

Testimony of Detective Jimmy Patterson (1)

DIRECT EXAMINATION

16

17 BY MR. DOUGLAS D. MULDER:

18 Q. Would you tell the jury your name,

19 please, sir?

20

21 MR. DOUGLAS D. MULDER: Excuse me,

22 Judge, are you ready to go?

23 THE COURT: Well, let's see, we always

24 think we are, but we don't know. I'm not sure this sound

25 system is working here. All right. I think we have that

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1 taken care of now.

2

3 BY MR. DOUGLAS D. MULDER:

4 Q. Would you tell the jury your name,

5 please, sir?

6 A. Jimmy Ray Patterson.

7 Q. Mr. Patterson, you are a police

8 officer?

9 A. Yes, sir.

10 Q. And, you work for Rowlett Police

11 Department?

12 A. Yes, sir, I do.

13 Q. And what was your position, vis-a-vis,

14 the Darlie Routier case?

15 A. I am the lead detective in the case.

16 Q. All right. Well, you left town before

17 we had a chance to talk to you. When did you leave

18 Kerrville?

19 A. Sometime after 6:00 o'clock Thursday

20 afternoon.

21 Q. Thursday afternoon. When did you

22 first come to Kerrville, Mr. Patterson?

23 A. The first time I came down here was on

24 the 6th.

25 Q. The 6th of January?

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1 A. Yes, sir.

2 Q. Okay. And, you were with us until

3 sometime after 6:00 o'clock on Thursday of last week, is

4 that correct?

5 A. That's correct.

6 Q. Have you brought your notes with you?

7 A. Yes, sir, I have.
8 Q. Do you have your case file with you?
9 A. Yes, sir.
10 Q. Could I see it, please?
11 A. I don't have it right here with me.
12 Q. Where is it?
13 A. It's in the back.
14 Q. Could you get it, please?
15 A. Yes.
16
17 MR. DOUGLAS D. MULDER: Would you mark
18 this, please?
19
20 (Whereupon, the following
21 mentioned item was
22 marked for
23 identification only as
24 Defendant's Exhibit No. 72,
25 after which time the
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1 proceedings were
2 resumed on the record
3 in open court, as
4 follows:)
5
6 BY MR. DOUGLAS D. MULDER:
7 Q. Let me hand you what has been marked
8 for identification and record purposes as Defendant's
9 Exhibit No. 72 and I'll ask you if that is the note book
10 that you just handed to me?
11 A. Yes, sir, it is.
12 Q. And this contains your entire file on
13 Darlie Routier; is that correct?
14 A. Yes, sir.
15 Q. You and I have never met, have we?
16 A. No, sir, we have not.
17 Q. We have never visited about this case,
18 have we?
19 A. No, sir.
20 Q. Now, when you were first notified that
21 there had in fact been a -- an assault or a death there
22 at 5801 Eagle Drive in Rowlett?
23 A. June the 6th, 1996, at about 2:55 in
24 the morning.
25 Q. Okay. Were you at home or were you on
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1 duty?

2 A. I was at home.

3 Q. Okay. And as result of that, did you
4 have occasion to get up and get dressed and proceed to
5 that scene?

6 A. Yes, sir, I did.

7 Q. Okay. About what time did you arrive
8 there?

9 A. About 3:30, 3:35.

10 Q. Okay. And, who was there when you
11 arrived, Detective Patterson?

12 A. There was some fire personnel, there
13 was some uniformed officers at the scene, the lieutenant
14 over C.I.D. was at the scene.

15 Q. Who is the lieutenant over C.I.D.?

16 A. His name is Grant Jack.

17 Q. All right. Was he down here for the
18 past three weeks as well, along with you?

19 A. No, sir.

20 Q. Has he been here?

21 A. Yes, sir.

22 Q. Okay. He is back in Rowlett now, I
23 guess?

24 A. No, sir.

25 Q. Where is he?

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1 A. He is here now.

