouncing his name, Walling.  
9 Q. Okay.  
10 A. It was consistent with being his and  
11 no other's at the scene.  
12 Q. Okay. Now, Mr. Cron, I want to direct  
13 your attention; do you recall a wine rack being present  
14 in the kitchen, sir?  
15 A. I do.  
16 Q. Did you have an opportunity that  
17 morning to observe the wine rack?  
18 A. Yes.  
19 Q. First of all, let me ask you: Did you  
20 observe any blood on the wine rack itself?  
21 A. I didn't.  
22 Q. Did you observe any blood on any of  
23 the bottles or the glasses on the wine rack?  
24 A. I didn't see any.  
25 Q. Did you see any items on the wine rack  
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1 itself that were broken?  
2 A. No.  
3 Q. Were there glasses on the wine rack?  
4 A. Yes.  
5 Q. Okay. They were not broken?  
6 A. They were not.  
7 Q. Were there wine bottles there also?  
8 A. Yes.  
9 Q. Okay. Were they broken?  
10 A. No.  
11 Q. Did you ever examine the wine rack to  
12 determine what amount of force would be necessary to move  
13 the wine rack?  
14 A. I did.  
15 Q. Okay. Can you tell the members of the  
16 jury what you did in that regard?  
17 A. Okay. This was, later in the evening  
18 after all the fingerprints were finished on it, I shook  
19 the wine rack, rattled it, bumped into it and jarred it  
20 to see if any glasses would fall off and none did.  
21 Q. In the kitchen itself, what items did  
22 you find to be broken?

23 A. A wine glass.

24 Q. Okay. Mr. Cron, let me ask you now,

25 if at any time you went back into the family room area

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1 and observed carpet in that room?

2 A. Yes, I did.

3 Q. Did you have an opportunity to observe

4 the section of the carpet that would be behind the west

5 couch, between the couch and the windows that lead to the

6 back yard?

7 A. I did.

8 Q. Did you observe anything when you

9 looked at that, sir?

10 A. Yes.

11 Q. What did you see back there?

12 A. Well, on the carpet there were several

13 smudges, some of them in the appearance of heels of foot

14 wear.

15 Q. Okay. And, do you know what was done

16 with that section of the carpet?

17 A. Yes. While I was there it was cut

18 out.

19 Q. Okay. Did you recommend that that be

20 done?

21 A. Yes.

22 Q. Okay. Now, did you ever have an

23 opportunity to -- well, did you have an opportunity to

24 look at the section of carpet after it had been cut out?

25 A. I did.

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1 Q. Did you also have an opportunity again

2 to look at all of the impressions, the shoe impressions

3 left by all of the emergency personnel back there?

4 A. Yes.

5 Q. Were you ever able to determine who

6 left the shoe prints or the impressions back there on

7 that section of the carpet behind the couch?

8 A. Yes.

9 Q. Okay. And how did you do that?

10 A. I had not only the carpet, but

11 photographs taken of the prints on the carpet. I had

12 then enlarged to their actual size, true size. Using

13 them, I compared them with the foot wear impressions of

14 everybody at the scene that morning.

15 Q. Okay. And what was the result?

16 A. The results: Three of them are  
17 consistent, or the three patterns are consistent with  
18 being the boot pattern of the paramedic. And I probably  
19 have some trouble pronouncing his name, but I know his  
20 nickname.

21 Q. What is his nickname?

22 A. Toad.

23 Q. Toad?

24 A. Right.

25 Q. Okay.

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1 A. I can't recall.

2 Q. How about --

3 A. I have his name, it was on the  
4 pictures.

5 Q. Let me give it a shot. Koschak?

6 A. That is it.

7 Q. Does that sound familiar to you?

8 A. That's it.

9 Q. Okay. Also, sir, do you recall  
10 whether or not you observed any other area of carpet that  
11 you thought should be removed?

12 A. There were some areas that something  
13 needed to be done with, either removed or checked further  
14 for prints.

15 Q. Okay. Were any other sections of  
16 carpet actually removed while you were there?

17 A. Not while I was there.

18 Q. Okay. Did you ever -- well, let me  
19 just direct your attention.

20

21 MR. GREG DAVIS: Can all of the jurors  
22 see this?

23 THE JURORS: Yes.

24

25

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, looking at State's Exhibit  
3 35-C, do you recognize what is shown there, sir?

4 A. Yes.

5 Q. What is that?

6 A. It's a -- you mean each specific item?

7 Q. No. What part of the room is this?

8 A. Oh, it's near the couch and the glass  
9 coffee table.  
10 Q. Okay. Now, look at State's Exhibit  
11 35-E. Do you see what I am pointing at here, sir?  
12 A. I do.  
13 Q. What is that?  
14 A. Looks like a small palm print in blood  
15 on the carpet.  
16 Q. Could you -- when you first went into  
17 the family room, could you see the palm print here shown  
18 in State's Exhibit 35-E?  
19 A. No.  
20 Q. Okay. What did you have to do in  
21 order to see that?  
22 A. Well, we had to move the objects after  
23 the initial photographs were taken, conducting a crime  
24 scene investigation during the moving of things that was  
25 discovered.  
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1 Q. Okay. Do you see what I am pointing  
2 at here in 35-C?  
3 A. Yes.  
4 Q. Okay. What is that?  
5 A. A blanket.  
6 Q. Did you have to move that?  
7 A. Yes, sir.  
8 Q. Let me ask you a couple questions  
9 here. Do you see what appears to be a pillow here in  
10 35-C?  
11 A. Yes.  
12 Q. Do you see that?  
13 A. Yes.  
14 Q. Did you have a chance to look at that  
15 pillow that day?  
16 A. Later that day, yeah, I did, yes.  
17 Q. Okay. Could you see any cuts or  
18 defects in that pillow?  
19 A. No.  
20 Q. Let me direct your attention to what  
21 appears to be a gold pillow in State's Exhibit 35-C. Did  
22 you also have an opportunity to look at that, Mr. Cron?  
23 A. I turned it over and looked at it,  
24 yes, sir.  
25 Q. Could you see any cuts or tears or

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1 other defects in that pillow, sir?

2 A. I didn't notice any.

3 Q. And now, the -- let me point to the

4 couch here that is shown in State's Exhibit 35-C. Did

5 you have a chance to look at that couch, also?

6 A. I did.

7 Q. What is that couch made of?

8 A. Vinyl or similar material, plastic,

9 similar to leather.

10 Q. Okay. Did you see any cuts or tears

11 or defects in that couch that morning?

12 A. I didn't observe any.

13 Q. How about the other couch in the

14 family room shown in State's Exhibit No. 35-H, any cuts

15 or defects or tears in that couch that you saw?

16 A. No.

17 Q. Is there also a chair that sits across

18 in that room?

19 A. There is.

20 Q. Any cuts or defects or tears in that

21 chair?

22 A. I didn't see any.

23 Q. Mr. Cron, on June the 6th, do you have

24 an estimate of the amount of time that you spent out

25 there at 5801 Eagle Drive?

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1 A. Yes.

2 Q. How long were you out there?

3 A. Till 3:30 P.M. that day.

4 Q. You got out there about what time?

5 A. I entered the scene a little after

6 6:00 A.M.

7 Q. What, about nine or nine and a half

8 hours?

9 A. Yes.

10 Q. Of that amount of time of the nine or

11 nine and a half hours, what percentage of your time was

12 spent actually inside of the house?

13 A. Oh, majority of it. Probably seven

14 hours, seven and a half, inside.

15 Q. Okay. Now, Mr. Cron, I would like to

16 turn your attention to certain latent prints that were

17 given to you for comparison. Were certain latent prints

18 given to you for comparison at a later date?  
19 A. Yes.  
20 Q. Let's talk a little bit about prints.  
21 Are there differing kinds of prints?  
22 A. Yes.  
23 Q. Could you explain to us what those  
24 kinds might be?  
25 A. Well, there's only three kinds of  
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1 basic fingerprint patterns. I'm not mentioning or going  
2 to talk right now about palms, and joints of fingers,  
3 footprints and toe prints, but just the tips of the  
4 fingers, there's only three patterns.  
5 These patterns have what you call  
6 sub-groups. A lot of people of heard of whirls and loops  
7 and arches, well, that is the three patterns. And  
8 there's two kinds of arches, there's four kinds of whirls  
9 and two kinds of loops. We all have a loop and whirl  
10 pattern or a combination of these, we might have all  
11 whirls, we might have all arches, loops, it's a mixture  
12 on people. But we all have one or more of these three  
13 basic patterns.  
14 Q. Okay. You mentioned the fingerprints,  
15 right?  
16 A. Yes, sir.  
17 Q. Joints of fingers?  
18 A. Yes. Joints, the rest of the joints,  
19 the palms of the hands, the soles of the feet and toes

20 have patterns and friction ridges composed of the same  
21 type of ridges we have on the tips, but they are not  
22 classified into whirls, loops and arches. That is only  
23 for classification purposes for the fingerprint tips, but  
24 we have similar ridges in all of the rest of our hands  
25 and feet.  
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1 Q. Okay. Do fingerprints differ by sex?  
2 A. No.  
3 Q. So you can't -- can you differentiate,  
4 if you see a fingerprint that is left, can you  
5 differentiate between male and female on that print?  
6 A. Not on the basis of the print alone.  
7 You can make educated guesses based on size that is  
8 not -- you may not be 100 percent accurate, but you can

9 look at the size and say, "This probably is a male with  
10 large hands." But scientifically, no, you cannot tell  
11 the difference.

12 Q. Okay. How about race? Can you

13 differentiate that by fingerprints or palm prints?

14 A. Not at all.

15 Q. Do our fingerprints change as we grow  
16 older? I am talking about, if say, just to give you an  
17 example: A five year old child as opposed to my  
18 fingerprints, are they going to change over time from  
19 when I was five to what I am now?

20 A. No, not as far as the identity. The  
21 only thing that would change would be size, but your  
22 prints remain the same from pre-birth until you  
23 decompose. Those patterns stay the same. The size will  
24 change with age.

25 Q. What size? The finger or something  
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1 else?

2 A. The ridges.

3 Q. What do you mean, ridges?

4 A. The skin, the friction ridges. With,  
5 say a newborn, will have very tiny -- you almost need a  
6 magnifying glass to see the ridges in a newborn as  
7 opposed to someone, say 50, 20 years old. They are  
8 pretty discernible with the naked eye. It's the size of  
9 the skin ridges.

10 Q. Mr. Cron, are you familiar with how  
11 fingerprints are lifted?

12 A. Yes.

13 Q. Okay. Can you describe for the  
14 members of the jury how, if you go out to a crime scene  
15 the methods that you use to process a scene and lift  
16 latent fingerprints?

17 A. Well, that is a pretty lengthy  
18 subject, but there's different ways to lift prints or to  
19 develop prints. Quite often it depends on the surface  
20 the print is on, or you think a print might be on,  
21 weather conditions.

22 One of the basic ways at scenes is to  
23 use a powder, dry powder, normally this is a black  
24 powder, it can be different colors, but black powder is  
25 generally used.

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1 The black powder adheres to any  
2 moisture that may be on an invisible or semi-visible  
3 print. And by adhering to the ridges in the shape, the  
4 moisture and the shape of the ridges on the tips of our  
5 fingers or palms, it becomes visible and we developed a  
6 print.

7 Q. Okay. How do you go about comparing a  
8 fingerprint that you find at a crime scene to another  
9 fingerprint? How do you do that?

10 A. Well, there's several steps. These

11 are rapid steps. It doesn't take long. First, you look  
12 to see if the unknown print from the crime scene has the  
13 same pattern, one of the three patterns I mentioned, the  
14 basic patterns.

15 If it is, then you get into a little  
16 more detail. You look for individual characteristics  
17 that may be in the finger pattern. When you find a  
18 sufficient number of these characteristics, if you have  
19 enough there to have an identification, but if they're  
20 lacking individual characteristics, although both prints  
21 may be say a whirl, if they aren't identical with the  
22 minutia in them, or the minor friction ridge

23 characteristic, it's not an identification.

24 Q. Okay. How long have you been  
25 comparing fingerprints and identifying fingerprints?  
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1 A. Oh, since about 1958.

2 Q. You have any idea of the number of  
3 fingerprints that you have compared and identified in  
4 your career?

5 A. I really don't, many.

6 Q. Okay. One other thing, can you tell  
7 the age of a fingerprint? By that, I mean, how long a  
8 fingerprint has actually been left on a surface?

9 A. Never. You can't.

10 Q. Okay. What -- would there be some  
11 factors that might allow a fingerprint to stay on a

12 surface longer or shorter?

13 A. Yes.

14 Q. Periods of time?

15 A. Yes.

16 Q. What sorts of things would affect  
17 that?

18 A. Weather -- well, there's three things,  
19 four things, I guess. One would be psychological,  
20 mental, attitude of the person leaving the print, the  
21 prints.  
22 Sometimes this can affect whether a

23 person is sweating, the perspiration might add a little  
24 moisture to the print or they might be perspiring too  
25 much, leaving too much water, liquid. If they are not  
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1 perspiring at all and their fingers are dry, it may not  
2 leave a print.  
3 So the mental condition is a factor.  
4 Another factor would be the physical condition of the  
5 person leaving the print. This could be -- the ridges  
6 could be affected by occupation, illness, say psoriasis  
7 maybe, or occupation, meaning a brick layer, somebody

8 that works with vehicles quite often, or the type of  
9 occupation that could damage the ridges, this could hurt  
10 it and is a factor in how good the prints may be if they  
11 are left at a scene.  
12 Another factor is atmospheric

13 conditions. This is indoor or outdoor. Say it's  
14 outdoors, it could be the wind, rain or sun. Indoors  
15 would be the air conditioning, heating units in the house  
16 and it could either add too much moisture or extract

17 moisture from the print. So these are factors. The  
18 surface itself. Smooth surfaces tend to leave -- are

19 receptive to prints, porous surfaces, sometimes it can be  
20 too porous, such as a blotter on a desk, or it could be  
21 slightly porous, like a sheet of paper, which is very

22 good to get prints off of and easy to get prints off of  
23 sometimes.  
24 Pitted surfaces, paint flaking on

25 surfaces, rough, all these surface conditions are a  
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1 factor. So what with surface, the weather conditions,  
2 condition of the fingers themselves, and the mental

3 condition of the person, you have to have a perfect  
4 combination to leave a good print.

5 Q. Do you know how long, the maximum  
6 amount of time that a print can remain intact?

7 A. I don't. I know that some have lasted  
8 40 or 50 years, and others evaporate within seconds.

9 Q. And again, I think you said that you  
10 were given some prints to compare, correct?

11 A. I was.

12 Q. Now, when you do comparisons, would it  
13 be fair to say that not all fingerprints are created

14 equally, maybe, that some of them are a little more  
15 difficult to read than others?

16 A. Well, it depends on those factors.

17 Prints themselves under ideal conditions are okay to  
18 read. But it depends on the print itself, under what  
19 conditions it's recovered.

20 Q. Okay. Are there some latents that you  
21 simply cannot read?

22 A. Latent prints? Oh, yes, yes.

23 Q. Okay. Is that unusual?

24 A. No. It's common, in fact.

25 Q. Okay. What types of latents might you  
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1 receive that you just simply cannot do anything with,  
2 can't make a comparison?

3 A. Well, there's several things. They  
4 can be overlapping, one on top of another, or three may  
5 be overlapping; partial prints, that is the finger or  
6 palm of whatever may touch an object in such a way that  
7 it doesn't leave sufficient ridge details with enough

8 points of comparison, enough little detail. It could be  
9 they are awful faint, just can't be seen, maybe a  
10 grayish-type image, some of these are factors that make  
11 prints hard to identify.

12 Q. Okay. Mr. Cron, let me show you

13 State's Exhibits 85-F and 85-G, and ask you to take a  
14 look at those two documents and tell me whether you  
15 recognize them or not.

16 A. I do.

17 Q. What do they appear to be?

18 A. You mean read from the card?

19 Q. Yes, sir.

20 A. Exhibit 856 (sic).

21 Q. Well, I'm sorry, that's going to be

22 "G".

23 A. Oh, "G". Exhibits 85-G and 85-F are

24 the latent prints handed me from the Rowlett PD. They

25 are from the inside of the entry door between the garage

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1 and the wash room, and they appear to be in blood.

2 Q. Okay. Are you familiar with that

3 location?

4 A. Yes.

5 Q. Okay. Is that going to be the door

6 leading from the utility room to the garage?

7 A. Yes. The wash room, what we're

8 calling the utility room.

9 Q. Okay. Are there latents on the back

10 of those cards?

11 A. Yes.

12 Q. Okay. What were you able to do with

13 those two latents?

14 A. Well, I compared them but I wasn't

15 able to make any identification.

16 Q. Okay. Why not?

17 A. They are in liquid. They are partial.

18 I can see ridges, I mean, they are obviously palm or

19 finger, probably finger. But there's not enough points

20 of comparison to identify anyone.

21 Q. Okay. So even if you had a known

22 fingerprint that you are looking at, would you be able to

23 make a comparison and an identification based on what you

24 have got in front of you there?

25 A. No, I couldn't identify the correct

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1 print if it was in front of me and I was making a

2 comparison with these.

3 Q. Okay. Mr. Cron, looking at State's

4 Exhibit No. 85-H, do you recognize that?

5 A. Yes, I do.

6 Q. Okay. Is that also a latent that was

7 given to you by Rowlett?

8 A. Yes.

9 Q. Where did that latent come from?

10 A. This is from the sliding glass door

11 leading from the family room out to the back patio.

12 Q. Okay. And, what were you able to do

13 with the latent on 85-H?

14 A. Nothing. It was too partial, there

15 was some friction ridges there, but I couldn't make any

16 identification.

17 Q. Okay. If you had a perfect print in

18 front of you that belonged to that individual, could you

19 make a comparison and tell us if that individual left

20 that latent on 85-H?

21 A. I could not.

22 Q. If you would, please look at State's

23 Exhibits 85-I and 85-J. Do you recognize those also?

24 A. I do.

25 Q. Okay. Are those two of the latents

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1 given to you by Rowlett?

2 A. Yes.

3 Q. Where did they come from?

4 A. Off of the glass table top in the

5 family room. And one of them, well, both of them, that's

6 right, both of them are off the glass-topped table.

7 Q. Okay. What were you able to determine

8 by looking at those two latents?

9 A. That there is ridge detail, a few

10 points of comparison, but I can't -- couldn't make any

11 identification.

12 Q. Okay. Same thing as you had with the

13 other sets that I have just shown you?

14 A. Yes. These are better prints but

15 still lacked sufficient points of identification.

16 Q. Okay.

17 A. Actually, they're the same. Let's

18 see, that is -- oh, yes, that is, they're double lifts of

19 the same print.

20 Q. Okay.

21 A. He attempted -- the man that lifted it

22 tried to get it clear, make it clear by the second lift

23 and it didn't work.

24 Q. Okay. How would you classify the size

25 of these two latents?

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1 A. Small.

2 Q. Okay. What do you mean by small?

3 What would that be consistent with?

4 A. A juvenile, it could be. It fits the

5 criteria to be a younger person's prints.

6 Q. Okay. What are those criteria?

7 A. Small ridges.

8 Q. Let me just ask you: The two prints

9 here, 85-I and J, would they be consistent with having

10 been left by a five or six year old child?

11 A. It's possible, yes, sir.

12 Q. Okay. Mr. Cron, let me show you

13 what's been marked as State's Exhibit 85 -- 88-A, B, C,

14 D, E and F. Do you recognize those also, sir?

15 A. Yes, sir.

16 Q. Okay. Were they also latents given to

17 you by the Rowlett Police Department?

18 A. Yes.

19 Q. Do the cards indicate when those

20 latents were lifted?

21 A. November 26th, 1996.

22 Q. Okay. Where did they come from?

23 A. One of them -- do I need to give --

24 Q. Yes, if you would go through each one.

25 A. 88-D came from a plastic bowl upstairs

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1 in the northeast bathroom; 88-E from the door trim

2 upstairs in the northeast bathroom; 88-F, sink counter

3 along the northeast edge of the upstairs bathroom; 88-A,

4 the sink in the northeast end of the counter in the

5 upstairs bathroom; 88-B, the sink, northeast end of the

6 counter, sink counter, upstairs bathroom; 88-C, upstairs

7 northeast bathroom sink.

8 Q. Okay. Let me ask you, looking at

9 these latents that were from the bathroom upstairs in

10 that residence, was there enough ridge detail for you to

11 make comparisons using these latent fingerprints or palm

12 prints?

13 A. There was one, I would have to relook

14 at them, but one of them, there was enough ridge detail,

15 there may be more.

16 Q. All right. Were you ever able to

17 identify the print that had enough ridge detail here?

18 A. No.

19 Q. When you went out there that day on

20 June the 6th, did you have any reason to believe that the

21 intruder had ever been upstairs in that bathroom at 5801

22 Eagle Drive?

23 A. I saw no indications of any intruder

24 being upstairs.

25 Q. Mr. Cron, let me show you now what's

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1 been marked as State's Exhibit 85-A, B, C, D and E. If

2 you would, please look at those five cards.

3 MR. DOUGLAS MULDER: Is that 85-A through E?

4 MR. GREG DAVIS: Right.

5 A. Okay.

6

7 BY MR. GREG DAVIS:

8 Q. All right. Do you recognize those,

9 sir?

10 A. Yes.

11 Q. Okay. Are they latents given to you

12 by the Rowlett Police Department?

13 A. They are.

14 Q. And do the cards indicate where those

15 latents were actually lifted?

16 A. Yes.

17 Q. And would you please tell us where

18 those latents came from?

19 A. Let me try to put these in

20 alphabetical order. I should have done it on the last

21 stack. Okay. 85-A was off the southeast window, lower

22 inside ledge, or the frame of the -- ledge of the window

23 frame. Do you want me to get into the feet and inches or

24 anything?

25 Q. No, sir.

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1 A. Okay.

2 Q. First of all, as you look through

3 there, does it indicate that all of those latents came

4 from the same window?

5 A. Yes.

6 Q. All right. Do they indicate that they

7 all came from generally the same area of the window?

8 A. Yes.

9 Q. And what area would that be?

10 A. The inside lower edge, the border of

11 the window.  
12 Q. The inside?  
13 A. Yes, sir.  
14 Q. Looking at the latents there in front  
15 of you, can you tell how many different latents that you  
16 have? And I guess what I am asking is, do you feel like  
17 we have any duplicates in the five latents that you have  
18 in front of you?  
19 A. Yes, there are duplicates.  
20 Q. Okay.  
21 A. There are -- two cards have the same  
22 prints.  
23 Q. Okay. Do you -- could you tell us  
24 just which two cards have the same prints?  
25 A. I may have to re --  
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1 Q. Reexamine?  
2 A. Unless -- I may have to look at them  
3 again real quickly.  
4 Q. Okay.  
5 A. I just happen to have a magnifying  
6 glass.  
7 Q. Okay.  
8 A. When I examined these for the Rowlett  
9 Police Department I told them, you know, what they had.  
10 But I didn't mark on here that A and B match and so on  
11 and so forth. So let me look at them real quick.  
12 Q. Okay.  
13 A. All right. I'm ready.  
14 Q. Okay.  
15 A. 85-A, B and D have -- they are  
16 multiple lifts. That is, they are all the same print.  
17 Q. That's A, B and D, right?  
18 A. A, B and D.  
19 Q. Okay. How about the other two?  
20 A. 85-C and E are multiple lifts. They  
21 are both the same print.  
22 Q. Okay. Let's talk, first of all, about  
23 the latent that is shown on A, B and D. Can you tell us  
24 from looking at that, whether or not we're looking at a  
25 fingerprint or a palm print?  
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1 A. By the appearance of it, it's a  
2 partial print but it appears to be a palm print, partial  
3 palm print, as opposed to an individual finger.  
4 Q. All right. Partial palm print, for A,

5 B and D, right?

6 A. Yes, sir.

7 Q. Okay. Now, if you would, looking at C

8 and E, same question. Can you tell us what we're looking  
9 at there?

10 A. Yes. C and E same thing, appears to

11 be a palm and has less tendency to look like a finger.

12 In fact, I would say that it is a palm print.

13 Q. Okay. So a little bit more certain

14 about C and E being a palm print?

15 A. Yes.

16 Q. Let me ask you: With regards to the

17 latent that is shown on 85-A, B and D, did you compare  
18 that against known prints?

19 A. I did.

20 Q. Did you compare it against prints of

21 all the emergency personnel out there at the residence  
22 that day?

23 A. Yes.

24 Q. Including yourself?

25 A. And my own prints, yes.

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1 Q. Did you also compare it against the  
2 fingerprint of the defendant in this case?

3 A. I did.

4 Q. As well as the defendant's husband?

5 A. Yes. Finger and palms.

6 Q. Okay. Were you ever able to make an

7 identification on the latent shown on A, B and D?

8 A. No.

9 Q. Same questions for the latent shown on

10 C and E. Did you compare it against the known

11 fingerprints of the emergency personnel as well as the  
12 defendant and her husband?

13 A. I did.

14 Q. Were you ever able to make

15 identification on that latent print?

16 A. I was not.

17 Q. Can you tell me what conclusions, if

18 any, that you drew from looking at the latents shown, on  
19 State's Exhibit 85-A, B and D?

20 A. They don't belong -- as I stated, they

21 don't belong to anyone that was there at the scene that  
22 morning. They -- the C and D ones are palms, prints on,

23 which are all the same. But the print on A, B and D

24 are -- have a tendency to be palms, although part if it

25 could be a finger, it looked like an overlap.

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1 There's -- they have, based on the  
2 size of the ridges, an educated opinion could be that  
3 they could be a juvenile. As I stated, there is no

4 scientific way to determine the age of a person leaving a  
5 print, but the size of them are indicative of being a  
6 smaller person's print.

7 But that, you know, is my opinion from  
8 looking at latents and ridges over the years. But I  
9 can't say beyond any doubt that it belongs to a juvenile.

10 Q. Okay. Just that it has a tendency to  
11 be that?

12 A. Yes, sir.

13 Q. Okay. How about the other latent  
14 shown on C and E; the one that you feel a little bit more  
15 definite about being a palm print.

16 A. The same there. Based on size of the  
17 ridges. It has a tendency to look like a smaller adult  
18 or a juvenile's ridges based on size.

19 And again, that is based on opinion

20 from looking at prints, juveniles and adults, but it's  
21 not a -- there is not a scientific method in determining  
22 that.

23 Q. Let me ask you, you said -- you had  
24 indicated in your testimony that the cards indicate that  
25 these latents were lifted from the inside portion of the  
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1 window frame; is that right?

2 A. Yes.

3 Q. Would that affect how long these  
4 fingerprints could remain on that frame?

5 A. It would protect them from the  
6 weather. That is one thing that it does add to the  
7 longevity of a print.

8 Q. Okay. Mr. Cron, when you had the  
9 latents there in front of you 85-A, B, C, D and E, as

10 well as latents from the upstairs bathroom in the house?

11 A. Yes.

12 Q. Okay. Did you have either the  
13 fingerprints or the palm prints of Damon or Devon Routier  
14 to compare those latents against?

15 A. I did not.

16 Q. Just a couple more questions about  
17 these fingerprints. When you go out to process a scene,  
18 do you always get latents where you think you might get  
19 latents?

20 A. No, I don't.

21 Q. Is it unusual to print a room and not  
22 get any latents?

23 A. No. The latents are fragile,  
24 sometimes we get them, sometimes we don't. It's a shot  
25 in the dark.

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1 Q. Is that -- would that be true even if  
2 you know the people have recently been in that room and  
3 touching things?

4 A. Yes.

5 Q. Mr. Cron, I want to ask you some  
6 questions about the utility room. And again, you had an  
7 opportunity, did you not, to look at that floor on June  
8 6th, 1996?

9 A. I did.

10 Q. Okay. Let me ask you, sir, did you  
11 see blood on the floor?

12 A. Yes.

13 Q. The type of blood that you saw on that  
14 utility room floor that morning, sir, was that blood, in  
15 your opinion, consistent or inconsistent with a knife  
16 having been thrown or dropped on that floor that morning?

17 A. Inconsistent.

18 Q. And why do you say it was  
19 inconsistent?

20 A. The drops of blood on the floor were  
21 slow moving, or low velocity drops. There was no cast  
22 off blood. By cast off, I mean, when an object that has  
23 blood on it hits a hard surface with any force, blood is  
24 literally cast off and it leaves little tear-drop shaped  
25 stains or patterns as opposed to the drop patterns from  
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1 falling blood on a flat surface. And I saw nothing like  
2 that in the scene.

3 Q. And you are sure you saw no cast off  
4 blood on that floor?

5 A. I looked for it, and didn't see any.

6 Not of a knife being dropped on the floor.

7 Q. And the knife that you saw up on the  
8 kitchen counter, do you recall that?

9 A. Yes.

10 Q. Did that knife still have blood on its  
11 blade when you saw it?

12 A. Yes, sir.

13 Q. The blood, again, in the utility room

14 that you saw, how did you characterize that?

15 A. It would be classed as straight drops,

16 low velocity, slow movement to no movement.

17 Q. Okay. If I am bleeding here this

18 morning from my hand, and I am standing still or my hand

19 is not moving, and the blood drops straight down on the

20 floor, how would you categorize that type of blood that

21 would fall on this carpet?

22 A. Well, that would be low velocity. You

23 know, there is three velocities, low, medium and high

24 velocity. Low velocity is blood that drops approximately

25 five feet per second, medium is under 25 feet, and that,

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1 medium velocity blood is the type you get if somebody is

2 beaten with a club, say a baseball bat, or you know, a

3 tire iron, the blood is cast off from when the club is

4 swung, travels a little faster than low velocity and

5 leaves a different type pattern.

6 High velocity is pulverized blood,

7 it's more like a spray, it's from a shotgun or a pistol,

8 firearm type injuries, and when it hits a person the

9 blood is pulverized and leaves a fine mist. That is the

10 type, and it travels over 25 feet per second.

11 Q. Okay. Let's assume again that I am

12 bleeding from this hand. Okay? And I run across this

13 floor this morning as opposed to just standing or walking

14 very slowly. Okay?

15 Would you expect to see a different

16 type of blood drop on this carpet or flooring surface

17 from this hand this time?

18 A. Yes. The faster you are moving, the

19 more elongated the shape of the drops.

20 Q. All right.

21 A. The blood or all liquid drops in a

22 ball. It's not like the drawings in cartoons where

23 somebody sweating and it looks like tear drops, or when

24 you see cartoons or drawings of rainfall, rain doesn't

25 fall that way.

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1 All liquid that is in contact, it's in  
2 a ball. When it hits, it -- it makes contact with a hard  
3 surface and flows in the direction opposite of where it's  
4 coming. If it's coming from side, it will hit and flow  
5 out in a tear drop effect in the direction of travel.  
6 And, if it's straight down, there is  
7 no travel, so it makes a round drop or slightly elongated  
8 drop. So there is no direction. You can't tell if  
9 somebody was going left or right or north or east or what  
10 when it's a round drop.  
11 Q. Okay. Let me ask you this: These

12 drops that you saw there in the utility room, were they  
13 consistent or inconsistent with an individual bleeding  
14 and running quickly through that room, sir?  
15 A. A slow-moving individual left those  
16 drops.  
17 Q. Okay. And let me ask you about the

18 blood drops that you saw in the kitchen floor. Okay? Do  
19 you recall those drops?  
20 A. Yes, in the kitchen? Yes.  
21 Q. Yes, sir. I'm talking about now about  
22 the area leading from the family room back to the utility  
23 room. Do you recall the types of drops that were on that  
24 floor there?  
25 A. Yes.  
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1 Q. What types of drops were there?  
2 A. Again, that's low velocity, slight  
3 movement, very little movement.  
4 Obviously, the person who dropped them  
5 was moving because they were progressive drops, but they  
6 were almost all from -- anywhere from a 70 degree to 90

7 degree angle which indicates that it was almost straight  
8 down.

9 Q. Were those drops consistent or  
10 inconsistent with a person holding a bloody knife and  
11 running through that kitchen?

12 A. Inconsistent.

13 Q. Were those drops consistent or  
14 inconsistent with an individual who is bleeding, running  
15 through that kitchen?

16 A. Yes, inconsistent. But walking

17 through, it's consistent with walking through the  
18 kitchen.

19 Q. How about the -- did you see blood  
20 drops leading -- or between the kitchen sink and the  
21 utility room?

22 A. Between the kitchen sink and utility  
23 room?

24 Q. Yes, sir. Did you see any blood drops  
25 between those two areas?

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1 A. Yes.

2 Q. Okay. Let's talk about those blood  
3 drops. Were they consistent or inconsistent with a  
4 person running through that area of the kitchen holding a  
5 bloody knife?

6 A. It's inconsistent.

7 Q. Again, why?

8 A. They were, almost 90 degree, that is  
9 straight down, slight angle, 70 degree angle, slow  
10 moving, similar to an arm moving. There is no speed  
11 indicated by the shape of the drops.

12 Q. Okay. Again, would those drops be  
13 consistent or inconsistent with a person who is bleeding,  
14 running through that portion of the kitchen?

15 A. Inconsistent.

16 Q. Again, the same reasons?

17 A. Yes.

18 THE COURT: Why don't we go ahead and  
19 take our morning break now for 15 minutes, please.

20 MR. GREG DAVIS: All right. Thank  
21 you.

22 THE COURT: All right.

23

24 (Whereupon, a short

25 Recess was taken,

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1 After which time,

2 The proceedings were

3 Resumed on the record,

4 In the presence and

5 Hearing of the defendant

6 But outside the presence.

7 and hearing of the jury,

8 as follows:)

9

10 THE COURT: Are both sides ready to  
11 bring the jury in and resume the trial?  
12 MR. GREG DAVIS: Yes, sir, we are  
13 ready.  
14 MR. DOUG MULDER: Yes, sir, the  
15 Defense is ready.  
16 THE COURT: All right. Bring the jury  
17 in, please.

18  
19 (Whereupon, the jury

20 was returned to the  
21 courtroom, and the  
22 proceedings were

23 resumed on the record,  
24 in open court, in the  
25 presence and hearing  
Sandra M. Halsey, CSR, Official Court Reporter  
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1 of the defendant,  
2 as follows:)

3  
4 THE COURT: All right. Be seated,  
5 please. Let the record reflect that all parties at trial  
6 are present and the jury is seated. Mr. Davis.

7 MR. GREG DAVIS: Thank you, sir.

8

9 BY MR. GREG DAVIS:

10 Q. Mr. Cron, again, you had an  
11 opportunity to observe the window there in the garage  
12 where the screen was cut; is that right?

13 A. I did.

14 Q. Okay.

15

16

17 (Whereupon, the following

18 mentioned item was

19 marked for

20 identification only

21 after which time the  
22 proceedings were  
23 resumed on the record

24 in open court, as

25 follows:)

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1

2 BY MR. GREG DAVIS:

3 Q. Let me show you, sir, State's Exhibit

4 No. 42-C. Do you recognize that to be a photograph of  
5 the window?

6 A. Yes.

7 Q. Is it a photograph of the window in

8 its original position as you first saw it on June 6th,  
9 1996?

10 A. Yes.

11 Q. Does it also show some of the items

12 near that window, inside the garage?

13 A. Yes.

14 Q. Is it a true and accurate depiction,  
15 sir?

16 A. It is.

17

18 MR. GREG DAVIS: Your Honor, at this  
19 time, we will offer State's Exhibit 42-C.

20 MR. DOUGLAS MULDER: We have no  
21 objection.

22 THE COURT: State's Exhibit 42-C is  
23 admitted.

24

25

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1 (Whereupon, the item

2 Heretofore mentioned

3 Was received in evidence

4 As State's Exhibit No. 42-C

5 For all purposes,

6 After which time, the

7 Proceedings were resumed

8 As follows:)

9

10 BY MR. GREG DAVIS:

11 Q. Again, as we look at this photograph,

12 do we see certain items inside the garage?

13 A. Yes.

14 Q. Mr. Cron, have you had an opportunity,

15 before we came in the courtroom this morning, to examine

16 the window that has been marked as State's Exhibit 42?

17 A. Yes.

18 Q. Okay. And, sir, do you believe that

19 to be an accurate reproduction of the window shown in  
20 State's Exhibit No. 42-C?

21 A. Yes,  
22  
23 (Whereupon, the following  
24 mentioned item was  
25 marked for  
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1 identification only  
2 after which time the  
3 proceedings were

4 resumed on the record  
5 in open court, as  
6 follows:)

7  
8 MR. GREG DAVIS: Your Honor, for  
9 demonstrative purpose, we will offer State's Exhibit 42.

10 MR. DOUGLAS MULDER: We have no  
11 objection.

12 THE COURT: State's Exhibit 42 is  
13 admitted for demonstrative purposes.

14  
15 (Whereupon, the above

16 mentioned item was  
17 admitted in evidence

18 for demonstrative purposes  
19 as State's Exhibit 42

20 after which time, the  
21 proceedings resumed

22 in open court, as follows:)

23  
24 BY MR. GREG DAVIS:  
25 Q. Mr. Cron, what I would like to do at  
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1 this time is to place this window over here in front of  
2 the jury. And then I'm going to ask you to do certain  
3 things with it. All right?

4 A. Yes. Okay.

5 Q. Okay. Mr. Cron, if you would step  
6 down here, please.

7

8 (Whereupon, the witness

9 Stepped down from the

10 Witness stand, and

11 Approached the jury rail

12 And the proceedings were

13 Resumed as follows:)

14

15 BY MR. GREG DAVIS:

16 Q. And first of all, the outside of the

17 window, is it facing toward the jurors at this time?

18 A. It is.

19 Q. Okay. The inside of the garage

20 portion is here toward the counsel table, right?

21 A. Yes.

22 Q. All right. Would you please, looking

23 at State's Exhibit 42-C, would you position the window

24 itself in the open position that would match the position

25 shown in State's Exhibit 42-C?

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1 A. That's approximately the height of the

2 window in the picture.

3 Q. Okay.

4 A. The open one.

5 Q. All right. Now, the screen that is in

6 the window of 42, does it appear to be the same type of

7 screen as shown in State's Exhibit 42-A?

8 A. Yes.

9 Q. Could you demonstrate for the jurors

10 what it would take to remove the screen on State's

11 Exhibit 42?

12 A. Yes. This type of screen is fairly

13 common, to open it. It has little tabs at the base that

14 frees the window (sic) from the slot at the base of

15 the -- the screen, at the slot of the window frame.

16 Q. All right.

17 A. There's little clips at the top of the

18 frame that fit up into the window frame and helps hold it

19 into position.

20 Q. Okay. Let me just take that screen

21 from you. And if you would, take State's Exhibit 42-A.

22 Can you place that into the window?

23 A. Yes.

24 (Witness demonstrating.)

25 Q. Okay. All right.

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1 A. They are easier to get out than they

2 are to get in, that's for sure.

3 Q. All right. We have now got a

4 reproduction of State's Exhibit 42. And now we have

5 State's Exhibit 42-A, the screen in place in that window,

6 right?

7 A. Yes.

8 Q. Now, during the break or sometime this

9 morning, did you actually put some safety pins into the

10 screen?

11 A. I did.

12 Q. Okay. What was the purpose of doing

13 that?

14 A. The only -- the purpose was to mark

15 the original tear marks here in case we accidentally tore

16 the screen, we would know the original position of where

17 the cuts were really made.

18 Q. Okay. Now, if we look at the

19 photograph, State's Exhibit 42-C, do we see what appears

20 to be some sort of an animal carrier, a cat carrier of

21 some sort there?

22 A. Yes.

23 Q. Am I showing you, I think it's

24 actually called a litter pan here for cats, am I holding

25 what appears to be a similar type litter pan as shown in

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1 State's Exhibit 42-C?

2 A. Yes. It may be the same brand. But,

3 yes, it is very similar.

4 Q. Okay. If you would, if you could take

5 this litter pan and position it in relation to the window

6 as the litter pan is shown in 42-C.

7 A. I don't know if I have enough room

8 here.

9 Q. Just --

10 A. That is approximately the position

11 there.

12 Q. Okay. And I am going mark this litter

13 pan as State's Exhibit 42-E, and I will offer it again

14 for just demonstrative purposes only.

15

16 (Whereupon, the above

17 mentioned item was  
18 marked for  
19 identification only  
20 after which time the  
21 proceedings were  
22 resumed on the record  
23 in open court, as  
24 follows:)  
25

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1 MR. DOUGLAS MULDER: No objection.  
2  
3 (Whereupon, the item

4 heretofore mentioned  
5 was received in evidence  
6 as State's Exhibit No. 42-E  
7 for demonstrative purposes,  
8 after which time, the  
9 proceedings were resumed  
10 as follows:)

11  
12 BY MR. GREG DAVIS:

13 Q. We have now positioned the litter  
14 pan, does there appear to be some sort of an animal cage  
15 next to the window also?