2 Q. Oh, he came back down with you?

3 A. Not with me. He came back down.

4 Q. Who else came down this weekend?

5 A. An officer, Dwayne Beddingfield,
6 Sergeant David Nabors, and another detective by the name
7 of Chris Frosch.

8 Q. Just the five of y'all?

9 A. Yes, sir.

10 Q. Okay. When did y'all get back down
11 here?

12 A. I got back down here yesterday about
13 4:00 o'clock.

14 Q. Okay. When did the others come, do
15 you know?

16 A. I'm not sure.

17 Q. Okay. At any rate you got out there
18 and the medical personnel were there; is that right?

19 A. I don't know -- no, I think they had
20 already left and I talked to a firefighter.

21 Q. Okay. Do you know how many medical
22 personnel had been there?

23 A. Not total, no, sir.
24 Q. Okay. I take it you interviewed the
25 paramedics who had been at the scene?
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1 A. They had written a written statement.
2 Q. I mean, does that mean you interviewed
3 them?
4 A. I did not talk to them personally, no.
5 Q. Did you talk to any of them?
6 A. No, sir.
7 Q. All right. And, you don't know how --
8 whether there were eight or nine or ten or you don't know
9 how many there were?
10 A. I don't recall how many were out
11 there.
12 Q. Okay. What was the first thing you
13 did when you got to the scene?
14 A. The first thing I did when I arrived
15 at the scene is I met with the officer in charge.
16 Q. And, who was that?
17 A. Sergeant Matt Walling.
18 Q. Okay. And I guess you talked with
19 Sergeant Walling?
20 A. Yes, sir.
21 Q. Okay. And what is the next thing that
22 you did?
23 A. He briefed me on what he knew, at that
24 time, and I just walked up to the front door, and there
25 was an Officer Wade at the front door. He asked me if I
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1 was going inside and I said no. And I just veered inside
2 for a second.
3 Q. You did go inside, did you?
4 A. No, I did not. I just looked inside
5 from the door, from the front porch.
6 Q. I thought you said you veered inside.
7 You peered inside?
8 A. Yes, sir, I just looked inside.
9 Q. You just looked inside?
10 A. Yes, sir.
11 Q. And, what was the next thing you did?
12 A. Well, Sergeant Walling had told me
13 about a screen that had been --
14 Q. We're not going into what you were
15 told. I asked simply what you did?
16 A. I walked around to the back and

17 noticed the screen window had been cut.
18 Q. Okay. And when you went around to the
19 back, did you have occasion to look at the back gate?
20 A. Yes, sir.
21 Q. Okay. And, did you notice anything
22 unusual about the back gate?
23 A. It was open.
24 Q. Anything else?
25 A. No, sir, not at that time.
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1 Q. Did you move it back and forth to see
2 how it swung in place?
3 A. No, sir, I did not.
4 Q. Did you see any scuff marks at the
5 base of the gate?
6 A. I didn't look.
7 Q. Okay. Will you tell the jury which
8 way the gate swung?
9 A. Inwards.
10 Q. Okay. Inwards to your right, as you
11 were going in from the garage or to your left?
12 A. As you walk up to the gate, it swung
13 open this way. (Demonstrating)
14 Q. Okay. And it was open at the time you
15 first observed it?
16 A. Yes, sir.
17 Q. Okay. And you walked around to the
18 screen that was cut?
19 A. I walked inside just enough where I
20 could see the screen. I didn't go up to the screen.
21 Q. Well, why is that?
22 A. Well, I didn't want to tamper with any
23 evidence, in case there was any.
24 Q. Okay. Did you know that other
25 officers had already been on the scene, and had been to
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1 the screen?
2 A. Well, the only thing I knew, was that
3 there had been an officer look in the back yard.
4 Q. Just over the fence was your
5 understanding?
6 A. No, just went inside the back yard to
7 look, to make sure there wasn't any suspects.
8 Q. Okay. But had not actually approached
9 the screen, was that your understanding?
10 A. I really didn't get into that to know.