16 A. Yes, sir.

17 Q. Okay. I'm going to ask you -- we've  
18 got a little pallet out here?

19 A. Yes.

20 Q. All right. If we could, if we could  
21 take that pallet, and if we could position that in the  
22 same area that the cat cage was in that day.

23 A. Okay. There is a little angle on it  
24 to make sure.

25

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1 (Whereupon, the following  
2 mentioned item was  
3 marked for  
4 identification only

5 after which time the  
6 proceedings were  
7 resumed on the record  
8 in open court, as  
9 follows:)

10

11 MR. GREG DAVIS: Again, for  
12 demonstrative purposes only, I would mark and offer the 13 pallet as State's Exhibit 42-F.

14 MR. DOUGLAS MULDER: No objection.

15 THE COURT: State's Exhibit 42-F is  
16 admitted.

17

18 (Whereupon, the above

19 mentioned item was  
20 received in evidence  
21 as State's Exhibit

22 No. 42-F, for demonstrative  
23 purposes, after which time,  
24 the proceedings were  
25 resumed in open court,  
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1 as follows:)

2

3 BY MR. GREG DAVIS:

4 Q. Okay. Mr. Cron, have you now  
5 positioned the window in the position shown in State's  
6 Exhibit 42-C, have you positioned the litter pan in the  
7 position shown in 42-C, and have you now positioned the

8 pallet in the same position as shown in the cat cage, or  
9 whatever animal cage this is, in 42-C?

10 A. Well, with the exception, this might  
11 go just a little bit more this direction here.

12 Q. Okay.

13 A. Yes, that is within an inch or so,

14 that is the position of the items in the photographs.

15 Q. Okay. If you would, I'm going to have  
16 you step around the other side of the screen for just a  
17 moment.

18 With the screen in this cut condition,  
19 can you show the members of the jury, if you wanted to  
20 open this window in this condition right here, can you  
21 open it or can you remove this screen?

22 A. Can I remove the screen?

23 Q. Yes, sir.

24 A. Very easily.

25 Q. Okay. Can you demonstrate that for  
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1 the jury, please?

2 A. Yes. That's one way. I mean, I could  
3 have grabbed it any place to remove it.

4 Q. Okay.

5 A. It's easy to remove.

6 Q. Okay. And just for the record, could  
7 you describe for the court reporter what you did in  
8 removing that screen and would you demonstrate that again  
9 just so that she can have some record of it?

10 A. A moment ago when I removed it, I  
11 grabbed the screen at the center area and just pulled  
12 outward and it popped out.

13 Q. Sir, when you saw the screen, State's  
14 Exhibit 42-A for the first time that day, was it still in  
15 the window in the same type of position as we see here in  
16 the Courtroom today?

17 A. Yes.

18 Q. It had not -- it was not removed or  
19 missing from this window when you first saw it; is that  
20 right?

21 A. That's correct.

22 Q. And you have just now helped me fold  
23 the screen back inward. Was the screen still folded  
24 inward toward the garage when you first saw this screen?

25 A. Yes.

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1 Q. And the windowsill that you are  
2 talking about -- can you just demonstrate here for the  
3 members of the jury, where you saw the dust on the  
4 windowsill, using this windowsill?

5 A. Yes. The dust I saw on the windowsill  
6 was from the edge of the window to the other edge of the  
7 window, the entire length and breadth, the length and  
8 width of the windowsill, on top of the wooden sill.

9

10 MR. GREG DAVIS: Your Honor, at this  
11 time it may be necessary to reposition this window just  
12 slightly. But what we would like to do is we would now  
13 like to bring out Chris Frosch to the courtroom for the  
14 purpose of demonstration and in the process, we will move  
15 this window.

16 THE COURT: Thank you. Go ahead.

17 Please do so.

18 (Mr. Frosch enters courtroom.)  
19 THE COURT: Let the record reflect  
20 that Mr. Chris Frosch has entered the courtroom and is  
21 now standing with Mr. Davis.  
22 MR. GREG DAVIS: All right. Let's  
23 make sure we have everything positioned right again. All  
24 right.  
25  
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1 BY MR. GREG DAVIS:  
2 Q. Okay. Again, for the record, Mr.  
3 Cron, after we moved the window did you reposition the  
4 pallet and the litter pan to correspond with the location  
5 shown in State's Exhibit 42-C?  
6 A. Yes.  
7 Q. The window opening itself still  
8 corresponds to what you see here in State's Exhibit 42-C,  
9 also?  
10 A. Yes.  
11 Q. Okay. At this time, I'm going to ask  
12 that Mr. -- that Officer Frosch, starting here on the  
13 inside portion closest to counsel table, and if the  
14 record could reflect he is just wearing slacks, a dress  
15 shirt and a tie. He is not wearing a coat and he is also  
16 not wearing his weapon at this time.  
17 And I am going to ask that he now  
18 attempt to go through this window from the inside portion  
19 outward toward the jury. And, would y'all like to come  
20 around here, wherever you can all see best.  
21  
22 MR. DOUGLAS MULDER: That is okay.  
23 THE COURT: Okay.  
24 THE WITNESS: Would you like me to  
25 take the stand again?  
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1 MR. GREG DAVIS: No. Right here is  
2 fine.  
3 THE COURT: All right. If you are  
4 ready to do the demonstration, let's do it.  
5 MR. GREG DAVIS: Okay.  
6 At this time, again, if you will just  
7 repeat that one more time, Mr. Frosch.  
8 MR. CHRIS FROSCH: Okay.  
9 MR. GREG DAVIS: Mr. Frosch, this

10 time, I'm just going to ask just one more attempt here.  
11 This time instead of straddling the window as you go out,  
12 I'd like for you to go out this window head first. If

13 you would please do that. You didn't know that when I  
14 called you up here, did you?

15 MR. CHRIS FROSCH: No.

16 MR. GREG DAVIS: All right. Okay.

17 MR. DOUGLAS MULDER: Could you give  
18 him a little running room?

19 THE COURT: All right.

20 MR. GREG DAVIS: Okay. All right.

21 All right. Thank you, Mr. Frosch.

22 THE COURT: Is that it?

23 MR. GREG DAVIS: Yes, that is it.

24 THE COURT: All right.

25 MR. DOUGLAS MULDER: Judge, could we  
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1 have the record reflect that he didn't touch the sill as  
2 he went through either time?

3 THE COURT: The record will so  
4 reflect.

5 MR. DOUGLAS MULDER: Thank you.

6 THE COURT: All right.

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

16 BY MR. GREG DAVIS:

17 Q. Just a couple of questions, Mr. Cron.

18 In your opinion about no intruder came into this house,  
19 has that opinion changed, sir?

20 A. No.

21 Q. Mr. Cron, just one other thing. The

22 bloody footprints that you saw on the kitchen floor, did

23 you have 1-to-1 photographs of those footprints taken?

24 A. I did.

25 Q. So, they are life-size now?

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1 A. Yes.  
2 Q. Did you compare those against inked  
3 impressions of the footprints of the defendant in this  
4 case?  
5 A. I did.

6 Q. Okay.  
7  
8 (Whereupon, the following  
9 mentioned items were  
10 marked for  
11 identification only

12 after which time the  
13 proceedings were  
14 resumed on the record  
15 in open court, as  
16 follows:)

17  
18 BY MR. GREG DAVIS:

19 Q. Mr. Cron, let me show you what's been  
20 marked as State's Exhibits 44-A and 44-B. First, those  
21 two, do they truly and accurately depict bloody  
22 footprints on the kitchen as they appeared on June 6th,  
23 1996?

24 A. They do.

25 Q. State's Exhibits 44-C and 44-D, are  
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1 those 1-to-1 photographs that you had made of those  
2 bloody footprints, sir?

3 A. Yes.  
4 Q. And State's Exhibit 44-E and 44-F, are  
5 those inked impressions of footprints that were given to  
6 you by the Rowlett Police Department for comparison  
7 purposes?

8 A. Yes.

9

10 MR. GREG DAVIS: Your Honor, at this  
11 time we will offer State's Exhibit 44-A, 44-B, 44-C, D, E  
12 and F.

13 MR. DOUGLAS MULDER: Let me see. I'm  
14 sure we have no objection, but let me just see what  
15 you're talking about.

16 MR. GREG DAVIS: Okay.

17 MR. DOUGLAS MULDER: No objection.

18 THE COURT: State's Exhibit 44-A, B,  
19 C, D, E and F are admitted.

20

21 (Whereupon, the items

22 Heretofore mentioned

23 Were received in evidence

24 As State's Exhibit Nos.

25 44-A, B, C, D, E and F

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1 For all purposes,

2 After which time, the

3 Proceedings were resumed

4 As follows:)

5

6 MR. GREG DAVIS: Mr. Cron, if you will

7 just step down here for just a moment at this time. Find

8 a space here and talk about these exhibits.

9

10 (Whereupon, the witness

11 Stepped down from the

12 Witness stand, and

13 Approached the jury rail

14 And the proceedings were

15 Resumed as follows:)

16

17 BY MR. GREG DAVIS:

18 Q. If you will stand right over here with

19 me kind of angled, let me know if you cannot see this.

20 Okay. Let's look at the top two photographs, are those,

21 again, photographs taken of the kitchen floor?

22 A. Yes.

23 Q. Okay. The 1-to-1's that you had,

24 State's Exhibit 44-C, is that a 1-to-1 that you had taken

25 of the footprints shown in 44-A?

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1 A. Yes. It's an enlargement to where

2 it's shown at its true size.

3 Q. Okay. And the enlargement, the 1-to-1

4 that is shown in 44-D, is that a 1-to-1 enlargement of

5 the bloody footprint shown in 44-B?

6 A. Yes, that is the true size of the

7 footprint shown in the top of the photo, too.

8 Q. All right. Now, did you, in fact,  
9 compare the 1-to-1 footprints shown in 44-C to the left  
10 foot, inked impression of the defendant shown in State's  
11 Exhibit 44-E?

12 A. Yes.

13 Q. Do you have a ridge detail and those  
14 types of things on footprints, too?

15 A. You can have, yes. All feet have  
16 ridge formations.

17 Q. All right. Was there enough ridge

18 detail left in this bloody imprint here in 44-C to make  
19 that kind of comparison?

20 A. No.

21 Q. What kind of comparison were you able  
22 to make between 44-C and 44-E?

23 A. I had to do a shape comparison based  
24 on measurements, size, design and pattern.

25 Q. Okay. What conclusions or opinions  
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1 did you form after you compared 44-C and 44-E?

2 A. In my opinion, the bloody footprint in  
3 44-C is consistent in all aspects with being the same  
4 size and design and pattern as the left footprint of  
5 Darlie Routier, and that is exhibit 44-E. They are the  
6 same in all aspects.

7 Q. Okay. Let's go to 44-D and 44-F then.

8 Again, did you make the same type of comparison between  
9 those two exhibits?

10 A. I did.

11 Q. Was there enough ridge detail to make  
12 a -- you know, a complete match with State's Exhibit  
13 44-D?

14 A. There was not.

15 Q. Okay. What conclusions or opinions  
16 did you form then after you compared 44-D and 44-F?

17 A. In my opinion, the bloody footprint in  
18 44-D is consistent in all aspects of being the same  
19 footprint in 44-F which is the left bare footprint of the  
20 defendant.

21 Q. Okay. Thank you, sir. Let me ask  
22 you: On the garage door there at 5801 Eagle, what  
23 condition was the door in when you first saw it?

24 A. The overhead garage door?

25 Q. Yes, sir.

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1 A. It was shut and latched.

2 Q. Okay. When Officer Frosch went  
3 through this window, would you categorize him as moving  
4 quickly through this window, sir?

5 A. Not quickly. I think he was being  
6 careful.

7 Q. Okay. Now, was it your understanding  
8 that the intruder, when he went through this window that  
9 he was doing that in a lighted courtroom?

10 A. No.

11 Q. Okay. What was your understanding  
12 about the conditions there in the garage when this  
13 intruder went through this window out?

14 A. He was fleeing the scene where he had  
15 stabbed three people, then dropped a weapon to literally  
16 arm one of the survivors of this attack, and so he armed  
17 somebody that was behind him and he was fleeing the  
18 scene.

19 Q. Okay. Based on your experience, would  
20 you expect that intruder to very carefully straddle or  
21 climb through this window in an effort to exit that  
22 house?

23 A. Not at all.

24 Q. How would you expect that intruder to  
25 leave?

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1 A. He would probably go through there so  
2 fast, it didn't matter if the screen was cut or not. He  
3 left the scene.

4 Q. Did you ever find any evidence out  
5 there that an intruder had entered that house and killed  
6 these two children?

7 A. No.

8 Q. What kind of surface would you  
9 characterize this window ledge as? Is this smooth, what  
10 sort of surface is this right down here where Officer  
11 Hamilton found these prints?

12 A. It was a -- it wasn't smooth. It  
13 wasn't that rough. It was -- between smooth and rough,  
14 it was a rough surface.

15 Q. Okay. When you had these prints  
16 lifted here, and you didn't have any more prints lifted  
17 anywhere else that you could compare to, what did you  
18 think then?

19 A. I didn't feel like they were the  
20 intruders. But they weren't bloody. I just had no real  
21 opinion on them at all outside of they were some prints  
22 that we needed to compare.

23 Q. Okay. This window screen here, would  
24 it be fair to say that the cut as seen in the screen

25 today lies below where this window frame is open to?  
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1 A. It did.

2 Q. All right.

3

4 MR. GREG DAVIS: I'll pass the  
5 witness, your Honor.

6 THE COURT: Mr. Mulder.

7 MR. DOUGLAS MULDER: Judge, I am  
8 prepared to go ahead, or I might suggest, I am going to  
9 spend some time with him, as you might appreciate.

10 THE COURT: Well, I know it's just  
11 11:00 o'clock.

12 MR. DOUGLAS MULDER: We can take a  
13 break now and come back at 12:30 and I could start then  
14 and I wouldn't have to interrupt it. Otherwise, what I  
15 don't want to do -- it's at your pleasure, whatever you  
16 want me to.

17 THE COURT: Well, I think we ought to  
18 go on. We're going to have to go ahead now.

19 MR. DOUGLAS MULDER: Let's go ahead.

20 THE COURT: All right.

21 MR. GREG DAVIS: If I could, if I  
22 could have one more question.

23 MR. DOUGLAS MULDER: All right.

24

25

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, let me ask you: Sometime  
3 after your initial walk-through of the garage, if you  
4 ever saw blood on the floor of that garage?

5 A. Did I ever see blood?

6 Q. Yes, sir.

7 A. Yes.

8 Q. Okay. About what time was that?

9 A. Oh, I may be off a little bit, noon, 1  
10 o'clock, 2 o'clock, I don't recall exactly.

11 Q. Was that blood on the garage floor  
12 when you first made your walk-through?

13 A. No.

14 Q. Do you have an opinion as to how it  
15 got out there in the garage?  
16 A. Yes.  
17 Q. What is your opinion, sir?  
18 A. One of the crime lab people or  
19 officers, tracked it out there during the walk -- during  
20 their investigations.  
21 Q. Okay.  
22  
23 MR. GREG DAVIS: That's all I have.  
24 Thank you. Pass the witness.  
25  
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1 CROSS EXAMINATION

2  
3 BY MR. DOUGLAS MULDER:  
4 Q. Did you determine who had tracked that  
5 blood out there?  
6 A. No, sir.  
7 Q. What sort of blood did you find there  
8 in the garage?  
9 A. Later on in the day?  
10 Q. Yes, sir.  
11 A. It was a -- what would be called a  
  
12 smear from a -- apparently a shoe, since it was on the  
13 garage floor. It was very visible.  
14 Q. It was very visible, was it?  
15 A. Yes.  
16 Q. And you just found one?  
17 A. Yes.  
18 Q. Whereabouts in the garage was it?  
19 A. Coming out of the door leading into  
20 the utility room, it was several feet into the garage.

21 There was a little child's -- I want to say chalk board  
22 but not a chalk board, the board that you can write on

23 with grease pencils or something laying there, and it was  
24 sort of to the right of it. Several feet inside the  
25 entry.

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1 Q. Was it several steps from the utility  
2 room into the garage?  
3 A. Yes.  
4 Q. Okay. And you just found the one shoe

5 impression?

6 A. Yes.

7 Q. And what did you, as a trained crime

8 scene man, what did you make of that?

9 A. Well, let me go back. When I said

10 shoe impression, I assumed it was off of a shoe. There

11 was no pattern to it or anything, but I thought it might

12 have been from a shoe because it was on the floor.

13 Q. Okay.

14 A. What I thought was, they stepped in

15 one of the drops that had been in the utility room, got a

16 drop on their foot when they stepped out walking, and it

17 slid off or sloughed off or smeared off.

18 Q. When was it that you saw that?

19 A. About -- It was after the crime lab

20 people arrived. I want to say between 1:00 and 2:00, no,

21 noon and 2:00, somewhere in there.

22 Q. So, is it fair to say that to make

23 that, that is a transfer stain, I guess, isn't it?

24 A. Yes.

25 Q. Okay. To make that transfer stain,

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1 the blood, at least someplace, would still have had to

2 have been wet?

3 A. Yes.

4 Q. That makes sense, doesn't it?

5 A. Yes, sir.

6 Q. Okay. Now, I would also, and this was

7 several steps into the garage, was it?

8 A. Yes. I didn't measure it because it

9 wasn't there earlier, but it was about two feet, maybe,

10 in that area, three, three at the most.

11 Q. Do you have any explanation for why we

12 didn't see it before, if it's three or four feet into the

13 garage?

14 A. It wasn't there.

15 Q. I mean are you suggesting that someone

16 hopped on one foot and then put the other foot down?

17 A. No. I have no idea how it got there,

18 outside of, it was not there for hours, and then it was

19 there later when we walked out.

20 Q. It doesn't make sense that they hopped

21 in there and then put their foot down, does it?

22 A. Not at all. No. I don't think they

23 were acting that way.

24 Q. But you didn't see the first footprint

25 and then the second one, did you?

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1 A. No, I did not.

2 Q. Okay. And it would seem to me, if, in  
3 fact, they had stepped on a blood stain or spot that was  
4 still wet in the utility room, you could walk back to the  
5 utility room and it would be apparent?

6 A. Well, you mean a smeared drop?

7 Q. Yes.

8 A. Well, unless they picked up a small  
9 drop on one shoe and then they stepped out on the  
10 non-bloody shoe and the next step was the bloody spot and  
11 that might have left it several feet out.

12 Q. No, but what I'm saying is, I would  
13 think that it would be apparent in the utility room, that  
14 someone had stepped down and smashed one of those blood  
15 drops?

16 A. Oh, yes, yes. It should be apparent.

17 Q. Well, did you do back and look?

18 A. Oh, no.

19 Q. I mean, well, why not?

20 A. Because, the blood was placed there  
21 long after our arrival and inspection. We were through  
22 doing the blood inspection at the garage at the time the  
23 drop was found out there.

24 Q. Well, how did you know you just hadn't  
25 overlooked it?

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1 A. Because I don't overlook things that  
2 are so obvious. This was a --

3 Q. I do.

4 A. I don't.

5 Q. Okay.

6 A. That's my job.

7 Q. All right. You have -- speaking of  
8 your job, of course, you and I go way back, don't we?

9 A. Yes.

10 Q. You started with the sheriff's office  
11 about the same time I started with the district  
12 attorney's office?

13 A. '64 is when I started.

14 Q. '64 is when I went to work there, too.

15 But at any rate, so we have over the years worked  
16 together on many occasions, have we not?

17 A. Yes, sir.

18 Q. Okay. And we are friends, are we not?

19 A. Yes, sir.

20 Q. I hope we will be friends when we're  
21 through here.

22 A. I'm sure, after this trial here.

23 Q. We won't let anything like this stand  
24 in our way, will we, Jim?

25 A. I haven't.

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1 Q. All right. Now, just to go back  
2 and -- did you -- as I understood your credentials here,  
3 which I might say are quite impressive, but as I  
4 understood your credentials here, you had started with  
5 the Dallas PD right out of high school?

6 A. Yes.

7 Q. Did you then in the course of your  
8 work with the sheriff's office or Dallas PD, did you get  
9 your degree in police science?

10 A. What type of -- you mean college?

11 Q. Yeah.

12 A. No, I did not.

13 Q. Did not. Okay. And you were not a  
14 Dallas police officer, were you?

15 A. I was not, no.

16 Q. Okay. Matter of fact, you worked  
17 classifying fingerprints, did you not?

18 A. Not primarily. I was assigned to  
19 their crime scene section with Carl Day, and my job was  
20 keeper of the records, and they trained me on the  
21 fingerprints, and in the police department ID.

22 Q. Okay.

23 A. And crime scene investigation.

24 Q. When was it that you started with the  
25 Dallas Police Department as a civilian employee?

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1 A. 1958.

2 Q. Okay.

3 A. August.

4 Q. And continued as non-sworn civilian  
5 employee for six or so years?

6 A. Six years, yes, sir.

7 Q. Okay. And, then, I believe, you said  
8 you started with the sheriff's office sometime in '64?

9 A. That's right, in '64.

10 Q. Okay. You would have worked in the  
11 identification bureau?

12 A. Yes.

13 Q. And again, it was your forte or your  
14 principal area of responsibility to classify  
15 fingerprints, was it not?

16 A. Yes.

17 Q. Okay.

18 A. Well, it was dual duties.

19 Q. Right.

20 A. Crime scene and classifying prints.

21 Q. Okay. And at that time, it was you  
22 and Jimmy Kitchens, wasn't it?

23 A. Yes.

24 Q. Was there anybody else in there?

25 A. Yes.

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1 Q. Who else was in there?

2 A. I may forget a name, John Slovak,  
3 Sanders, a man named Sanders, Albright, Conrad Albright,  
4 and it seems like there was one other.

5 Q. Well, you have got a lot of people in  
6 jail in Dallas County, aren't there?

7 A. Now. There was less then.

8 Q. Yeah.

9 A. Now there's pushing -- it's goes up to  
10 8,000 to 6,000 now.

11 Q. Okay. And, to check them in and check  
12 them out, somebody has got to compare their fingerprints  
13 so that they don't let the wrong one out, don't they?

14 A. That's correct.

15 Q. Okay. And you get a lot of -- would  
16 you tell the jury, give them an idea of what you do, or  
17 what you did back then with respect to fingerprints? And  
18 fingerprint comparison and classifications?

19 A. What I did?

20 Q. Yes, sir.

21 A. Well, fingerprints could generally  
22 break down into two functions. One is to record the

23 prints of inmates or people booked in the jail and this  
24 is the old ink set, where all 10 fingers are taken.

25 They are classified and they are  
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1 placed in a master fingerprint file. The other part of  
2 fingerprint deals with the identification, or the  
3 processing, developing and identification of unknown  
4 prints with latent prints. Is that what you mean?

5 Q. Yeah. Back then it was done with  
6 cards about that size, wasn't it?

7 A. It generally still is, 8-by-8 cards.

8 Q. Okay. And, it was done manually,  
9 wasn't it?

10 A. Yes.

11 Q. I mean, it wasn't modern like it is  
12 today at all, was it?

13 A. No.

14 Q. Okay. So, it was a laborious process,  
15 was it not?

16 A. Well, I didn't enjoy it, no.

17 Q. And --

18 A. I didn't enjoy touching inmates.

19 Q. And Captain Kitchens was the man in  
20 charge?

21 A. Yes.

22 Q. Okay. And, fair to say, that in the  
23 city of Dallas or in the County of Dallas, the sheriff's  
24 primary responsibility is for the jail, is it not?

25 Primary?

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1 A. Well, that is -- well, he is the man  
2 in charge of the jail, the department is. Yes, sir.

3 Q. Sure. But, Dallas has probably 30  
4 suburbs, for lack of a better word, or cities associated,  
5 or cities in Dallas County that are independent units,  
6 and all have their police force; isn't that correct?

7 A. Not in 1964. That only came later.

8 And we lost some cities that were swallowed up by bigger  
9 cities.

10 Q. I understand.

11 A. But generally speaking, they have  
12 their own police departments, yes.

13 Q. Okay. By and large the sheriff of  
14 Dallas County's responsibility is to maintain the jail,  
15 and to make sure the right people are going in and out,  
16 and to patrol the unincorporated areas of Dallas County;

17 is that not correct?

18 A. Well, not entirely.

19 Q. Well, I mean, that's 99 percent of it,

20 isn't it?

21 A. Not really. He has warrants, civil

22 warrants, criminal warrants, he has the criminal

23 investigation division, the patrol has a contract, you

24 know, at times they vary. They had several cities they

25 contracted with to supply patrols to, and now it's, I

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1 believe, just one, which is Sunnyvale.

2 Q. Um-hum. (Attorney nodding head

3 affirmatively).

4 A. But at one time they also had all the

5 patrol for Cedar Hill, and there was a contract with

6 Seagoville too, at one time. They even had several

7 substations in about four areas of the county. At this

8 point in time, in 1997, it's primarily jail with less

9 patrol activity. But that has only come about in about

10 the past, oh, six, seven or eight years.

11 Q. Yes, sir. But back in 1964, even in

12 1964 and 1970, '75, whatever, there was not a great deal

13 of Dallas County that was not incorporated, was there?

14 A. No. Unincorporated, no, there wasn't

15 that much unincorporated.

16 Q. And the sheriff, other than the

17 contracts that the sheriff had with these little

18 municipalities that didn't -- and it was just more

19 economical to have the sheriff do it than for them to

20 hire their own police force and give them benefits and

21 that sort of thing, wasn't it?

22 A. Well, up to a point. They couldn't

23 hire their own -- they didn't have separate crime scene

24 units. We had to help them on their major crime scenes,

25 and all of their investigations.

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1 Q. Sure. But we're just talking about

2 the little ones, aren't we?

3 A. Garland, Mesquite, Richardson,

4 Carrollton, the ones that I didn't help during my career

5 down there would basically be the Dallas Police

6 Department.

7 Q. For example, the Dallas Police

8 Department, probably during your career, Lieutenant,  
9 probably the biggest, maybe most offensive deal in your  
10 department would have been the murder of a deputy sheriff  
11 in the Trinity River Bottoms?

12 A. That was actually handled by the  
13 Dallas Police Department.

14 Q. No. I know that. That is the point I  
15 am making.

16 A. What was your question?

17 Q. I said that was probably the biggest  
18 case with -- that involved officers of the Dallas  
19 Sheriff's office?

20 A. Being killed?

21 Q. Yes. Um-hum. (Attorney nodding head  
22 affirmatively).

23 A. We have had other officers killed that  
24 I have investigated.

25 Q. We have. Had one killed there in the  
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1 building.

2 A. Right.

3 Q. Right outside the Sheriff's office,  
4 didn't you?

5 A. Right.

6 Q. Several.

7 A. If you are talking about what I have  
8 investigated --

9 Q. Oh, no.

10 A. -- or what the section? Cause I  
11 have --

12 Q. No. I am just pointing out that even  
13 in a case of that magnitude where three deputy sheriffs  
14 were killed, you didn't handle the crime scene search.

15 It was handled by Dallas PD, was it not?

16 A. Oh, yes. It was in their city.

17 Q. Yes, sir. So you don't help and  
18 assist, as a general rule, the Dallas Police Department,  
19 do you?

20 A. No.

21 Q. Okay. They have their own crime scene  
22 search unit which, I dare say, they think is probably  
23 superior to anybody's, with the exception of Kerrville's?

24 A. They probably think that.

25 Q. I mean there's a pride in their own  
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1 unit and they don't, for lack of a better way to phrase  
2 it, they probably don't feel like they need your help?

3 A. Well, only on high tech material, they  
4 would bring us some of their work on processing items for  
5 latent prints that they couldn't handle.

6 Q. Well, you have got the ovens down  
7 there and the paraphernalia where you can process with  
8 the super glue and so on and so forth. You can handle  
9 those things?

10 A. Well, they have that. We used some  
11 other high tech, lasers, we have the vent-a-hoods for the  
12 fuming and using chemical processes.

13 Q. Okay. But other than assistance in,  
14 say fingerprints, they had their own crime scene search  
15 unit which was well manned, was it not?

16 A. Yes. I didn't go down and help the  
17 Dallas Police Department on their homicides.

18 Q. Okay. And the City of Garland, for  
19 example, now is probably 200,000, as is Irving and  
20 Richardson and Mesquite, aren't they?

21 A. They are the second largest city, I  
22 believe, in Dallas County.

23 Q. Okay. But those municipalities, those  
24 four municipalities probably account for about, what, 40  
25 percent of Dallas County?

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1 A. I don't know. When I retired they  
2 hired me as a consultant to work to revamp their crime  
3 scene section for them and assist them on several  
4 murders. Right after I retired they told me that they  
5 were second largest, and I don't know any more.

6 Q. Okay. Well, is it fair to say that  
7 Dallas County is about 2 million right now?

8 A. I don't know. Probably is, yes.

9 Q. Well, you live there, don't you?

10 A. Yeah. Well, I don't care about  
11 population.

12 Q. How many is it?

13 A. Okay. Two million. It might be 2  
14 million or 100,000, I don't know.

15 Q. All right. The city of Dallas is  
16 about half of that.

17 A. Okay.

18 Q. Garland, Richardson, Mesquite, Irving,  
19 probably 7 or 8 hundred thousand?

20 A. I will accept your figures. I don't

21 know.

22 Q. Well, when we talk about, for example,

23 you attended the FBI school.

24 A. Well, not the main academy. I

25 attended their advanced latent print development and

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1 comparison course.

2 Q. Okay. So that --

3 A. I'm not a graduate of the FBI Academy,

4 no.

5 Q. All right. I didn't know whether you

6 left that impression or not.

7 A. Oh, no.

8 Q. But you attended -- you didn't

9 graduate from the FBI Academy?

10 A. Oh, no.

11 Q. You attended a special school that

12 dealt with fingerprints?

13 A. Yes. One there and then several that

14 they conducted in Dallas County, but not the national

15 academy. No.

16 Q. All right. And as you would attend

17 these schools, they would give you an award, wouldn't

18 they?

19 A. Award?

20 Q. Yes.

21 A. No, that was the certificate of

22 attendance that I attended the school and passed or

23 whatever, you know. It's proof that I went.

24 Q. If you just -- and that was important,

25 it's important when you get up and testify that you've

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1 attended, I guess, the best known school is probably the

2 FBI school, isn't it?

3 A. Well, two reasons: For testifying and

4 also the knowledge you gain from attending such schools.

5 Q. Sure. DPS has a school, don't they,

6 down in Austin?

7 A. Yes. Right.

8 Q. And they can, also, on occasion, have

9 schools in satellite places, can't they?

10 A. Yes.

11 Q. Okay. And you have attended DPS, I  
12 dare say, have you not?

13 A. Yes.

14 Q. Over the years?

15 A. Yes.

16 Q. In fingerprint comparison?

17 A. On fingerprint? No.

18 Q. Okay.

19 A. Other schools, but not that one.

20 Q. Okay. Did you prepare a report in

21 this case?

22 A. Yes.

23 Q. Okay. Do you have it with you?

24

25 MR. GREG DAVIS: I have got it, Mr.  
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1 Mulder.

2 THE WITNESS: He has it.

3

4 BY MR. DOUGLAS MULDER:

5 Q. All right. You told us about 21

6 hundred crime scenes that you had -- excuse me. 21,000,

7 I believe it was, crime scenes that you have attended

8 over the years; is that right?

9 A. Partly. I said, 21,000 civil and

10 criminal offenses I have been involved with in the last

11 39 years.

12 Q. What, do you have a little business on

13 the side where you handle some civil cases or something?

14 A. As favors to people. It's not a

15 contract. I make enough money in retirement, I don't

16 need the work, but I have -- I do a consulting business.

17 Q. Okay. And that is, that would be the

18 civil -- that would be aside from your duties and

19 responsibilities there in the sheriff's office, wouldn't

20 it?

21 A. Yes. There are several cases that

22 came out of criminal offenses, suicides, where one side

23 is saying it was probably a homicide. That type of civil

24 case.

25 Q. This is a deal where you -- are you

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1 telling the jury that these are cases where you made an  
2 appearance at the scene?

3 A. Some of them, yes.

4 Q. Some of them you just consulted on?

5 A. Some. Well, it varies. Sometimes I

6 go to the scene, sometimes they will bring me items,

7 sometimes I will go to their facility, it depends on the  
8 case and what they want me to do.

9 Q. Okay. It could be anything from a

10 bicycle theft or breaking into a car to a double ax

11 murder?

12 A. Well, I'm not trying to be facetious,

13 I don't handle the little ones. I just send them to

14 other people. If it's not what I would consider an

15 interesting double ax case, I don't take them.

16 Q. Well, you're not in a position to pick

17 and choose in the sheriff's office, are you? I mean, if

18 somebody has --

19 A. Oh, I was then. Then I wasn't. But I

20 thought you talking about when I retired.

21 Q. No, no. I'm talking about when you

22 were with the sheriff's office.

23 A. Oh, gosh, then, it could be an egg

24 thrown on a car.

25 Q. Yeah. It could be most anything,

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1 couldn't it?

2 A. Yes.

3 Q. And these are cases, when you say

4 21,000, you are talking about cases that you have

5 consulted on, cases that you have gone to the scene,

6 cases where people have come to you, you have gone to

7 them, things of that nature?

8 A. Every case that I have been involved

9 with whether it's -- just as you described, that I

10 somehow had a part in, either at the scene or consulted

11 or they brought me evidence. You are correct.

12 Q. How did you arrive at that estimation?

13 A. Well, for years, at the sheriff's

14 department for 29 years, we kept annual statistics, as

15 you know, working for the County, and working with

16 commissioners and budgets, we had to justify all of our

17 equipment, so we kept a record of every call or every

18 thing that was brought to our office by way of case and

19 crime.

20 And for 29 of those years, the

21 statistics kept that way, and I knew what I was involved  
22 in. Since I retired, of course, naturally I am the only  
23 one, and I have my own log book and I register my crimes.

24 The City of Dallas ones, there's

25 less -- I personally, being a civilian employee, they

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1 took me under their wing to show me all of this crime  
2 scene procedures, but I really couldn't get involved in  
3 that aspect or handle their evidence. I was just sort of  
4 like a trainee where they took me under their wing,

5 showed me how to class prints, take pictures, and do

6 the -- but I didn't count those Dallas Police ones.

7 Q. Okay. Speaking of taking pictures,

8 and I don't want to get ahead of myself here too much,

9 but did you educate the Rowlett Police Department on how

10 to take pictures?

11 A. No.

12 Q. Okay.

13 A. I talked to them about -- on some of

14 the little schools I have taught for them.

15 Q. Right.

16 A. I have told them what to shoot, but as

17 far as use of a camera, I didn't teach them that.

18 Q. Okay. Well, when you were telling

19 them what to shoot did you tell them to make a log of

20 their photographs?

21 A. No, I did not.

22 Q. Okay. Well, then you didn't attend

23 the FBI School on crime scene search?

24 A. Referring to -- no, I didn't.

25 Q. Okay. So you wouldn't know that the

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1 FBI, the first thing the FBI recommends is that you take

2 pictures and that you log them.

3 A. Well, the FBI recommends a lot of

4 things that is not law or rules, its recommendations,

5 similar to their points on fingerprint comparison. It's

6 a guideline is all.

7 Q. Did you know that Mayne took some 12  
8 or 14 rolls of film in this case?

9 A. Not how many. I knew he took quite a  
10 few pictures.

11 Q. Would it surprise you that he didn't  
12 keep contact sheets or have contact sheets made, or that  
13 he didn't even number the rolls of film so you could tell  
14 which one, or what order they were taken in?

15 A. I would say, surprise, I don't know if  
16 that is the right word. I would say that a contact sheet  
17 should have been made for referral purposes.

18 Q. How would that help us?

19 A. It actually helps everybody all down  
20 the line, from the beginning of the offense just to be  
21 able to look at a contact sheet and say, "Well, this is

22 what we shot the first day. This is what we shot later."  
23 It's easier than sorting through your negatives and  
24 finding them.

25 Q. Yes, sir.

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1 A. It's a record keeping procedure.

2 Q. I believe it was your recommendation,  
3 Lieutenant, that they take photographs first; is that  
4 right?

5 A. Yes. Yes, sir.

6 Q. Okay. And, of course, you had walked  
7 the scene, so to speak, had you not?

8 A. I did.

9 Q. And in your entourage as you walked  
10 through, there were some -- I guess there were four of  
11 you, weren't there?

12 A. Yes.

13 Q. All right. And can we agree that in  
14 the course of your years, there were very few crime

15 scenes that you have seen that have not been contaminated  
16 to some degree?

17 A. I would have to ask for an explanation  
18 on what you --

19 Q. What I mean by contamination?

20 A. Yes. I mean, I'll be glad to answer  
21 it. I just need to know.

22 Q. Yes. Is it rare not to find -- well,  
23 let me just ask it another way. Perhaps that was  
24 unartful. Is it rare not to see contamination in a crime  
25 scene, to some degree?

1 A. Let me clarify. Before or after the  
2 arrivals of the officers?

3 Q. Well, I think it would be after the  
4 arrival of the officers.

5 A. Well, what occurs quite often after  
6 the arrival of the first officer, and I'm going to have  
7 to narrow this down to a violent scene, as opposed to a  
8 burglary. If that's okay?

9 Q. Suit yourself.

10 A. Okay. Well, because there's less

11 problems with a non-violent situation where you have,  
12 say, a burglary of a store. But on violent situations,  
13 you have what we call, the first arrivals, the responding  
14 officers. And since they are in a violent situation  
15 where people are injured, their primary concern is care  
16 for the survivors, medical attention or possibly suspects  
17 at the scene.

18 You will get some initial walking  
19 through a scene, if that is the type of situation, that  
20 something could be stepped on. You get a little of that.  
21 I mean, it's inevitable. Human life is more important  
22 than evidence up to a point.

23 Q. Exactly.

24 A. And there is the point. But once the  
25 situation is contained, or the scene is contained, I have  
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1 seen in most instances where, you know, the medical  
2 personnel arrived, people are being cared for and then  
3 it's time for the crime scene officers to arrive, things  
4 settle down, and then you have less destruction or, you  
5 know, tamperings.

6 Tampering always implies to me on  
7 purpose, or trying to change things. But you have less  
8 damage of evidence once the initial emergency is over  
9 with.

10 Q. Yes, sir.

11 A. But, to be honest, some could occur  
12 right at first.

13 Q. Well, we have gone all around Robin

14 Hood's barn, but the bottom line is, you are saying, yes,  
15 there is contamination?

16 A. It's possible. It's not always. That  
17 would be a blanket statement, but the risk is there at

18 any scene when the first officers arrive.

19 Q. Yes, sir. And, of course, the risk is

20 also there that the scene has been contaminated and you,

21 as a crime scene search man, don't realize that, isn't

22 it?

23 A. That's true. Yes, sir.

24 Q. Okay. You have seen evidence kicked

25 around, haven't you?

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1 A. Yes.

2 Q. You have seen spent shell casings,

3 shell cartridge cases kicked around, haven't you?

4 A. I have.

5 Q. You have seen glass kicked around,

6 haven't you?

7 A. Yes.

8 Q. And, you know, one thing that I

9 thought was curious, it was your recommendation that

10 Moyne -- Mayne, excuse me, that Mayne photograph the

11 scene first?

12 A. Yes.

13 Q. Okay. Have you looked at the

14 photographs that he took?

15 A. I have seen most of the -- yes, sir, I

16 have.

17 Q. Fair to say if he took -- if there

18 were 24 shots to a roll and he took 10, 12, 14, he would

19 have taken some 300 pictures?

20 A. Very likely, yes.

21 Q. Maybe more?

22 A. Yes.

23 Q. Okay. And did you notice that his

24 pictures, you know, he didn't stand in the corner of a

25 room and shoot that room like this? Did you notice that?

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1 A. I did notice that, yes.

2 Q. And then moved to maybe another place

3 in the room and shoot panoramic and then move to another

4 corner and other places and shoot from the boundaries of

5 the room?

6 A. I noticed he did not do that.

7 Q. That would have been a good idea,

8 wouldn't it?

9 A. Yes, it would have been.

10 Q. And for two reasons, wouldn't it?

11 A. Yes.

12 Q. At least?

13 A. Well, yes.

14 Q. I mean, we can think of two reasons.

15 One, it would be a lot clearer and perhaps when you put  
16 these pictures together, you don't have what looks like a  
17 jigsaw puzzle?