11 Q. So, you didn't know whether anybody
12 had gone in the back yard, or what the extent of the back
13 yard was?

14 A. I didn't know who had been in the back
15 yard.

16 Q. Okay.

17 A. I just knew that a couple of officers
18 had went in there, just to make sure that there wasn't a
19 suspect.

20 Q. Okay. After that, what did you do?

21 A. At that point, I went back around to
22 the front, and asked by my lieutenant to go to the
23 hospital and meet with the witnesses.

24 Q. Okay. Did you talk with anyone else
25 at the scene, before you went to the hospital?

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1 A. Well, I had talked to one of the fire
2 person -- or the paramedics, just for a brief moment,
3 yes.

4 Q. Okay. Did you talk with any of the
5 neighbors?

6 A. Yes, sir.

7 Q. You forgot about that?

8 A. No, I didn't forget about it.

9 Q. Okay. I asked you if you had talked
10 to anybody else before you left for the hospital, didn't
11 I?

12 A. Right. And I just said that I had
13 talked to the captain.

14 Q. Well, you were just fixing to tell us
15 about the neighbors?

16 A. Yes, sir.

17 Q. Okay. As a matter of fact you were
18 advised that there had been a small, black car at the
19 scene, had you not?

20

21 MR. GREG DAVIS: I'm going to object
22 to that as hearsay, what he was advised.

23 THE COURT: I'll sustain the
24 objection.

25

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1 BY MR. DOUGLAS D. MULDER:

2 Q. Well, when you talked to the neighbor
3 was your attention directed to this part of the street?

4

5 MR. GREG DAVIS: Objection, that is
6 hearsay.

7 THE COURT: Overruled. Go ahead.

8 MR. DOUGLAS D. MULDER: Yes, sir.

9 THE WITNESS: I heard a lady call out
10 that she wanted to talk to an officer.

11

12 BY MR. DOUGLAS D. MULDER:

13 Q. Okay.

14 A. And I walked over there to talk to
15 her.

16 Q. Okay. And were you advised that she
17 had seen a small, black car in this location?

18 A. Yes.

19

20 MR. GREG DAVIS: I'm going to object,
21 your Honor, that is hearsay.

22 THE COURT: Sustained. Let's phrase
23 our questions properly.

24

25 BY MR. DOUGLAS D. MULDER:
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1 Q. Okay. Was your attention directed to
2 a location immediately in front of her mailbox?

3

4 MR. GREG DAVIS: I'm going to object.

5 That is hearsay what he was advised or directed. That
6 has to come from someone else who is not here, so it has
7 to be hearsay.

8 MR. DOUGLAS D. MULDER: Well, Judge,
9 he can testify to that.

10 THE COURT: Just a minute. I'll

11 overrule that. Let's go ahead and move on with the case.

12 MR. DOUGLAS D. MULDER: Sure.

13

14 BY MR. DOUGLAS D. MULDER:

15 Q. Detective Patterson, moving right
16 along, will you tell the jury whether or not your
17 attention was directed to this mailbox in the parking
18 area immediately in front of it?

19 A. Well, not to the mailbox.

20 Q. Okay. To the parking area immediately
21 in front -- tell the jury where your attention was
22 directed. We'll make it easy.

23 A. Okay. A lady had called out and asked
24 me -- she said that she wanted to talk to an officer, and
25 so I walked over there.

1 Q. You talked to her, didn't you?

2 A. Yes, sir.

3 Q. And you made a note in your

4 supplemental report, didn't you?

5 A. Yes, I made a note, yes, sir.

6 Q. Okay. And in that note you said that

7 there had been --

8

9 MR. GREG DAVIS: I'm going to object

10 to that --

11 MR. DOUGLAS D. MULDER: -- a black

12 car, that night --

13 MR. GREG DAVIS: Judge, please. I'm

14 going to object to this.

15 MR. DOUGLAS D. MULDER: Judge, let me

16 finish my question.

17 THE COURT: Let him finish his

18 objection, please.

19 MR. GREG DAVIS: I am going to object

20 to that as being hearsay, and referring to documents not

21 in evidence.

22 THE COURT: All right. Well, let's --

23 All right. Well, I'll sustain that objection. And let's

24 phrase our questions properly, please.

25 If you want to put the document in

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1 evidence, then let's do so. I assume you are referring

2 to State's (sic) Exhibit No. 75?

3 MR. DOUGLAS D. MULDER: Judge, that

4 was State's (sic) Exhibit No. 72.

5 THE COURT: I mean, Defendant's

6 Exhibit No. 72.

7 MR. DOUGLAS D. MULDER: Judge, I'm not

8 suggesting that I put his entire report in. I don't mind

9 giving him his report to refresh his memory.

10 THE COURT: Well, I think if you will

11 just phrase the questions properly, then we will move on.

12 Let's go ahead, please.

13 MR. DOUGLAS D. MULDER: All right.

14 Well --

15

16 BY MR. DOUGLAS D. MULDER:

17 Q. All right. Again, as a result of your

18 conversation with the lady, where was your attention

19 directed in this enlarged -- what would you call that

20 area?

21 A. A residential area.

22 Q. Well, yes.

23

24 THE COURT: You might speak a little

25 bit louder, because the last two jurors have to hear you

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1 down there. Just speak into that mike so they can hear

2 you.

3

4 BY MR. DOUGLAS D. MULDER:

5 Q. What would you call this area? Is

6 this a little parking area?

7 A. Yes, sir, I would call it a street.

8 Q. Okay. And would you call this a

9 parking area in the street or not?

10 A. Well, no, sir, I wouldn't.

11 Q. What would you call it?

12 A. I would call it a street.

13 Q. Okay.

14 A. But people parked along the curb side,

15 yes.

16 Q. Okay. This appears to be a car headed

17 in, is that right?

18 A. Yes, sir.

19 Q. Okay. And do people park in that

20 fashion?

21 A. Yes, sir.

22 Q. Okay. And, will you tell us, and tell

23 the jury what your conversation with the lady was about,

24 please, sir?

25 A. She asked to speak with an officer,

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1 and so I walked over there, and she said something to the

2 effect that she had saw a car --

3

4 THE COURT: The jurors cannot hear you

5 on the end down there.

6 THE WITNESS: That she had saw a car

7 leaving that scene, as the police and the fire department

8 had arrived, or right after they had arrived.

9

10 BY MR. DOUGLAS D. MULDER:

11 Q. And, she also told you that she was

12 familiar with the cars in the neighborhood, didn't she?

13 A. No, sir, I don't recall her telling me
14 that.

15 Q. Okay. You made a note of that in your
16 report, did you, your conversation with the lady?

17 A. Yes, sir.

18 Q. Did you later on that afternoon, have
19 an occasion to -- you or one of the police officers
20 there, to talk with a Karen Neal in regards to a small,
21 black car that had passed through the neighborhood that
22 afternoon?

23 A. I did not.

24 Q. Do you know if anybody else did?

25 A. No, sir, I do not.

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1 Q. Would it be your responsibility, as
2 the primary officer in charge of this case, to find those
3 things out? I mean, would you be the center where the
4 information is funneled into?

5 A. Yes, sir.

6 Q. Okay. And I take it that this report
7 over here, Defendant's Exhibit No. 72 is an accumulation
8 of reports that other people have filled out and
9 submitted to you?

10 A. That's correct.

11 Q. So you would, for lack of a better
12 word, be the central information clearinghouse, I guess,
13 in this case, for lack of a better description?

14 A. I could, yes, sir.

15 Q. Okay. You would be the one who ought
16 to be familiar with, whatever is going on in this
17 particular case; right?

18 A. Well, you have to understand that, you
19 know, I'm not going to remember everything. And that,
20 you know, I did look over the reports.

21 Q. Okay. I mean, that is the reason we
22 make reports, isn't it? Because we can't be expected to
23 remember everything?

24 A. Well, that is to refresh our memory,
25 yes, sir.

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1 Q. And, like you have so skillfully
2 pointed out, had it not been for the paramedics reports,
3 you wouldn't know what any of the paramedics did out
4 there, would you?

5 A. That's correct.

6 Q. Because you have not, to this date,

7 talked to any of them, have you?