18 A. Correct.

19 Q. That would be one reason. And two, if

20 he is taking 300 shots and he is just shooting what he  
21 thinks is important, then he is walking around and every  
22 time he takes a step, and every time he takes a shot, and  
23 every time he goes through every place in that deal, he  
24 is, he risks contaminating that scene, doesn't he?

25 A. Walking through it, here again, the  
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1 word contaminated, if he is watching where he walks and  
2 he is shooting pictures and stands still when he shoots  
3 and looks where he's walking, I don't know if he would  
4 contaminate it.

5 Q. Did you look at the bottoms of his

6 shoes to see if he had blood on the bottoms of his shoes  
7 when he finished shooting his shots?

8 A. No.

9 Q. Did you look on the bottoms of his

10 shoes to see if he had glass shards on the bottoms of his  
11 shoes when he finished shooting the shots?

12 A. No, I did not.

13 Q. That would have at least told us

14 whether or not he stepped in blood and stepped in glass,  
15 would it not?

16 A. Well, I don't know about the glass,

17 the blood, there would have been bloody footprints on the  
18 tile, you know, the kitchen floor, and the other parts of  
19 the house where we walked, like to go out the front door,  
20 we would walk around to where the dining room was to

21 avoid going through the bloody hall. There were no  
22 bloody footprints in there. So I can only assume he  
23 didn't have bloody shoes when he walked that way.

24 Q. Or he wiped his feet on the carpet and

25 you can see a great deal of traffic on that carpet, can't  
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1 you?

2 A. Oh, yes. Oh, yes.

3 Q. Okay. And as a matter fact, you know,  
4 one reason that you rope off a crime scene, police get in  
5 there and they are naturally curious, aren't they?

6 A. Yes, they are.

7 Q. Everybody wants to handle the gun,  
8 don't they?

9 A. Well, they want to look at it, at  
10 least.

11 Q. They want to get out there, look at  
12 that gun, maybe pick it up. Then if they have touched it  
13 and realized what they have done, they try to put it  
14 right down where it was, don't they?

15 A. Well, I hope an officer wouldn't do  
16 that.

17 Q. I know it. And you hope an officer  
18 wouldn't touch the inside of this window, don't you?

19 A. I mean, maybe leave some prints while  
20 they are doing it?

21 Q. Yes, sir.

22 A. I would hope they wouldn't.

23 Q. You would hope they wouldn't, but you  
24 had the entire force out there printed, did you not?

25 A. Yes.

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1 Q. You just didn't take their word for  
2 it, I take it?

3 A. No, I didn't take their word.

4 Q. And why is that?

5 A. I wanted to eliminate the prints.

6 Q. Exactly. And the only way you could  
7 do it is you can't just ask them and say, "Hey, guys --"  
8 Nobody is going to admit being that foolish, are they?

9 A. Right.

10 Q. That has been your experience, hasn't  
11 it?

12 A. Yes, that's right.

13 Q. Sure. And the same thing about the  
14 shoes?

15 A. What?

16 Q. Everybody is going to deny it, aren't  
17 they?

18 A. What about the shoes?

19 Q. Shoes are touching the -- fooling with  
20 the gun or fooling with an obvious -- contaminating an  
21 obvious entry or exit?

22 A. Well, I saw that they didn't touch the  
23 entry and/or exit, the supposed one, because I made a  
24 comparison. By the same token, I know they didn't walk  
25 through the blood leaving their bloody shoe prints  
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1 everywhere all through the house.

2 Q. You don't know whether some of the  
3 prints that you could not identify are those of police  
4 officers, do you?

5 A. I have no idea who those prints are.

6 Q. Exactly. So that we can be real clear  
7 on this, as far as the -- I'll call them coincidental  
8 prints on the window, okay, for lack of a better word.

9 A. That isn't what I would call them but  
10 you can call them what you want. They're unidentified  
11 prints.

12 Q. Unidentified prints.

13 A. Yes.

14 Q. Suffice it to say that they are  
15 suitable for comparison purposes, aren't they?

16 A. Yes. They are difficult, but they can  
17 be compared.

18 Q. Exactly. Basically, what we have are  
19 two prints, don't we?

20 A. As I testified --

21 Q. Five lifts, two prints.

22 A. Well, yes, right. One them is -- oh,  
23 yeah, as far as two prints, right.

24 One of them, I'm not sure if it's the  
25 finger or palm it's so bad, but yes, there's two prints  
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1 unidentified.

2 Q. How much of those prints, just give  
3 the jury some idea of the area, how much of those prints  
4 was suitable for comparison purposes?

5 A. Oh, that is --

6 Q. That is a tough one.

7 A. Yeah. I have to measure it. It's an  
8 elongated print. I'm trying to -- maybe a yellow number  
9 two pencil, if you can imagine the width of a pencil, and  
10 possibly an inch and a half section of that pencil, that  
11 width and length would be about the size of the print.

12 Q. Okay. And there are enough points  
13 of -- the way you, as an expert, identify the print, you  
14 look at a known print and then you look at an unknown

15 print, and you see if there are enough common areas of  
16 identification so that you are comfortable in saying that  
17 that print was made by this particular hand.

18 A. That's correct.

19 Q. And how many points of identification  
20 do you require?

21 A. Do I personally require?

22 Q. Yes.

23 A. I can't come up with an exact total  
24 because it depends on the quality of the print, but  
25 basically eight, nine or more points.

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1 Q. Okay. How many points of  
2 identification did you see in these two unknown prints?

3 A. Oh --

4 Q. The coincidental prints?

5 A. I'm not going to count points that

6 were pushing it because this -- I would say 10 or 11.

7 Q. Just -- you are right on that edge

8 then, I guess --

9 A. Right.

10 Q. -- of comfort level?

11 A. Right. Enough to where if I found the  
12 10 or 11 points in a known set, that in my opinion, it  
13 would have been a positive identification.

14 Q. And this would be true -- is this true

15 of both prints, or is this just the one?

16 A. Both of them.

17 Q. Both of them?

18 A. Yes.

19 Q. And about how much area-wise was the  
20 second coincidental print?

21 A. It was kind of the shape of it, here  
22 again, I'm trying to think of a description. It was  
23 little wider on one end and it tapered down, sort of like  
24 a long tear drop effect. About two inches wide and --  
25 I'm sorry, two inches long, and maybe a half inch wide

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1 and it tapered down to possibly an eighth of an inch  
2 wide.

3 Q. Okay. And you found 9 or 10 or 11  
4 points of identification in that print as well?

5 A. Right. Without looking at it again  
6 and counting them, but the best of my knowledge, it was  
7 about that area, 11 points or 10 points.

8 Q. Okay. Could you compare them with

9 each other and see if they were made by the same person?

10 A. I tried that, but I don't know if they  
11 were made by the same person. In that case, the same  
12 person would have had to touch both areas in exactly the  
13 same part of their hand.

14 Q. Yes.

15 A. And so, it could be the same person,  
16 but I couldn't prove it.

17 Q. Okay.

18 A. I did try though.

19 Q. Did you, incidentally, just in talking  
20 about this, did you notice how the officer, when he went  
21 through there, where he put his hands?

22 A. Then?

23 Q. Yes.

24 A. I didn't watch him.

25 Q. Okay.

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1 A. I mean I was watching his feet, I was  
2 not watching his hands.

3 Q. You saw that he didn't -- I don't know  
4 whether there was dust there or not, but you saw that he  
5 didn't touch the sill?

6 A. I saw that.

7 Q. You said there was a print in the shoe  
8 print or a partial shoe print in the middle of the  
9 kitchen floor; is that right?

10 A. Yes.

11 Q. Okay. And where exactly was that?

12 A. Here again, I don't know the exact  
13 measurements, it was heading towards the utility room,  
14 approximately half way past the island, the counter that

15 set out in the middle of the kitchen and the utility room  
16 door, somewhere in that area.

17 Q. Would you suspect then that that would  
18 be a result of contamination?

19 A. It might be a matter of semantics, but

20 it was --

21 Q. I mean, somebody stepped in the blood?

22 A. In that case, yes, an officer had to

23 step in some of the blood, from where, I do not know if

24 it was the living room or kitchen, but an officer stepped

25 in the blood at the scene and transferred that to the

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1 kitchen floor.

2 Q. All right. And you say that was

3 around the island; is that right?

4 A. A little past the island heading to

5 the utility room.

6 Q. Okay.

7

8 THE COURT: Mr. Mulder, let's go ahead

9 and break now until 10 minutes after 1:00, please,

10 thank you, for lunch.

11

12 (Whereupon, a short

13 Recess was taken,

14 After which time,

15 The proceedings were

16 Resumed on the record,

17 In the presence and

18 Hearing of the defendant

19 And the jury, as follows:)

20

21

22 THE COURT: Are both sides ready to

23 resume? All right. Bring the jury in, please.

24 MR. GREG DAVIS: Yes, sir, the State

25 is ready.

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1 MR. DOUGLAS MULDER: Yes, sir, the

2 defense is ready.

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: Are you through with all  
17 of these exhibits, Mr. Mulder?  
18 MR. DOUGLAS MULDER: Well, why don't  
19 we just move it back there in the aisle. I don't know if  
20 I am going to go into it any more or not.  
21 THE COURT: All right.  
22 MR. DOUGLAS MULDER: All right. That  
23 is fine if you want to leave it there. I may want to  
24 bring it back here.  
25 THE COURT: All right. Let the record  
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1 reflect that all parties in the trial are present and the  
2 jury is seated. Mr. Mulder, you may continue.

3

4

5

6 CROSS EXAMINATION (Resumed)

7

8 BY MR. DOUGLAS MULDER:

9 Q. I think when we quit, Lieutenant, we  
10 were talking about a shoe impression that was in the  
11 kitchen in blood?

12 A. Yes, that's correct.

13 Q. Is that right?

14 A. Yes.

15 Q. And it was just a lone impression  
16 there; is that right?

17 A. Yes.

18 Q. Okay. And you subsequently identified  
19 that as Sergeant Walling's print?

20 A. Yes, as being consistent with his heel  
21 print. I don't remember if it was left or right, but it  
22 was his footprint.

23 Q. Okay. Did you see that that morning  
24 or afternoon?

25 A. Through -- during the initial

1 walk-through.

2 Q. Oh, you saw it during the initial

3 walk-through?

4 A. Yes.

5 Q. And is that when you looked on the

6 bottom of his foot to see if his sole configuration

7 corresponded with that?

8 A. No, that came later when I had

9 everybody there, shoe print inked and impressions made of

10 everybody at the scene.

11 Q. Okay. Did you see the -- are you

12 telling the jury that that, in your judgment, resulted

13 from a -- blood drops that he stepped in?

14 A. Oh, no. How he got it, I don't know.

15 It was either off of the hallway or the carpet in the

16 living room.

17 Q. I understand. But it's from me to you

18 into the room?

19 A. Oh, yes.

20 Q. So unless he took one big leap, he had

21 to walk several times and you only found the one -- if

22 you were walking from the carpeted area in the den, he

23 walked up to where you were before you saw that one heel

24 print; is that correct?

25 A. That's correct.

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1 Q. Okay. Well, my question to you is

2 this, sir: Why did you not see other heel prints as he

3 walked off leading up to that?

4 A. I have no idea. There was just that

5 one isolated heel print.

6 Q. You aren't suggesting to the jury that

7 he hopscotched on one foot up to that deal and finally

8 put his heel down, are you?

9 A. No, no, I wouldn't say that.

10 Q. That doesn't make sense, does it?

11 A. No.

12 Q. Are you saying that there just is no

13 explanation?

14 A. That I know of there isn't, unless

15 just didn't deposit, maybe he didn't step hard enough. I

16 don't know why. But it was one bloody print there that

17 was his shoe, but how -- why there wasn't another trail,

18 I don't know.

19 Q. Well, sometimes, I guess, there is

20 more than one explanation for a bloody print? Is that  
21 right?

22 A. Yes. I was waiting. I thought you  
23 were going to say more. Yes, there is.

24 Q. Yes. Sometimes there is more than one  
25 explanation, sometimes there is no explanation?

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1 A. That's correct.

2 Q. And when you say it's consistent, all  
3 you mean is that that is a possibility?

4 A. Yes. On the comparison, or how he got  
5 the print there? On the -- consistent in the context  
6 that I am saying it was consistent with being his shoe,

7 I'm not saying it is a -- is that what you are getting  
8 at?

9 Q. You're saying it's his shoe. It's  
10 consistent with his shoe. Could be his shoe. Could be  
11 another shoe that's similar to that shoe.

12 A. Oh, as the same brand, style and all,  
13 yes, yes.

14 Q. But you are just saying that it is

15 consistent with that. That means you cannot rule that  
16 one out?

17 A. That's correct.

18 Q. Okay. There were some -- you talked  
19 about some bloody barefoot prints?

20 A. Yes.

21 Q. And you said they were about the size  
22 of Darlie's; is that right?

23 A. Yes.

24 Q. They were in the kitchen area, as I  
25 understand?

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1 A. That's correct.

2 Q. And they are here in one of these  
3 exhibits, are they?

4 A. Yes.

5 Q. Now, Lieutenant, as best you can,  
6 would you tell the jury, just approximately, where these  
7 footprints were?

8 A. Using that exhibit there?

9 Q. If you can.

10 A. May I step down?

11 THE COURT: You may.  
12  
13 (Whereupon, the witness

14 stepped down from the  
15 witness box, and approached  
16 the jury rail, for the  
17 purpose of further describing  
18 the exhibit to the jury.)  
19

20 MR. DOUGLAS MULDER: Can y'all see  
21 that?

22 THE WITNESS: Well, let me turn it  
23 this way.

24 MR. DOUGLAS MULDER: All right.

25 THE WITNESS: The bare, bloody  
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1 footprints were in this area here.  
2

3 BY MR. DOUGLAS MULDER:

4 Q. All right. Just approximately --

5 A. The bare, bloody footprints are right  
6 here.

7 Q. Well, you're indicating an area there,  
8 I suspect, that is some six or seven feet?

9 A. Not quite that far. It's more like  
10 five feet from the area of the counter.

11 Q. All right. Was there --

12 A. Between the sink and the edge of the  
13 counter.

14 Q. All right. Well, can you see both of  
15 them in State's Exhibit No. 44-A?

16 A. No.

17 Q. Okay.

18

19 (Whereupon, the above  
20 mentioned item was

21 marked for

22 identification only

23 after which time the

24 proceedings were

25 resumed on the record

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1 in open court, as  
2 follows:)

3

4 BY MR. DOUGLAS MULDER:

5 Q. Let me hand you what's been marked for  
6 identification record purposes as Defendant's Exhibit 41.

7 And I'll ask you if you recognize that exhibit.

8 A. I do.

9 Q. All right. Does that show both of the  
10 prints?

11 A. I would have to look at the other  
12 picture but I believe it does, yes, sir.

13 Q. Okay.

14 A. Yes, it does.

15 Q. Okay. Can you kind of --

16

17 MR. DOUGLAS MULDER: We will offer  
18 into evidence what's been marked and identified as  
19 Defendant's Exhibit No. 41.

20 THE COURT: Any objection?

21 MR. GREG DAVIS: No objection.

22 THE COURT: Defendant's Exhibit 41 is  
23 admitted.

24

25 (Whereupon, the item  
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1 Heretofore mentioned was

2 Received in evidence

3 As Defendant's Exhibit

4 No. 41, For all purposes,

5 After which time, the

6 Proceedings were resumed,

7 As follows:)

8

9 BY MR. DOUGLAS MULDER:

10 Q. Can you show the jury the footprints?

11 A. One, excuse me, one is here, and the  
12 other is in this here.

13 Q. Okay. And, now this is -- the one in  
14 the middle right here is going to be in this proximity  
15 because you can see that rug?

16 A. Yes.

17 Q. Okay. Approximately, how far apart  
18 were these two footprints?

19 A. I would have to look at the picture.

20 Not very far. Approximately 16 inches.

21 Q. Okay.

22 A. Those are 12 inch tiles, so it would  
23 be about 16 inches.

24 Q. All right. If we have got this one in  
25 the -- I guess, the tile would have a diamond in the  
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1 middle, is that it?

2 A. These bifocals, I have to look through  
3 them -- yes, this would be --

4 Q. Are your eyes getting worse with age?

5 A. Not on looking at prints and evidence,  
6 but on reading and some photographs.

7 Q. See if they could print these in  
8 Braille.

9 A. All right. This is the tile right  
10 there.

11 Q. Okay. Show me that again.

12 A. Okay. The heavier white line is the  
13 tile and there is another tile right there.

14 Q. Okay. I got it. All right. Were  
15 these the only two footprints that you found?

16 A. They were the clearest, but there were  
17 other little barefoot prints, steps, but those are the --  
18 they are complete from toe to heel.

19 Q. But you are not saying there wasn't  
20 other barefoot traffic through there, are you?

21 A. Other than those?

22 Q. Yeah.

23 A. No, there wasn't.

24 Q. I mean there was, as a matter of fact,  
25 wasn't there?

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1 A. Barefoot tracks?

2 Q. Yes, sir.

3 A. Other steps, yes.

4 Q. Yes, sir. Did you -- was this rug  
5 taken into custody?

6 A. I don't know.

7 Q. Well, I thought you were there as the  
8 adviser?

9 A. I didn't tell them to pick up each,  
10 individual, little item, so I don't know if it was. I  
11 believe it was but that would be an assumption on my  
12 part.

13 Q. Okay. Well, that is the rug that is  
14 going to be here in front of the sink, right?

15 A. Yes, sir.

16 Q. Can y'all see that? How about this

17 rug back here by the utility room, did you examine that?

18 A. The utility room, not closely. I just

19 looked at it for blood. I did look at it, and there was

20 some blood drops on it.

21 Q. You had your bifocals on, I assume?

22 A. I did.

23 Q. Okay. And you examined it for blood.

24 Did you see any blood on it?

25 A. There were a few drops.

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1 Q. There was blood on it?

2 A. Yes.

3 Q. Do you know how the blood got there?

4 A. No.

5 Q. Okay. You know, I wrote this down

6 yesterday when you were on the stand, and you said there

7 was no blood in the garage.

8 A. In the garage?

9 Q. Yes.

10 A. That's right.

11 Q. You remember yesterday you said that?

12 A. That's correct.

13 Q. But then when you got on the stand

14 today, you told the jury there was blood in the garage.

15 A. Well, that was the blood that was

16 transported out there after we made our investigation and

17 I made the walk-through.

18 That wasn't out there when I -- it

19 came because somebody stepped out and left it after I

20 inspected the garage.

21 Q. Okay. Rather than overlooking it?

22 A. Yes.

23 Q. Okay. But you do recall telling them

24 yesterday that you found no blood in the garage?

25 A. Yes, that would have been a true

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1 statement.

2 Q. Well, no. It can't be both ways.

3 There's either blood in the garage or there isn't.

4 A. Well, there wasn't blood when I

5 arrived and inspected it. The blood was transported out

6 there later by some officer, or -- well, there were no  
7 paramedics, so it must have been an officer.  
8 Right there visibly as I stepped out  
9 from the garage, if it had been a snake, it would have  
10 bit me, as the expression goes.  
11 Q. Well, what you meant was, the first  
12 time through you didn't see any blood?  
13 A. I didn't see any blood the first time  
14 through.  
15 Q. Now, the first time, as I understand  
16 it, that you and Nabors?

17 A. Yes.  
18 Q. And, Hamilton?  
19 A. On the walk-through?  
20 Q. Right.  
21 A. No, it was Nabors.  
22 Q. Walling?  
23 A. Walling and Mayne.  
24 Q. And Mayne?  
25 A. Yes.  
Sandra M. Halsey, CSR, Official Court Reporter  
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1 Q. Okay. And you?  
2 A. Yes.  
3 Q. And the four of you walked through; is  
4 that right?  
5 A. Yes.  
6 Q. And you said you walked in and you --  
7 as you came in, you came in the entry -- you came in the  
8 entry. Just show the jury kind of how you --  
9 A. I am going to have to stand up. When  
10 I first arrived with the officers into the scene, I came  
11 in the front door, went down the hallway leading to the  
12 back of the house.  
13 Q. Now, you are talking as you go along,  
14 aren't you?  
15 A. Yes, sir, yes.  
16 Q. This is kind of OJT for the guys that  
17 are walking along with you?  
18 A. Well, a conference more or less. They  
19 were advising me, what they were informed as to what  
20 occurred, so I could plan an attack or an action and I  
21 was talking --  
22 Q. Now, Mayne didn't tell you what had  
23 occurred, did he?  
24 A. No, it was Walling, yes, Sergeant  
25 Walling.