8 A. No, I have not.

9 Q. Okay. So you don't know which ones

10 were in the house, whether they were all in the house, or

11 what parts of the house they went into, or what they did

12 while they were there, do you?

13 A. Well, by their notes I do know.

14 Q. Oh, they all addressed that, as to

15 where they went in the particular house, and what they

16 did?

17 A. They addressed what they did, yes.

18 Q. Okay. But they don't address where

19 they went in the house, do they?

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

21 Q. All right. And you didn't think that

22 that was important to you, I guess, in evaluating the

23 case, or you would have interviewed them?

24 A. They have been interviewed.

25 Q. But not by you?

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1 A. But not by me.

2 Q. Okay. Did you interview the officers

3 that were first on the scene?

4 A. I read their notes.

5 Q. Okay. So your knowledge of what their

6 activities were, of course, would be limited by the notes

7 that they prepared?

8 A. Yes, sir.

9 Q. Okay. And if a witness, or a

10 participant in the investigation of this case, did not

11 prepare a report, of course, there would be nothing for

12 you to review, would there? Does that make sense?

13 A. Well, I don't understand what you are

14 saying.

15 Q. All right. Well, if a participant in

16 the investigation made no report either because he was

17 directed by the district attorney or someone else not to

18 prepare a report, there would be, of course, nothing for

19 you to review, would there?

20 A. Well, I don't think anyone is going to

21 tell someone not to prepare a report.

22 Q. Well, that would be mighty poor police

23 work, wouldn't it? In your judgment?

24 A. Maybe in some cases, yes.

25 Q. Okay. You don't really want to commit

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1 to that one?

2 A. Well, no, I do not, because I really
3 don't understand what you are asking me.

4 Q. Well, I'm saying this as simply as I
5 can. That it would be very poor police work not to
6 prepare a report, would it not?

7 A. Well, that depends on what you are
8 doing and what -- you know, and what you did in this
9 case.

10 Q. Well, okay. If you didn't want
11 anybody to find out about it, it would be a good idea, I
12 guess?

13 A. Well, we are not going to do that. We
14 write our notes and we make supplements to these reports.

15 Q. Okay. Did you make a supplement to
16 your report when you all met down at the courthouse, and
17 everyone took the witness stand and testified as regards
18 to what they did in this particular case?

19 A. Did I take notes?

20 Q. Yeah, did you make notes on that?

21 A. No, sir.

22 Q. Okay. Why was that?

23 A. I didn't see any need in taking notes.

24 Q. Okay. And I take it you testified in
25 that event?

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1 A. No, sir.

2 Q. But you were there and listened to
3 everyone else?

4 A. I was there, and we talked about our
5 case, yes.

6 Q. Okay. Was there someone on the bench
7 in lieu of the judge?

8 A. Well, there was someone sitting up
9 there in the judge's chair.

10 Q. Okay. Well, just by coincidence or do
11 you --

12 A. Well, I don't know why.

13 Q. You never did figure out why?

14 A. No, sir.

15 Q. All right. Well, let's just see if we
16 can't figure out why -- you know what circumstantial
17 evidence is, don't you?