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1 Q. Walling told you -- all right.

2 A. And what he was advised what had

3 happened, you know, that we --

4 Q. From who? Did he say who told him

5 what happened?

6 A. Yes, he told me the mother of the

7 boys.

8 Q. Told him what happened?

9 A. Yes. He said she was stabbed, the

10 boys were stabbed and one of them was still here, the

11 other one was transported. It was general information,

12 so I could -- you know, I needed to know. I needed to

13 know if they came in here, if this was a broken window,

14 or what. It was just a rundown like you would get from a

15 complainant.

16 Q. Sure. It couldn't have taken him long

17 to tell you?

18 A. There wasn't that much to tell. Just

19 that she was stabbed, she fought with the guy here, that

20 he ran out through here, she followed him, picked up the

21 knife, called 911, just basic.

22 Q. Did he tell you that he got that

23 information from her in less than 30 seconds?

24 A. No.

25 Q. He didn't?

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1 A. I didn't ask him. No, he just said

2 this is what she told me.

3 Q. Okay.

4 A. Do you want me to finish that

5 walk-through?

6 Q. Yes. Um-hum. (Attorney nodding head

7 affirmatively.)

8 A. I walked through the hall, I entered

9 the family room. Here --

10 Q. What were you looking for when you

11 entered the family room?

12 A. Well, that is the thing about a

13 homicide. You are looking for things out of place. You

14 really don't know what you're looking for.

15 You know, I mean, I don't say, I am

16 going to look around the corner and I hope I find a

17 shotgun. It's not that way.

18 You are looking for something out of  
19 place, broken things, disturbed things, blood, weapons,  
20 and that sort of thing. You are just getting a mind's  
21 eye view of the scene, and once you do all that on your  
22 walk-through, then you start to concentrate on specific  
23 areas. And since a body was here and the paramedics  
24 picked up a body here --  
25 Q. You heard?

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1 A. I heard. That is where we would start  
2 some of our evidence concentrations.

3 Q. Did you see evidence there of medical  
4 intervention?

5 A. Around here there was some tape or  
6 some of the wrappings for Band-Aids or something laying  
7 on the floor.

8 Q. Show us again? Can you see that?

9 A. In this area.

10 Q. You said in this area here there was  
11 some tape and evidence of medical intervention?

12 A. Yes, it wasn't much. It was a  
13 Band-Aid.

14 Q. Did y'all collect that?

15 A. I didn't collect anything. I don't  
16 know if they did.

17 Q. All right. And from there, will you  
18 show us where you went from the family room.

19 A. I went into the kitchen area.

20 Q. All right. Now, when you got in the  
21 kitchen area, you saw the vacuum cleaner, didn't you?

22 A. Yes, over here.

23 Q. Okay. And that would be -- you said  
24 you were looking for things out of the ordinary, and a

25 vacuum cleaner in the kitchen, in this area, is going to  
Sandra M. Halsey, CSR, Official Court Reporter  
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1 be out of the ordinary, isn't it?

2 A. Upside down with blood on it, yes.

3 Q. Okay. Right-side up, upside down, a  
4 vacuum cleaner sitting here in the kitchen is going to be  
5 out of the ordinary, isn't it?

6 A. I don't know.

7 Q. Come on Jim, you know that.

8 A. No. Right here?

9 Q. Sure.

10 A. Yeah. I thought you meant just in the  
11 kitchen.

12 Q. No. In the family room it might be

13 all right, but not in the kitchen, a vacuum cleaner.

14 A. I mean there was a pantry right here,  
15 they might have kept it in the pantry.

16 Q. Yes.

17 A. But no, you are right, if it was

18 laying right out here, but if it was here, I wouldn't

19 think that much of it because that was the pantry area.

20 Q. But it wasn't there, was it, Jim?

21 A. No.

22 Q. Okay.

23 A. And like I say, I thought that is

24 unusual, that is something different, there is a vacuum  
25 cleaner here.

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1 Q. You probably said something to Walling

2 about it, didn't you?

3 A. No. I was making my -- I don't

4 recall. I might have said, look at this.

5 Q. But you didn't make any notes, did  
6 you?

7 A. No.

8 Q. Okay. And why is that?

9 A. Well, I didn't have any need to at

10 that time. I made my notes later when I made the report.

11 Q. You made the report on the 16th,  
12 didn't you?

13 A. On the 16th, yes. I made my verbal  
14 report that night to them.

15 Q. Well, you made your verbal report when

16 you got out there by the back, didn't you?

17 A. Yes, right.

18 Q. You are telling them, "Guys, this is

19 what I think, there is no -- hey, the die is cast."

20 A. Right. Well, I told them after the

21 walk-through, when I came around the front, I said,

22 "Look, we have no intruder here."

23 Q. Yeah, right.

24 A. That was my verbal comment.

25 Q. That is Lieutenant Cron's analysis

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1 after, what, did the walk-through take 20 minutes?

2 A. 20 or 30, yes, sir.

3 Q. 20, 30 minutes. Okay.

4 A. It was so obvious it didn't take long.

5 Q. Okay. And, I guess when you walked

6 around there, and saw that vacuum cleaner that you now

7 say was out of the ordinary, you said something to

8 Walling, and Walling told you that, "Hey, when I came

9 through here initially with Waddell, there weren't (sic)

10 no vacuum cleaner there."

11 A. He didn't tell me that.

12 Q. Oh, he didn't tell you that?

13 A. No.

14 Q. Would that have made a difference?

15 A. Well, it might have made a difference

16 if they said the living room window was -- I mean, it

17 doesn't even compute.

18 Q. I know it. He said, "You don't have

19 to take my word for it, Lieutenant, not only did I not

20 see it there, but if you will just check the man on the

21 door, he was in here. He walked in here because he

22 thought there was somebody hiding back here. And not

23 only did he say there wasn't a vacuum cleaner there when

24 he first came into the house, but he said there was

25 nothing there that would" --

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1

2 MR. GREG DAVIS: I'm sorry, that is a

3 misstatement of testimony. What they said is that they

4 didn't see it, not that it was not there.

5 MR. DOUGLAS MULDER: Okay.

6

7 BY MR. DOUGLAS MULDER:

8 Q. Well, he said he didn't see anything

9 that would impede his traffic, from the den to the sink.

10 A. Did he --

11 Q. Waddell.

12 A. I don't, I mean I have no comment on

13 that.

14 Q. He said he didn't see a vacuum

15 cleaner, he didn't see anything that would impede his

16 traffic --

17

18 MR. GREG DAVIS: I'm going to object.

19 I don't recall the officer making that statement about

20 being impeded.

21 THE COURT: The jury is instructed to  
22 remember the testimony as they heard it. Let's move on.  
23 MR. DOUGLAS MULDER: We can have the  
24 court reporter read it back.  
25 THE COURT: Let's keep going.  
Sandra M. Halsey, CSR, Official Court Reporter

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1 BY MR. GREG DAVIS:

2 Q. At any rate, you got back to the  
3 garage area, went on in the garage and saw the cut  
4 screen, didn't you?

5 A. Yes, sir.

6 Q. Okay. And, then you left and went  
7 back out, and as I recall, you went back through the  
8 utility room?

9 A. Yes.

10 Q. Where there was blood?

11 A. Yes.

12 Q. All four of you?

13 A. Yes.

14 Q. And you don't know how many people had  
15 been through there prior to you going through there, do  
16 you?

17 A. No.

18 Q. Okay. And that is why when you got

19 these prints here, you printed the whole shebang, didn't  
20 you?

21 A. Yes.

22 Q. Okay.

23 A. I had them printed, I didn't print  
24 them.

25 Q. No, I understand. I understand.

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1 Anyway, you went on out through the  
2 nook and through the dining room this time?

3 A. Yes.

4 Q. Okay. And around through the entry  
5 and around in back?

6 A. That's correct.

7 Q. Okay. It's still dark, isn't it?

8 A. Not at that time, because it being  
9 June and when I arrived around 6:00 it was getting  
10 lighter. In fact, when I got to the back yard, we didn't  
11 need flashlights or anything. It was, you know --

12 Q. The back yard --

13 A. At that time of summer, you know, it  
14 was getting light.

15 Q. It was about 6:30 when you were in  
16 back. Is that about close enough?

17 A. Yes, around 6:30.

18 Q. Okay. And, you told us about the gate  
19 back here.

20 A. Yes.

21 Q. Remember that?

22 A. Yes.

23 Q. You looked for blood there, didn't  
24 you?

25 A. I did.

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1 Q. Okay. You -- let me ask you, you  
2 expected the assailant to have blood, to be bleeding?

3 A. No. I would have assumed, unless he  
4 accidentally wounded himself during the commission of the  
5 other stabbings, I thought he might have blood from the  
6 clothing or hands or whatever, from the victims.

7 Q. You thought he might be so saturated  
8 in blood that it would be dripping from him?

9 A. No, of course not.

10 Q. That's not -- you didn't think that,  
11 did you?

12 A. No, not at all.

13 Q. And as matter of fact, you wouldn't

14 expect this guy to have much blood on him at all, would  
15 you?

16 A. Now, that I can't answer. I didn't  
17 know, if there was an assailant, I wouldn't have known  
18 what he was clothed in, sweatshirt, baggy pants. He

19 might have had clothing that could have absorbed some,  
20 but that is just one of the things to be thorough on if  
21 you would look for blood.

22 Q. Okay. You said an assailant?

23 A. Well, one, two, three, five, I don't  
24 know.

25 Q. Well, could you tell?

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1 A. Could I tell what?

2 Q. How many assailants?

3 A. Well, if this had been a bona fide

4 offense, or what was I looking for?

5 Q. Could you tell from the scene if there

6 were one or two or three people?

7 A. No, I couldn't tell.

8 Q. There isn't any way you could tell, is

9 there?

10 A. No.

11 Q. Okay. You get around the back and you

12 are looking at the gate; is that right?

13 A. Yes.

14 Q. And you said -- did you mean to imply

15 to the jury that there were scuff marks at the base of

16 the gate?

17 A. There were some marks where -- which I

18 noticed, and the officer, Matt Walling, said that they

19 had to kick and force it open from that lower area.

20 Q. He said he had to kick it open?

21 A. Well, or shoved it, yeah, or pushed it

22 with his foot.

23 Q. Pushed it with his foot?

24 A. Yes.

25 Q. And there was a mark on there

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1 consistent with that?

2 A. No. It was not the shape of a shoe or

3 anything, it was just a darkish scuff mark.

4 Q. All right. Did it look recent?

5 A. There is no way for me to tell that.

6 Q. You couldn't tell whether that was

7 Walling or somebody else, could you?

8 A. No. I went with the officer's

9 statement that he touched it and kicked it there, but as

10 far as personal knowledge, no.

11 Q. Did you have to kick it the second

12 time?

13 A. Oh, when I got there, it was propped

14 open.

15 Q. It was open?

16 A. Yes. I moved it myself later in the

17 investigation to see how difficult it was to swing,

18 because the hinges were fouled up. But when I got there

19 I didn't have to move it.

20 Q. Okay. And, you don't know when the  
21 scuff mark was made on that, do you? Is that right?  
22 A. Outside of the officer telling me when  
23 he entered that way, but, no, I don't know.  
24 Q. All right. So you get around there  
25 and you are looking at the window from the outside; is  
Sandra M. Halsey, CSR, Official Court Reporter  
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1 that right?  
2 A. That time, yes.  
3 Q. Okay. And you don't need a flashlight  
4 but you can look in there and you can see this thick  
5 layer of dust like fresh, fallen snow; is that right?  
6 A. Well --  
7 Q. That's what you said.  
8 A. It would be like Robin Hood's barn, if  
9 you want to use terms like that. But yes it was like  
10 fresh, fallen snow.  
11 Q. I mean, you said fresh, fallen snow.  
12 A. Well, the reason I said fresh, fallen  
13 snow was sort of a description of powder or something on  
14 an object that you can see if something recently has gone  
15 through it. But, okay, fresh, fallen snow.  
16 Q. Okay. And you noticed when Frosch, he  
17 is that fellow that came in here and he went through the  
18 window --  
19 A. Yes, that did the demonstration?  
20 Q. Three times, he went through it,  
21 didn't he?  
22 A. Three or four, yes.  
23 Q. Did you see any -- was there anything  
24 you could point to to show the jury of any evidence that  
25 he went through that?  
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1 A. Well, I didn't process it for latents,  
2 or -- is that what you --  
3 Q. Well, you are way ahead of me because  
4 you know where I'm going. He didn't touch the sill?  
5 A. Oh, no.  
6 Q. The only thing he touched was the  
7 window. And, darn, if he didn't touch it in the same  
8 place. Now this is going to be -- this is the inside of  
9 the window, isn't it? So the window is really like this.  
10 A. That is the inside.  
11 Q. All right. And darned if Frosch, it's  
12 up like this. Would you hold this for me? And darn, if  
13 Frosch when he is going through doesn't touch it right

14 there, where we have got these unidentified coincidental  
15 prints, right?

16 A. Yes.

17 Q. You noticed him do that, didn't you?

18 A. Yes.

19 Q. Now, you are not saying somebody

20 couldn't go through that window and not leave evidence,

21 are you?

22 A. I'm saying it's highly unlikely twice,

23 especially the second time.

24 Q. I mean, he went through it. We have

25 all seen this. The guy about the size of a linebacker

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1 goes through this thing four times.

2 A. Well, I think the difference is he was

3 doing his demonstration trying to get through the window,

4 which he did knock the --

5 Q. He didn't even knock the screen loose.

6 He didn't even knock the screen loose.

7 A. Yeah. I realize that. But the other

8 person, an intruder would have had to have been leaving

9 after three stabbings, dropping a knife, with a woman, a

10 wounded woman, a live woman behind him, it seems unlikely

11 he would very carefully leaving a --

12 Q. Well, I mean, some burglars are

13 careful and some aren't; isn't that right?

14 A. Well, we're talking about a murderer

15 here.

16 Q. Well, you talk about somebody who

17 breaks into a home, that's a burglar who commits a

18 murder, isn't it?

19 A. Yeah, in that case --

20 Q. But I mean you know what a burglar is,

21 don't you?

22 A. Do you know what a murderer is?

23 Q. Well, sure.

24 A. There is a difference. A burglar

25 leaving a scene as opposed to a murderer with a living

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1 witness, that he threw the knife down is the difference  
2 in a burglar leaving the scene.

3 Q. It depends. You know, you deal with

4 the -- generally with the criminals that are not smart,

5 don't you?

6 A. Thank goodness, yes, most of them.

7 Q. All right. And even so, Lieutenant,  
8 of the 21,000 deals that you have both been to or heard

9 about on the phone or people have come to you or you have  
10 gone to them or whatever it might be, the fact of the

11 matter is 90 percent of them are not even caught, are  
12 they?

13 A. I wouldn't go that far.

14 Q. What would you say, 80 percent?

15 A. I have no percentage. I don't know.

16 We are dealing with different agencies. Some have a

17 higher clearance rate. I work with agencies all over  
18 North Central Texas, so I don't know their clearance  
19 rate.

20 Q. But, you're not going to quarrel

21 with -- if they have a 20 percent clearance rate it's

22 good, isn't it?

23 A. I don't know.

24 Q. Don't know? You never kept up with

25 that, you didn't make an "X" on the --

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1 A. I'm not going to get into statistics

2 on clearance rates of murders and so forth.

3 Q. Well, as long as we're talking about

4 statistics, you said there were 43 hundred, and I didn't

5 hear what you said, homicides or you just said death

6 cases?

7 A. Death. There are four types of

8 deaths, and the 43 hundred included all types of deaths.

9 Q. So, you are talking about suicides,

10 you're talking about accidental, you are talking about

11 natural causes and you are talking about homicides.

12 A. That is the four, yes.

13 Q. Okay.

14 A. And, of course, naturally, when you

15 arrive at a scene, you don't know what it is, it may be a

16 suicide reported and it turns out to be a homicide, it

17 may be reported as a homicide, it might be accidental.

18 You have to make an investigation and prove, hopefully,

19 either way, the cause of death, and that is where the

20 death investigations come in.

21 Q. All right. And, again, your

22 jurisdiction primarily is the unincorporated area of  
23 Dallas County, is it not?

24 A. When I was working with the sheriff's  
25 office?

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1 Q. Yes, sir.

2 A. I had the privilege of not being  
3 restrained by the county line. The sheriff allowed me to  
4 go out of the county to any agency that needed assistance  
5 of crime scene expertise.

6 Q. Anybody who would request your  
7 assistance?

8 A. Yes. I have been to Texarkana,  
9 Oklahoma, just worked on many cases all over this area.

10 Q. Okay. I don't guess you've broken  
11 those down as to the 43 hundred; how many were homicides,  
12 how many were suicides, how many --

13 A. I really didn't.

14 Q. You didn't do that?

15 A. No.

16 Q. Okay.

17 A. When I was asked to do that it was a  
18 trial where they needed qualification and they wanted to  
19 know how many death investigations, so I included all  
20 deaths.

21 Q. And you were including in that where  
22 somebody calls you and asks your opinion over the phone  
23 or comes by to see you?

24 A. Just a phone opinion?

25 Q. Yes.

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1 A. No. I didn't include it. I either  
2 had to work with the evidence itself, either brought to

3 me, go to the scene, or somehow review the reports and/or  
4 evidence, photographs, but not phone calls, no.

5 Q. They send reports to you and you would  
6 review the reports?

7 A. Yes. I would do that, autopsy, lab  
8 reports and so forth.

9 Q. Okay.

10 A. That was on some of them.

11 Q. Okay. Now, you told the jury that in

12 your -- you have not been to the FBI Crime Scene Search  
13 School, have you?

14 A. No.

15 Q. Okay. And, in fact, you have been to  
16 the -- you are mainly a fingerprint man. Isn't that the  
17 fact of the matter?

18 A. No, crime scene and fingerprints.

19 Q. Crime scene and fingerprint?

20 A. Yes. Matching evidence and so forth.

21 Q. Okay. Not an investigator in the  
22 sense that you take statements from people?

23 A. I do not do that.

24 Q. Okay. Don't interview witnesses out  
25 there at the scene?

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1 A. The closest I have come to that is if  
2 I arrived at a scene and then -- well, take a burglary.

3 Q. He's still there and you asked him how  
4 he got in?

5 A. Yeah. I'd say, "Show me where you  
6 think the guy got in," you know, that type thing. Rather  
7 than just roam around until I found it myself. That's  
8 why I would interview those types. But, as far as  
9 statements, I don't do that.

10 Q. Okay. Not your job to interview  
11 witnesses to a particular event either, is it?

12 A. It is not.

13 Q. Okay. When you made your  
14 determination that there was no intruder, you told the

15 folks out there with you what your opinion was, didn't  
16 you?

17 A. Yes.

18 Q. Okay. And that was within 20 to 30  
19 minutes of the time you got there?

20 A. My initial comment to them was, that  
21 it looks to me like there was no intruder here. Of

22 course, I did stay there longer and I found things to  
23 confirm my opinion.

24 Q. One of the things to confirm your  
25 opinion was the prints here?

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1 A. The prints? No, that wasn't.

2 Q. No. That would be -- but you are not

3 the type of guy to say, I have already made up my mind,  
4 don't confuse me with the facts, are you?

5 A. No.

6 Q. Okay. Now, you said the first thing  
7 to do would be to take photographs.

8 A. In that scene, since everything was

9 primarily indoors, I said, "Yes, let's get photographs  
10 and record everything."

11 Q. And the next thing, you get the print  
12 man doing the prints?

13 A. Well, the sketch, sort of --

14 Q. Sketch man.

15 A. The sketch went along with the photos.

16 And then the prints, I suggested come next because with  
17 people around we wanted to collect any prints before they  
18 were contaminated by people touching objects.

19 Q. No shortage of manpower though, was  
20 there?

21 A. For certain jobs, there was. They had  
22 one latent print man.

23 Q. Well, you are a latent print man?

24 A. Yeah, but I wasn't there to do the  
25 prints.

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1 Q. You are mainly a latent print man,  
2 aren't you?

3 A. I wasn't there to do that work for  
4 them. I didn't have my equipment with me. I went for  
5 just advice.

6 Q. What type of brush do you use?

7 A. Well, here again, it depends on the  
8 surface. I have preferences.

9 Q. Do you prefer the camel hair?

10 A. I prefer that. The short bristle, you  
11 know, there are long bristles, short handles, filament.

12 Q. Those are tools of your trade, aren't  
13 they?

14 A. Yes, I prefer the camel.

15 Q. Okay. But I mean, wouldn't you expect  
16 a fingerprint man to know what kind of brush he was  
17 using?

18 A. I would think that he would like to if  
19 that is his trade. I don't know if it matters, if he  
20 knows he will get good results. But, I guess,  
21 professionally, I would like to know what tools I'm using  
22 and equipment.