18 A. Yes, sir.

19 Q. Okay. Was there someone in the
20 prosecutor's -- at the prosecutor's desk in the
21 courtroom?

22 A. Yes, sir.

23 Q. And was there someone at the defense
24 table, a lawyer?
25 A. Yes, sir.
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1 Q. And was there someone up on the bench
2 in the judge's position?
3 A. Yes, sir.
4 Q. And was there someone on the witness
5 stand where you are right now?
6 A. Yes, sir.
7 Q. And did the prosecutor ask them
8 questions?
9 A. Yes, sir.
10 Q. And did the defense lawyers ask them
11 questions?
12 A. Yes, sir.
13 Q. Now circumstantially, do you think
14 that we could put those circumstances together, and
15 figure out that they were conducting a mock trial?
16 A. I think what we were doing, is that we
17 were just trying to make sure -- well, we wanted to make
18 sure that the prosecutors knew what we knew.
19 Q. Okay. And, it helped, I guess, to
20 make sure that the other officers knew everything that
21 you --
22 A. Well, I don't know about that.
23 Q. You don't know about that. Okay.
24 Now, at any rate, after you had talked
25 to the lady at the curb side there, in what you termed to
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1 be the street, and I would call an enlarged maybe elbow
2 of the street, did you then leave to go to Baylor
3 Hospital?
4 A. No, sir.
5 Q. What did you do?
6 A. There was another lady that came up
7 and I talked to her for a few minutes.
8 Q. Okay. And who might that have been?
9 A. Her name was Barbara Jovell.
10 Q. Okay. And did you engage her in a
11 conversation as regards to a black car?
12 A. She had mentioned that her mother had
13 seen a black car.
14 Q. Okay. When in time had her mother
15 seen a black car?
16 A. The way she described it, it was

17 earlier on the 5th.

18 Q. Just the day before?

19 A. Yes, sir.

20 Q. And, in fact, less than eight hours

21 earlier, would that be about right?

22 A. No, sir, I don't know about what time,

23 but it was more than eight hours earlier.

24 Q. Okay. Nine hours, ten hours?

25 A. I don't know.

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1 Q. When did she tell you that?

2 A. When I talked to Barbara Jovell, which

3 was sometime between 3:35 and 4:00 o'clock, we tried to

4 contact her mother, but her mother -- I could not

5 understand what she was saying.

6 Q. Okay. Did you understand, that being

7 a detective out there, I guess you would want to know

8 where she saw the car, wouldn't you?

9 A. Yes, sir.

10 Q. And what the car was doing?

11 A. She didn't know what the car was

12 doing.

13 Q. All right. But, you would want to

14 know what she thought the car was doing that was

15 suspicious, right?

16 A. Yes, sir.

17 Q. I mean, it had to have been doing

18 something that -- I mean, there are a lot of cars out

19 there, can we agree on that?

20 A. Well, there's lot of cars that drive

21 out there, yes.

22 Q. Okay. And, most of them, we aren't

23 going to think anything about them, because they don't do

24 anything to attract our attention, right?

25 A. Right.

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1 Q. So this had to be one that attracted

2 her attention, correct?

3 A. Well, she told us about it, yes, sir.

4 Q. Okay. And where did she tell you that

5 car was?

6 A. My understanding was it was in the

7 alleyway behind the house.

8 Q. Okay. Is this the alleyway behind

9 this house?

10 A. Yes, sir, it is.

11 Q. This is the alleyway behind the house?

12 A. Right, that's correct.

13 Q. All right. And you understood it was

14 in the alleyway behind the house, and apparently doing

15 something that was -- or at least she thought it was

16 suspicious; is that right?

17 A. Well, the only thing she could say is

18 that it was a car behind the house, and going through the

19 alleyway.

20 Q. Well, of course, a car behind the

21 house going through the alleyway, ordinarily wouldn't be

22 suspicious, would it?

23 A. No, it would not be.

24 Q. All right. So there must have been

25 more to it than that, to have attracted her attention,

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1 and to have her --

2 A. She never did tell me.

3 Q. She wouldn't tell you?

4 A. She didn't tell me.

5 Q. All right. Well, after that, did you

6 then leave for the hospital, without talking to anyone

7 further?

8 A. Yes, sir.

9 Q. Okay. And where did you go, Detective

10 Patterson, when you arrived at the hospital?

11 A. To the emergency room.

12 Q. Okay. And, who did you see there?

13 A. I first met up with a uniformed

14 officer, who had directed me to where Detective Frosch

15 was.

16 Q. All right. And, did you find where

17 Detective Frosch was?

18 A. Yes, sir.

19 Q. All right. And, about what time did

20 you arrive at Baylor Hospital?

21 A. About 4:30 A.M.

22 Q. Okay. And, did you determine that

23 Darlie Routier had already arrived there?

24 A. Yes, sir.

25 Q. Okay. And, did you determine what

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1 time she had arrived there?