23 Q. Well, it would be kind of like asking  
24 a police officer what kind of gun he had and he wouldn't  
25 know.

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1 A. Yes.

2 Q. Isn't it?

3 A. I feel like a person that's primary  
4 job is to lift prints should know what type of brush.

5 Q. If they had done much of it?

6 A. I don't know. Maybe they have done a  
7 lot of it, just don't know what brush they are using.

8 Q. Yeah. Okay. But at any rate, you  
9 didn't attempt to take any prints?

10 A. No, I did not.

11 Q. All right. But they took prints in  
12 the kitchen, that was the next order of business, wasn't  
13 it, after they did the prints in the garage?

14 A. I really don't know if they went to  
15 the living room first, the kitchen next or the door

16 leading from the utility room into the garage. So, I  
17 don't know the sequence that they lifted the prints.

18 Q. Did you check on their progress?

19 A. No.

20 Q. Well, there wasn't much for you to do  
21 then, was there?

22 A. Yes, the advice came from  
23 determining -- from crime scene reconstruction advice of  
24 what I think actually occurred there.

25 Q. Well, I mean once you told them that?

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1 A. Well --

2 Q. Once you told them that, I mean, there  
3 this is no reason to keep telling them over and over and  
4 over again, is there?

5 A. No.

6 Q. All right. But, I mean, you didn't  
7 point out things, do this, do this, do this, do this, and  
8 then come back and check on them to see how they are  
9 doing?

10 A. Well, they have been a police agency  
11 for a good number of years and I didn't think they needed  
12 me to tell their routine -- dusting at a homicide or  
13 dusting at a criminal mischief, dusting is dusting for

14 prints, so I didn't follow them around.

15 Q. So what you are telling this jury is

16 you have all the confidence in the world in Officer

17 Mayne's ability to service the crime scene, as it needs

18 to be serviced?

19 A. With the guidelines I gave him, yes.

20 Q. Okay. Did you give him any -- did you

21 see some towels around there?

22 A. There were towels -- in which area?

23 There were some in the kitchen, there were some in the

24 hallway leading to the front door.

25 Q. You just saw them in the hallway and

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1 in the kitchen?

2 A. Well, and there were a few at the end

3 of the couch in the family room. There was towels --

4 Q. How many towels?

5 A. I don't know how many.

6 Q. And were they wet or dry?

7 A. I didn't touch them.

8 Q. Did they have blood on them?

9 A. Some did.

10 Q. Some did and some didn't?

11 A. I'm sure some didn't, but most did.

12 Q. Which ones didn't?

13 A. I don't know. I didn't go around and

14 check each towel individually.

15 Q. Well, I would think that bloody items

16 would be important.

17 A. They are.

18 Q. Okay. Well, did you advise Officer

19 Mayne that if you find two bloody items in the same

20 general area stick them both together and put them in the

21 same bag?

22 A. No.

23 Q. What is wrong with that?

24 A. It's not good policy.

25 Q. What --

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1 A. There is the chance of --

2 Q. Contamination?

3 A. -- mixing two -- one word, yes, mixing

4 two bloods. Sometimes it happens, sometimes it doesn't.

5 But it's the opportunity there when two objects are in

6 the same bag and one is damp.

7 Q. If it's wet it's going to happen,

8 isn't it?

9 A. It could, yes.

10 Q. Can you think of a situation where it

11 didn't happen where they were wet?

12 A. I don't even know of a case where it

13 did happen. I just know it could happen. Anytime two

14 wet objects, if they are butting up to each other, where

15 they are touching, of course, they are touching.

16 Q. They are going to transfer?

17 A. But if they are on opposite sides, we

18 don't know if the sack was shook or rolled over, you

19 know. So what I'm saying is, if you put two wet objects

20 in there, where they are touching, they are definitely

21 making contact.

22 Q. Well, can you imagine a situation

23 where you put two wet -- say you put one dry item and one

24 wet item in the same sack. Can you imagine a situation

25 where the wet item would not make the dry item wet?

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1 A. Oh, it probably would. It's hard for

2 me to relate to this because I never did that.

3 Q. Well, you don't approve of it, do you?

4 A. No, I don't.

5 Q. Okay. Now, I don't know as much as

6 you do about crime scenes. And you see, because I would

7 have taken the photographs from the corners and then I

8 would have processed the floor?

9 A. The what?

10 Q. I would have processed the floor.

11 A. Oh, okay.

12 Q. Before I would have turned somebody

13 loose in there to take 300 photographs, I would process

14 the floor. Is that --

15 A. Not really. You want your

16 photographs. If there was heavy traffic, if this were a

17 hallway and you didn't have -- well, I don't know why

18 they wouldn't be able to have control over the entry and

19 exit, but if you could protect the floor it's better to

20 get the pictures, because the pictures can show the

21 location of evidence, it could show some of the patterns

22 of the blood.

23 Q. No. You're missing -- maybe I'm not

24 communicating.

25 A. Oh.

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1 Q. I said I would have taken the pictures  
2 first, but I would have taken them from the corners?

3 A. Oh, that. I thought you said you  
4 would process the floor before you did the pictures.

5 Q. No, no. But then I would process the  
6 floor.

7 A. Okay.

8 Q. I wouldn't turn somebody loose in

9 there to take 300 pictures, you know, walking around  
10 like, you know, and a guy following him making a diagram.  
11 You said that was all done before they started processing  
12 it.

13 A. Yes.

14 Q. You see, I would have scooped up the  
15 wine glass.

16 A. Well, you see the diagram didn't --  
17 the diagram was for the general outlay, similar to this  
18 drawing here. It was not to place each item of evidence  
19 in the sketch. That could be placed on after the  
20 examination.

21 But going back to your photos, yes, I  
22 agree that photos from the corner of the room would have  
23 been better.

24 Q. Why didn't you advise them to take  
25 into custody the entire glass?

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1 A. There was no need to.

2 Q. How do you know there was no need to?

3 A. It's just no need to. I mean, I can't  
4 think of any -- right at this given time in life here, I  
5 can't think of a need to collect all of it.

6 Q. Well, you were there when Mayne was  
7 collecting the glass?

8 A. Yeah. I was in the kitchen. I told  
9 him to collect some.

10 Q. He only got the glass without blood on  
11 it. Did you tell him to do that?

12 A. No, I just told him to pick up some of  
13 the glass.

14 Q. Take some random samples?

15 A. Yes.

16 Q. Well, any reason for him just to take  
17 the ones without blood on them and leave the ones there  
18 with blood on them?

19 A. No. I don't know why. I didn't

20 advise him on which pieces to pick up. I just said  
21 collect some of the glass.  
22 Q. Well, you know the FBI actually can  
23 reconstruct a glass like that. Are you aware of that?  
24 A. I imagine they could with all the  
25 pieces there. But then, we had the wine glasses there  
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1 unless we were assuming that maybe it wasn't even one of  
2 those glasses off the wine rack.

3 Q. So you just assumed?

4 A. Yeah.

5 Q. You don't want to assume anything, do  
6 you?

7 A. Well, they assumed Richard Jewell

8 bombed Atlanta. I mean, I'm not saying the FBI does  
9 everything wrong, but I'm saying --

10 Q. You don't want to ever assume anything

11 except a four percent mortgage, right?

12 A. Right.

13 Q. And not from Bank One?

14 A. Right.

15 Q. You won't get one from Bank One.

16 A. No. There is a need for that. If we  
17 felt like, or if I felt like we needed to say, "Did this  
18 glass come in? Did an intruder bring the glass?" And we  
19 need to connect it to another scene, well, certainly, we  
20 would collect every piece.

21 Q. Okay.

22 A. But when you have a wine rack there  
23 with glasses, the stem was intact and the base was  
24 perfectly intact, it didn't take a rocket scientist to  
25 figure that it came out of there. So there is no need to  
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1 collect it, in my opinion, outside of trying to collect  
2 pieces to later compare, if there was an intruder, to  
3 compare with the glass that might have been in the sole  
4 of his shoes.

5 Q. Okay. While you were telling us what  
6 a rocket scientist could and couldn't do, let me just ask  
7 you how you decided, that wine glass was broken?

8 A. How did I decide it was broken?

9 Q. Yes, sir. Um-hum. (Attorney nodding  
10 head affirmatively.)

11 A. When I make my -- walking through the  
12 kitchen the first time, I had no earthly idea. I

13 thought, well, maybe it was broken during the scuffle  
14 with the intruder.

15 After I finished the walk-through and  
16 went outside and came back inside, it looked to me like  
17 it had been broken there to simulate or stage an offense,  
18 a member of the household broke it and planted it there.

19 Q. Excuse me? Would you repeat that?

20 A. After I made the initial walk-through,  
21 when I first went through, I didn't think anything of it.  
22 I thought it was broken maybe in a scuffle.

23 Q. Yes.

24 A. After I went back outside the house,  
25 finishing all of the inside, going outside then coming  
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1 back in, I based my opinion that there was no -- on the  
2 whole scene, that there was no intruder and I could only

3 conclude that the glass was broken as part of the staging  
4 of this offense to make it appear like there had been an  
5 intruder.

6 Q. Okay. You didn't think that perhaps  
7 an intruder could have hit it with his arm running out of  
8 the area?

9 A. We thought of that, yes, or I thought  
10 of it.

11 Q. Okay. But what made you believe that  
12 that couldn't have happened?

13 A. Well, that with everything else in the  
14 scene, it would have been such a large series of  
15 coincidences and unusual things and inconsistent things,  
16 that I didn't believe that occurred. Especially, after  
17 shaking the wine rack and I couldn't dislodge any glasses  
18 without tilting it forward so far that they would all  
19 fall out of their rack.

20 Q. Okay. Well, if you are right, if  
21 somebody just threw it down and broke it in an effort to  
22 stage it, you would expect for the glass to be on the  
23 floor, wouldn't you?

24 A. The glass that was broken to be on the  
25 floor?

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1 Q. Yes, sir.

2 A. Right.

3 Q. And you wouldn't expect to find glass  
4 up on the shelves, would you?

5 A. No, unless some of it fell off,

6 bounced or whatever up there, I don't know how hard they  
7 threw it down.

8 Q. Do you think that glass is going to  
9 hit the floor and bounce all the way up to a shelf three  
10 feet high?

11 A. Was there glass on the top?

12 Q. Well, you are the guy who never  
13 overlooks anything.

14 A. I didn't see any glass, I don't know.

15 Q. Well, put your good eye on this right  
16 now and see if you can't see some glass.

17 A. I never saw glass there.

18 Q. See if you can't see a shard. Let me  
19 point it out to you.

20

21

22 (Whereupon, the following

23 mentioned item was

24 marked for

25 identification only

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1 after which time the  
2 proceedings were  
3 resumed on the record  
4 in open court, as  
5 follows:)

6

7

8 BY MR. DOUGLAS MULDER:

9 Q. Let me give you a -- let me show you  
10 what has been marked for identification and record  
11 purposes as State's (sic) Exhibit No. 42. I mean Defense  
12 Exhibit No. 42.

13

14 THE COURT: Thank you.

15

16 BY MR. DOUGLAS MULDER:

17 A. Would you point it out to me?

18 Q. Sure. Right there. Look at that.

19 A. Okay. Well, I see -- would you circle  
20 it? I mean, there is a reflection that --

21 Q. Now, you identify fingerprints for a  
22 living, don't you?

23 A. Yes. I don't identify reflections of  
24 light on glass like that looks to be.

25 Q. Okay. Did you have the presence of  
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1 mind out there, Lieutenant, to look in the ice bucket, in  
2 the top of ice bucket?

3 A. In the ice bucket? No, I didn't open  
4 the ice bucket.

5 Q. Well, you know, if somebody bumped it  
6 on the way out and it broke before it hit the ground, you  
7 would likely find some glass on the shelf, wouldn't you?

8 A. Well, if the glass was broke -- say  
9 this again.

10 Q. I said if somebody bumped it?

11 A. This is so hypothetical here, I'm  
12 trying to -- go ahead.

13 Q. Well, you know, when we talk about

14 this and we talk about reconstruction, you know, it's  
15 just common sense, isn't it?

16 A. Yes, sir, it is.

17 Q. Is that right?

18 A. It is.

19 Q. And you don't have any more common  
20 sense than anybody in this jury box?

21 A. Well, I might be able to look for  
22 things that they might not think to look for, but common  
23 sense wise, that is what crime scene construction is, is  
24 things that happen and it's common sense.

25 Q. That's right. But you are mainly a  
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1 print man?

2 A. No, I'm a crime scene man. I wouldn't  
3 be a certified senior crime scene analyst and head of the  
4 section -- I don't want to go through all that again.

5 But yes, I am a crime scene person.

6 Q. Right. Well, put your good eye on  
7 that crime scene and tell me whether or not you can see  
8 that glass shard?

9 A. Well, if you are saying, I'm assuming  
10 you're saying that --

11 Q. We have been through that assuming  
12 business.

13 A. Well, I don't see anything.

14 Q. Okay.

15

16 MR. GREG DAVIS: Has that been  
17 offered?

18 MR. DOUGLAS MULDER: I'm offering it  
19 into evidence. It's just a copy of what you all had.

20 THE COURT: Any objection?

21 MR. GREG DAVIS: Well, if I could just  
22 see that for just a moment. I don't think I will have  
23 any objections.

24 MR. GREG DAVIS: No objection.

25 THE COURT: Defendant's Exhibit 42 is  
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1 admitted.

2

3 (Whereupon, the above  
4 mentioned item was  
5 received in evidence  
6 as Defense Number 42,  
7 for all purposes

8 after which time,  
9 the proceedings were  
10 resumed on the record,  
11 as follows:)  
12

13 THE WITNESS: Counsel, was that one of  
14 the original crime scene pictures?  
15

16 BY MR. DOUGLAS MULDER:

17 Q. That is one that --

18 A. The first pictures taken?

19 Q. I didn't take the picture, I don't  
20 know.

21 A. You see, that could have been one of  
22 the follow up pictures and if that is glass up there,  
23 maybe that is where they laid a piece of it.

24 Q. Let's see if this just isn't a little  
25 bit better right here.

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1 A. But I didn't see it that night.

2 Q. Can you see that, Lieutenant?

3 A. In the picture there?

4 Q. Or, here, you are welcome to step down  
5 here, if you like.

6 A. Well, I might want to look at that.

7 It could have been one of the photographs taken after the  
8 initial photographs were shot, but it was not there when  
9 I looked at it.

10 Q. It says 6-6 of '96.

11 A. That was the date of the offense.

12 Q. You see right here?

13 A. We might -- you see, here is the stem  
14 and that is the -- if that is a piece of glass, which I  
15 have trouble seeing it as glass, it's something

16 reflective up there, it very likely is one of the  
17 follow-up pictures taken after the initial shots and the  
18 evidence collection.

19 Q. Well, I mean, that is convenient for  
20 you to disregard everything that isn't consistent with  
21 your having made up your mind 20 minutes after you got  
22 out there.

23 A. No.

24 Q. That is basically what you want to do,  
25 isn't it?

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1 A. What?

2 Q. You want to ignore the -- because this  
3 doesn't corroborate your position, you chose to ignore  
4 it, don't you?

5 A. No, I'm not ignoring it. Prints are  
6 only important if they match someone, when they don't  
7 match someone, we don't know, that could have been there  
8 years, or we don't know who, it could have been one of  
9 the children.

10 Q. Yeah, yeah.

11 A. The crime lab --

12 Q. That is a likely story that you --

13 A. No. It's true. They were small  
14 prints, the Dallas County Medical Examiner released the  
15 bodies for burial and failed to palm print them.

16 Q. Oh, now it's the medical examiner's  
17 problem?

18 A. It definitely is. They made a major  
19 mistake on that.

20 Q. Did you look at the bodies?

21 A. One body.

22 Q. Which body did you look at?

23 A. The oldest boy, Devon, the one that  
24 was still at the scene when I arrived.

25 Q. Did you notice that he had two stab  
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1 wounds in his chest?

2 A. Yes. Well, they were -- yes, I did.

3 Q. How many stab wounds did you see?

4 A. I started to say more than two, but I

5 didn't count them all.

6 Q. Okay. But you counted at least two,

7 is that what you're telling us?

8 A. Yes.

9 Q. Could there have been as many as four?

10 A. I don't know. That was -- the medical

11 examiner arrived at that time, and they were loading the

12 boy on the stretcher and I just made a cursory look at

13 him. I didn't -- I wasn't --

14 Q. You --

15 A. I wasn't doing it for that reason.

16 Q. Yes, sir. You knew he would have died

17 rather soon after those wounds were inflicted?

18 A. I would assume so, yes, from the

19 positions of the wounds. I would say yes.

20 Q. Did you notice anything about the

21 position of the wounds as to where the sharp edge of the

22 knife was?

23 A. I'm trying to recall. I think it

24 would have been in a downward position, that is the --

25 what we would call the blunter edge of the knife would be

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1 up, the sharp edge down.

2 Q. Do you remember?

3 A. About just enough -- it looked to me

4 like they were vertical wounds.

5 Q. Were the wounds consistent, did they

6 look like they had been made from someone, without that

7 person changing their position?

8 A. Oh, I don't have any opinion on that.

9 No, sir. I tried to avoid that on some of these stabbing

10 cases. That is getting into the medical examiner's area

11 and it's hard to determine at the scene.

12 Q. Well, if the wounds -- could you draw

13 the wounds on here?

14 A. Probably not very accurately. I would

15 just like to say for the record, I'm doing it from vague

16 memory on them and that I could be wrong. I thought they

17 were vertical. I could draw a couple of marks on there.

18 Q. You thought they were both just

19 straight up and down?

20 A. In that area. But here again, that

21 wasn't the reason for me being at the scene so I didn't

22 make any type of good inspection.

23 Q. Would it have made any difference to

24 you whether or not the boys were both killed with the

25 same instrument?  
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1 A. As regards to what, an intruder?  
2 Q. No, as opposed to being killed with  
3 two different instruments?  
4 A. No, it wouldn't have made any  
5 difference to me.  
6 Q. He could have used three different  
7 instruments and it still wouldn't have made any  
8 difference?  
9 A. Not really. I mean, I wasn't  
10 interested in how many weapons.  
11 Q. Okay. So you wouldn't have -- that  
12 wouldn't have entered into your equation, would it?  
13 A. On how many weapons?  
14 Q. Yes.  
15 A. Not too much, no.  
16 Q. Or really -- okay. Of course, you  
17 could have picked up that entire glass from the floor,  
18 right?

19 A. I would imagine all of the pieces were  
20 in the area. They probably could have reconstructed it.  
21 Q. Okay. And that could have been sent  
22 into the FBI laboratory and you know that they are able  
23 to determine the force necessary to break a glass in that  
24 fashion, don't you?  
25 A. Yes.

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1 Q. Okay. Now, when you examined the den,  
2 you said you found no evidence of a violent struggle?  
3 A. Correct.  
4 Q. Well, why would you expect a violent  
5 struggle?  
6 A. Because the information I had received  
7 was that an intruder stabbed two boys and stabbed their  
8 mother, she resisted him, he fled the scene, she went  
9 after him or followed him out and --  
10 Q. Okay. So you interpreted --  
11 A. So, I would assume that something  
12 violent occurred in the family room.  
13 Q. Well, you didn't find any evidence of  
14 a violent struggle in the family room; is that right?  
15 A. By struggle, naturally the two boys --  
16 Q. That was your terminology, I'm not  
17 trying to put words in your mouth. But did you or did

18 you not find evidence of a violent struggle?  
19 A. I did not.  
20 Q. Okay. And the violent, again, that is  
21 not my word, that is your word, you were looking for a  
22 violent struggle?  
23 A. Yeah. I didn't think this was a  
24 peaceful killing.  
25 Q. Okay. You wouldn't expect two  
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1 youngsters to put up much resistance, would you?  
2 A. No.  
3 Q. And you wouldn't expect someone  
4 killing two youngsters to get much blood on their hands,  
5 would you?  
6 A. Well, that I couldn't say.  
7 Q. Oh, you can't say?  
8 A. No, I don't know. They might or they  
9 may not.  
10 Q. You didn't find any blood on the  
11 fence; is that right?  
12 A. That's right.  
13 Q. And, why did you check the fence?  
14 A. For blood and scuff marks.  
15 Q. Well, you thought --  
16 A. Or cloth, material, you know, just  
17 some signs of somebody going over it.  
18 Q. Why would they go over a fence if they  
19 could go through a gate?  
20 A. That is what I was wondering.  
21 Q. They aren't looking for a challenge,  
22 they are looking for a way out, aren't they?  
23 A. Well, I would have been amiss if I had  
24 not checked the fence, that was part of the crime scene  
25 investigation. Naturally, I checked the gate which was,  
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2404

1 you would assume to be a normal route of entry and exit,  
2 but good policy is to check everything.  
3 Q. Did you go back and make a final  
4 walk-through?  
5 A. Yes.  
6 Q. Okay. And this was after Mayne had  
7 collected all of the evidence that he was going to  
8 collect?  
9 A. Not really. My final walk-through,  
10 what I would -- my last one came about 3:00 P.M.  
11 Q. Right.