2 A. No, sir, I did not.

3 Q. Okay. Did you determine that her

4 youngest son, Damon Routier, had arrived at Baylor

5 Hospital?

6 A. Yes, sir.

7 Q. Did you determine what time he had
8 arrived?

9 A. No, sir, I did not.

10 Q. Did you determine at what time either
11 one of them left the Eagle Drive address?

12 A. No, sir.

13 Q. It didn't seem to be important?

14 A. I'm not saying it didn't seem to be
15 important, I didn't ask.

16 Q. Okay. Did you ask later on?

17 A. No, sir.

18 Q. So, it never has seemed important?

19 A. No, I'm not saying it didn't seem
20 important. It just wasn't a question that I asked.

21 Q. Well, I mean, you have not asked to
22 this moment, have you?

23 A. Well, no, sir.

24 Q. So apparently it's not important to
25 you even now?

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1 A. Well, it's on the fire department's
2 run sheet.

3 Q. Did you look at it there?

4 A. I reviewed the run sheet, but I don't
5 know what time they left.

6 Q. Okay. Well, would you tell the jury
7 what time they arrived at Baylor Hospital?

8 A. I just told you, I don't know.

9 Q. All right. Well, at any rate, did you
10 proceed to where Detective Frosch was?

11 A. Yes, sir.

12 Q. And where was he?

13 A. He was in a waiting room where Darin
14 Routier was.

15 Q. Okay. All right. And just the two of
16 them?

17 A. No, there was another person there, I
18 believe his name is Terry Neal.

19 Q. Okay. He is Detective Frosch's cousin
20 by marriage, is he not?

21 A. I don't know what he is to Detective
22 Frosch.

23 Q. Okay. You have never talked with
24 Detective Frosch about that?

25 A. He made mention that he was some

Sandra M. Halsey, CSR, Official Court Reporter
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1 relative, but I don't know what.

2 Q. Okay. At any rate, did you interview

3 Darin Routier at that time?

4 A. Yes, sir.

5 Q. And how long did you and Detective

6 Frosch, in the presence of Detective Frosch's relative,

7 talk with Darin Routier?

8 A. We didn't.

9 Q. You didn't talk with him?

10 A. I didn't talk to Darin Routier in

11 front of Mr. Neal, no.

12 Q. Well, why is that?

13 A. Well, we had asked Mr. Neal to step

14 out of the room.

15 Q. Okay. So both you and Detective

16 Frosch were there, is that right?

17 A. In the waiting room with Darin?

18 Q. Yes, sir.

19 A. Yes, sir.

20 Q. All right. And you interviewed him at

21 that time, is that right?

22 A. Yes, sir.

23 Q. Okay. And I assume that you took

24 notes of that interview?

25 A. Yes, sir.

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1 Q. Okay. And where are -- are your notes

2 in this --

3 A. No, sir.

4 Q. Where are your notes?

5 A. Back there in the office.

6 Q. Could you get those notes for us,

7 please, sir?

8 A. Yes, sir.

9 Q. Okay. Thank you. Would you -- the

10 notes are not a part of your file; is that right?

11 A. No, they are not.

12 Q. Okay. Would you just -- whatever you

13 have, would you bring them on out here, and I'll save you

14 a trip.

15 A. Yes, sir. I will bring them all.

16 Q. Okay. Thank you, Detective Patterson.

17

18 (Whereupon, the following

19 mentioned items were

20 marked for
21 identification only as
22 Defendant's Exhibit No. 73,
23 after which time the
24 proceedings were
25 resumed on the record
Sandra M. Halsey, CSR, Official Court Reporter
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1 in open court, as
2 follows:)

3

4 BY MR. DOUGLAS D. MULDER:

5 Q. All right. In your presence I'll mark
6 this for identification and record purposes as
7 Defendant's Exhibit No. 73. And, that is a number of
8 stapled note book sheets, is that correct?