12 A. But after the photographs were began,  
13 they started taking pictures and doing a sketch and  
14 started in on the latent print collecting and some of the  
15 evidence collecting, I then made another walk-through and  
16 that is where items were starting to be moved and I  
17 wanted to see what was under objects.  
18 So, that would be termed a  
19 walk-through, I guess, room to room as things were moved.  
20 Q. Okay. Now, of course, I guess you  
21 were getting information; is that right?  
22 A. If one of them was to say, "Look what  
23 I found", and I would walk over there. That type?  
24 Q. Yeah.  
25 A. Yes.  
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1 Q. All right. Let me ask you this: Did  
2 they tell you -- did the officers out there tell you that  
3 someone had attempted to break in a house four or five  
4 blocks from there approximately forty-five minutes before  
5 this was reported?  
6  
7 MR. GREG DAVIS: Objection, that is  
8 hearsay.  
9 THE COURT: Sustained.  
10 MR. GREG DAVIS: Would you please  
11 instruct the jury to disregard that last question from  
12 counsel?  
13 THE COURT: Yes. The Jury is  
14 instructed to disregard that last question from the  
15 defense attorney.  
16  
17 BY MR. DOUGLAS MULDER:  
18 Q. Well, let me ask you this: Did they  
19 tell you about any other break-ins in the neighborhood?  
20  
21 MR. GREG DAVIS: Objection. We'll  
22 object to that as hearsay.  
23 THE COURT: Sustain the objection. No  
24 hearsay please.  
25  
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1 BY MR. DOUGLAS MULDER:  
2 Q. But would it have made any difference?  
3  
4 MR. GREG DAVIS: Objection, that's  
5 going to be hearsay.

6 THE COURT: Sustained. Kindly  
7 rephrase your questions.  
8 MR. DOUGLAS MULDER: Well, now wait a  
9 minute.  
10 Now, Judge, let me -- with all due  
11 respect, are you saying that if there was a break-in next  
12 door that this man couldn't --  
13 THE COURT: Mr. Mulder, if you will  
14 kindly ask your next question, please.  
15 MR. DOUGLAS MULDER: Well --  
16 THE COURT: In a non-hearsay manner.  
17 You know how to do it. Thank you.

18  
19 BY MR. DOUGLAS MULDER:  
20 Q. Well, let's -- you made a big to do  
21 about the mulch; is that right?  
22 A. Yes, I mentioned the mulch.  
23 Q. Right. And you said that this  
24 intruder didn't go through the mulch?  
25 A. He didn't run through it.  
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2407

1 Q. He didn't run through it?  
2 A. No, I walked through it and I didn't  
3 disturb it, and I said -- so, I saw no signs of running  
4 or hurrying through it.  
5 Q. When you walked through it were you  
6 able to look at it and tell that you had walked through  
7 it?

8 A. No, I couldn't tell I did. It was --  
9 Q. Well, if you couldn't tell if you had  
10 walked through it, how could you tell if an intruder had  
11 walked through it?  
12 A. Well, because I didn't say an intruder  
13 had walked through it. I said an intruder didn't run  
14 through it and disturb it. You know, in my testimony, I  
15 said when I inspected the mulch, I walked through it and  
16 didn't leave any disturbed mulch, but when I ran through  
17 it and moved it with my hand, I did leave signs of  
18 disturbance. So I knew the intruder didn't run through  
19 it.  
20 Q. Well, the intruder would have to go  
21 out of his way to run through the mulch. Why would he  
22 run through the mulch when he could stay on the sidewalk  
23 and the sidewalk goes right to the gate?  
24 A. Well, he would have had to have gone  
25 12 feet out of his way to go on the sidewalk. It's 12

1 feet shorter to go through the mulch.

2 Q. Were there any shrubs in there?

3 A. No.

4 Q. Or any plants in there?

5 A. No. It's 23 feet from the window to

6 the gate when you go through the mulch, and it's 35 feet

7 if you stay on the sidewalk.

8 Q. Okay. We can see that from the aerial

9 photograph, can't we?

10 A. Or the sketch or whatever.

11 Q. Well, you are talking about coming out

12 of this window right here?

13 A. Yes, yes, sir.

14 Q. Can you see that? And going --

15 A. Would you like me to step down?

16 Q. Yes, would you please. Let me just

17 put it right here. I will hold it up.

18 This is the gate right here, isn't it?

19 A. Yes. The is gate is here.

20 Q. All right. And, you can come out that

21 window and just go right like that, can't you?

22 A. It's 35 feet from here, 12 feet to

23 here.

24 Q. Okay.

25 A. I'm sorry, 23 feet there, there's 12

1 feet difference.

2 Q. All right. 12 feet difference?

3 A. Yes.

4 Q. Okay.

5

6

7 (Whereupon, the following

8 mentioned items were

9 marked for

10 identification only

11 after which time the

12 proceedings were

13 resumed on the record

14 in open court, as

15 follows:)

16

17 BY MR. DOUGLAS MULDER:

18 Q. Let me show you what has been marked  
19 for identification and record purposes as Defendant's

20 Exhibits 43 and 44. Can you look at that those and tell  
21 me whether or not you can identify those?

22 A. I can.

23 Q. And those are photographs of that back  
24 area, are they not?

25 A. Yes.

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1 Q. Okay.

2

3 MR. DOUGLAS MULDER: We will offer  
4 into evidence what's been marked and identified as  
5 Defendant's Exhibits 43 and 44.

6 MR. GREG DAVIS: No objection.

7 THE COURT: Defendant's Exhibits 43  
8 and 44 are admitted.

9

10 (Whereupon, the items

11 Heretofore mentioned

12 Were received in evidence

13 As Defendant's Exhibit

14 No. 43 and 44 for all

15 Purposes, after which time,

16 The Proceedings were resumed

17 As follows:)

18

19 BY MR. DOUGLAS MULDER:

20 Q. There was a turned over chair and --

21 you know, if we put these kind of together and patched  
22 them together like the other exhibits. I don't know

23 whether we can. But at any rate, you would expect him to  
24 run around those obstacles, would you not?

25 A. Yes.

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1 Q. And there are some shrubs in there,  
2 aren't there?

3 A. Well, up close to the window, yes.

4 Q. But anyway, you are not talking about

5 saving any appreciable time by cutting across the mulch,

6 are you?

7 A. Seconds.

8 Q. Okay.

9

10 MR. DOUGLAS MULDER: Judge, if we  
11 could just take a -- are you about ready for your

12 afternoon break?

13 THE COURT: Mr. Mulder, I will

14 determine when we break, please. Thank you.

15 MR. DOUGLAS MULDER: Would you give us

16 just a minute or two?

17 THE COURT: You may have a minute

18 right there.

19 MR. DOUGLAS MULDER: Thank you.

20 THE COURT: Thank you.

21

22 BY MR. DOUGLAS MULDER:

23 Q. Just one other thing. What other sort

24 of brushes do they have for dusting for fingerprints?

25 A. There is magnetic powder brushes,

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1 there's zephyr brushes which is filament or material

2 that -- as opposed to feather or camel hair, that the

3 powder can adhere to and spread evenly on latent prints.

4 There's feather dusters.

5 Q. How about plastic or fiberglass?

6 A. Yes, plastic and fiberglass. There's

7 so many different styles out now, the fingerprint supply

8 companies are in competition with one another and there's

9 quite a few types of brushes you can choose from.

10 Q. I guess they are all popular.

11 A. Yeah. Well, as we talked about, I

12 prefer camel hair, we talked about that.

13 Q. Somebody else may prefer fiberglass or

14 plastic?

15 A. Feather, yes, sir.

16 Q. Okay.

17

18 MR. DOUGLAS MULDER: I believe that's

19 all. Thank you.

20

21 REDIRECT EXAMINATION

22

23 BY MR. GREG DAVIS:

24 Q. Mr. Cron, let me ask you, first of

25 all, State's Exhibit No. 42, the window, is that an

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1 actual scale model of the actual window that is out there  
2 on 5801 Eagle Drive?

3 A. Yes.

4

5 MR. GREG DAVIS: Your Honor, at this

6 time we will offer State's Exhibit 42 for all purposes.

7 MR. DOUGLAS MULDER: Was that the  
8 window?

9 MR. GREG DAVIS: Yes, sir.

10 MR. DOUGLAS MULDER: We have no  
11 objection.

12 THE COURT: State's Exhibit 42 is  
13 admitted.

14

15 (Whereupon, the item  
16 Heretofore mentioned was

17 Received in evidence

18 As State's Exhibit No. 42,

19 For all purposes, after

20 Which time the

21 Proceedings were

22 Resumed in open court,

23 As follows:)

24

25

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1 BY MR. GREG DAVIS:

2 Q. Mr. Cron, can you us a few examples of  
3 some of the --

4

5 MR. GREG DAVIS: We will also offer  
6 State's Exhibits 42-E and F, that would be litter pan and  
7 pallet.

8 THE COURT: Any objection?

9 MR. DOUGLAS MULDER: No.

10 THE COURT: State's Exhibit 42-E and F  
11 are admitted.

12

13 (Whereupon, the items

14 Heretofore mentioned were

15 Received in evidence

16 As State's Exhibit Nos. 42-E

17 And 42-F for all purposes

18 After which time,  
19 The proceedings were  
20 Resumed in open court,  
21 As follows:)  
22  
23 BY MR. GREG DAVIS:  
24 Q. Mr. Cron, while you were with the  
25 sheriff's department, can you give us an example of a few  
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1 of the major homicides that you participated in as far as  
2 investigation goes?

3 A. On the scene or just where I received  
4 evidence or somehow helped with a crime?

5 Q. Well, if you could, could you give us  
6 a couple of examples of on the scene? A couple of cases  
7 that stand out in your mind.

8 A. Well, there was ax murder in Wiley,  
9 Texas, several years back, which, I cleared by  
10 identifying the defendant's print on a refrigerator door.  
11 She had denied it up to that point, but then --

12  
13 MR. DOUGLAS MULDER: Judge, we're  
14 going to object to any narration.

15 THE COURT: Overruled. You may  
16 continue.

17 THE WITNESS: Another in Lancaster,  
18 Texas.

19 MR. JOHN HAGLER: Again, your Honor,  
20 we will object to him going into details of specific  
21 offenses.

22 Clearly it's irrelevant to the issue  
23 at hand.

24 THE COURT: I think he is merely  
25 describing the name of the offense.  
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1 MR. DOUGLAS MULDER: Well, Judge, he  
2 is describing the offense and how he did whatever he did,  
3 identifying the fingerprints.

4 THE COURT: Thank you. Are you  
5 objecting?

6 MR. DOUGLAS MULDER: Yes, sir.

7 THE COURT: Overruled. Thank you. Go  
8 ahead.

9

10 BY MR. GREG DAVIS:

11 Q. Let me just cut to it, I guess. Have

12 you participated in a number of homicides investigations  
13 where you were actually the crime scene man there at the  
14 scene?

15 A. Yes.

16 Q. With regards to some of the other

17 steps in the kitchen Mr. Mulder asked you about, did you  
18 see any of the other steps as being inconsistent with the  
19 two steps that we see here, in State's Exhibit 44-A and  
20 44-B?

21 A. No.

22 Q. With regards to the wine rack, sir,

23 did you see any evidence whatsoever that someone had run  
24 into that wine rack while leaving the residence?

25 A. No.

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1 Q. Mr. Cron, looking here at State's

2 Exhibit 36-C, do you see that, sir, what I am showing  
3 you?

4 A. The photograph, yes.

5 Q. Yes. Did you or some other officer

6 balance these two openers on this little round object  
7 here while you were going through the house?

8 A. No.

9 Q. Were those two objects still balanced

10 up there as they are in 36-C when you first saw that wine  
11 rack, sir?

12 A. Yes.

13 Q. Is this the wine rack that is standing

14 right next to that broken glass on the floor?

15 A. Yes.

16 Q. The ice tongs, they still -- were they

17 perched up here on top of the ice canister when you got  
18 there too?

19 A. Yes.

20 Q. You didn't place them there?

21 A. No, I did not.

22 Q. Okay. Mr. Cron, did you see a

23 trampoline in that back yard?

24 A. A trampoline?

25 Q. Yes, sir. Where somebody could

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1 trampoline or vault over that 6 foot fence?

2 A. No.

3 Q. Would you, based on your 39 years of

4 experience, would you expect an intruder leaving this  
5 scene to go through the gate, close it and then latch it  
6 behind him before he left?

7 A. Not that difficult of a swinging gate,  
8 but I wouldn't expect any intruder to shut a gate when  
9 they were fleeing.

10 \* Q. Would you expect an intruder to go  
11 through this window, as --

12

13 MR. JOHN HAGLER: Excuse me, your

14 Honor, we object. This is all based on speculation.  
15 Furthermore, the witness is not qualified to give his  
16 personal opinion.

17 THE COURT: Overruled. You may  
18 continue to ask the question.

19

20 BY MR. GREG DAVIS:

21 Q. Sir, based on your experience, would  
22 you expect an intruder to leave out that window as

23 Officer Frosch did this morning, very slowly and  
24 deliberately?

25 A. Not on exiting, he might have been a  
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1 little slower on entering.

2 Q. Did you see whether or not anything  
3 happened to that pallet that I was holding while Officer  
4 Frosch went through that window?

5 A. He bumped it and you caught it and  
6 kept it from falling.

7 Q. All right. That cat cage that is  
8 shown in those photographs, is that going to give like  
9 that pallet was in my hand?

10 A. No.

11 Q. One final area: Sir, when you came to  
12 the conclusion that no intruder had come into that house,  
13 did you base that decision on one factor or several  
14 factors?

15 A. Many factors.

16 Q. Could you please list those factors  
17 for us at this time?

18 A. It's my opinion that an intruder did  
19 not enter the house and commit --

20

21 MR. JOHN HAGLER: Excuse me. This has  
22 already been gone through before, repetitious.

23 THE COURT: Overruled. Continue.

24 THE WITNESS: My opinion that an  
25 intruder did not commit these offenses was based on the  
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1 entire scene. Not one object, or item. It was based  
2 upon the point of entry, starting there.  
3 There were no signs of entry or exit  
4 from somebody coming in at night from the outside, the  
5 type of cutting on the screen is inconsistent with the  
6 average or the known ways to enter, cutting screens.  
7 This is all common sense, the screen

8 will pull out very easily. The cuts were not by the two  
9 latches at the bottom where the cuts normally are when  
10 the screen is removed.  
11 The dust on the sill, criminals

12 normally are not concerned with their footprints,  
13 footprints or heel prints or cloth prints from their  
14 clothing, they are not aware that we can make weave and  
15 cloth pattern comparisons.  
16 So anyway, there wasn't any signs that  
17 I could see of the entry and exit. There was no blood

18 and so forth. The trail through the garage, going in, I  
19 didn't expect to find a lot through there on the initial  
20 entry of an intruder.  
21 When the intruder got in, the fact

22 that a knife was found in a knife block to commit the  
23 offenses with, is inconsistent with the burglar that just  
24 came in and cut a screen.  
25 It's equivalent to coming in with one  
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1 knife, putting it up and looking for another knife to  
2 commit the crimes with, the stabbings with.  
3 Two: There were -- there was a lot of  
4 jewelry, and property laying in plain view, and none of  
5 this was disturbed or touched. There was none reported  
6 missing.  
7 The wounds on the two boys were  
8 approximately the same, that is deep, penetrating wounds.  
9 The wounds to the defendant were  
10 different in context, different style of wounding.  
11 The fact that I asked if the intruder  
12 made any statements, because that is part of the initial  
13 investigation when you find that and the officer related

14 that the complainant didn't give any words or statements  
15 that the intruder said. This is unusual.  
16 I have never worked an offense where  
17 somebody was fighting with a live victim, especially a  
  
18 man against a woman, to where vulgarity was not used, as  
19 well as a lot of threats, that was not there.  
20 The cuts, they told me that she was  
21 cut on the neck and on both sides of her shoulder and

22 arm. To fight an assailant, you should, there should  
23 have been some cast off blood, which from flailing of the  
24 arms and the movement, and I didn't find any cast off  
25 blood, on the glass table top, on walls, arm level, high  
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1 up.  
2 The intruder is supposed to have left  
3 the family room area to go into the kitchen and then head  
4 for the utility room. In the area of the -- right as you  
5 exit the family room, there was the glass on the floor,  
6 the vacuum cleaner and barefoot prints.  
7 There was no footprints other than the  
8 bare footprints. There was no shoe or boot prints  
9 present.  
10 The glass was -- some of the glass was  
11 on top of the bare footprints, which would indicate the  
12 glass was placed there on top of the bloody footprints.  
13 I had the -- I asked for the reports  
14 from the Baylor Hospital on the condition of the  
15 complainant -- or the defendant's -- at this time the

16 defendant, then the complainant, bare feet to see if  
17 there were any cuts and scratches, which there should  
18 have cuts and scratches on her feet after stepping on

19 sharp glass from the wine glass, broken glass. And that  
20 was not there.  
21 There was no trail of bloody  
22 footprints leading from across the kitchen. And, if the  
23 defendant had been stabbed either in the kitchen near the  
24 family room or in the family room and bleeding like she  
25 was, there should have been bloody footprints. Left a  
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1 lot of bloody footprints by the kitchen sink.  
2 At the garage door, that is the  
3 utility room leading into the garage door, there was some

4 blood on the edge of the door which is consistent with  
5 somebody touching it and looking out through there,  
6 shutting it, or whatever, however it got there.  
7 I can't say what they were doing, but  
8 blood was on the edge of the door. There were dropped

9 blood straight down or very slow movement droplets of  
10 blood on the utility room floor, going to and from the  
11 family room across the kitchen floor.

12 Outside in the garage, the lack of any  
13 blood at all, the blood that was found later, you know,  
14 it wasn't there during my initial inspection. The lights  
15 were on, it was bright.  
16 We did presumptive blood tests, which  
17 is a method of testing to see if a substance is blood at  
18 the scene prior to sending it to a crime lab, and the

19 Rowlett Police Department had presumptive blood testing  
20 equipment and we went over the floors in various spots,  
21 the garage door, the point of entry or exit, the window,  
22 and found no traces of blood, animal or human.  
23 The lack -- or the fact that the gate  
24 was so difficult to open and shut is inconsistent that  
25 somebody would have committed a crime like this and gone  
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1 to the great care of shutting a gate behind them and  
2 latching it.  
3 It's just inconsistent with somebody  
4 fleeing a murder with a living witness that is armed.  
5 The intruder is supposed to have dropped the knife in the  
6 utility room floor. I have never known someone to arm  
7 their victim, which is what this would have been  
8 equivalent to.  
9 And, all of these put together, the  
10 vacuum cleaner on top of the bloody footprints, in my  
11 opinion, no intruder committed these offenses.

12  
13 MR. GREG DAVIS: Thank you. We will  
14 pass the witness.

15

16

17 RECROSS EXAMINATION

18

19

20 BY MR. DOUGLAS MULDER:

21 Q. I guess you think that somebody with

22 their throat slashed and cut up is going to be a real  
23 threat to an intruder?

24 A. I don't think they would be left  
25 alive.

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1 Q. Okay. I guess all crime scenes are  
2 different. They are like people, aren't they?

3 A. Not -- well, generally, yes, yes.

4

5 MR. DOUGLAS MULDER: I believe that's  
6 all. Thanks.

7 MR. GREG DAVIS: No further questions.

8 THE COURT: Thank you. You may step  
9 down, sir. You are excused subject to recall.

10 THE WITNESS: Thank you, sir.

11 THE COURT: We will now break for 10  
12 minutes.