9 A. Yes, sir.

10 Q. And this contains all of the notes
11 that you have made in this particular case?

12 A. Yes, sir.

13 Q. When were these notes made, Detective
14 Patterson?

15 A. They have been made at different
16 times.

17 Q. Okay. I figured that out, that they
18 were made at different times. But, did you date them?

19 A. Some of them is dated and some of them
20 are not.

21 Q. Well, why wouldn't you date all of the
22 reports?

23 A. Well, I just didn't date them.

24 Q. Well, why?

25 A. I don't have a reason, I just didn't
Sandra M. Halsey, CSR, Official Court Reporter
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1 date them.

2 Q. Well, you knew what the date was,
3 didn't you?

4 A. I know what the date is going to be.

5 Q. All right. But how many did you date,
6 and how many did you not date?

7 A. Well, there's a few pages that are
8 dated, and a few pages that are not dated.

9 Q. Okay.

10

11 MR. DOUGLAS D. MULDER: Mark this,
12 please.

13

14 (Whereupon, the following
15 mentioned item was
16 marked for
17 identification only as
18 Defendant's Exhibit No. 73,
19 after which time the
20 proceedings were
21 resumed on the record
22 in open court, as
23 follows:)
24
25 BY MR. DOUGLAS D. MULDER:
Sandra M. Halsey, CSR, Official Court Reporter
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1 Q. Now, let me hand you back what has
2 been marked for identification and record purposes as
3 Defendant's Exhibit No. 73. And will you tell the jury
4 which of the pages of your personal notes are dated?
5 A. Page number 1 has a date.
6 Q. What is the date on page number 1?
7 A. June the 6th, 1996.
8 Q. And that relates to your conversation
9 with a Nelda Watts?
10 A. Yes, sir, it does.
11 Q. All right. And it has the time?
12 A. Yes, sir.
13 Q. What time?
14 A. 3:45 A.M.
15 Q. All right. And I assume that you put
16 down everything that was relevant in that conversation
17 that you had with her?
18 A. Yes, sir.
19 Q. Okay. And then the next one is
20 Barbara Jovell?
21 A. Yes, sir.
22 Q. All right. And what time is that?
23 A. June the 6th, 1996, at 3:54 A.M.
24 Q. Okay. And what is the next page that
25 is dated?
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1 A. June the 6th, 1996.
2 Q. Okay. And, does that have someone's
3 name on it or relate to a conversation?
4 A. Yes, sir, it does.
5 Q. And, who might that be, please, sir?
6 A. Theresa Marie Powers.
7 Q. Okay. Theresa?

8 A. Theresa.
9 Q. Theresa Powers?
10 A. Yes, sir.
11 Q. And what is the date and time of that?
12 A. June 6th, 1996, at 4:36 A.M.
13 Q. And who is the Theresa Powers?
14 A. A nurse at Baylor Hospital.
15 Q. All right. So, by that time we can
16 assume that you are at Baylor Hospital?
17 A. Yes, sir.
18 Q. Okay. Do you find any other notes in
19 there that are dated? Excuse me, I think there is a
20 medical -- it says M.E. office, and it has the date, but
21 nothing written.
22 A. It has the date on there.
23 Q. Is that what I am holding up here?
24 A. Yes, sir.
25 Q. Where it just says 5:44 A.M., and
Sandra M. Halsey, CSR, Official Court Reporter
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1 6-6-96, M.E. office?
2 A. Right.
3 Q. Does that mean you were at the M.E.
4 office?
5 A. No, sir.
6 Q. What does it mean?
7 A. That means that that is what time that
8 I talked to someone at the M.E.'s office from the
9 hospital.
10 Q. Can you tell who you talked to?
11 A. I don't remember her name.
12 Q. But you can remember that it was a
13 female?
14 A. Yes, sir.
15 Q. But didn't write any notes other than
16 that?
17 A. No, sir, I didn't.
18 Q. Okay. So other than that sheet, the
19 only other notes that are dated and timed are this second
20 sheet you said, and this first sheet, is that right?
21 A. Can I finish looking at that?
22 Q. You bet.
23 A. And there's some date on these last --
24 the date and time are on these last three pages.
25 Q. Are you talking about a report that
Sandra M. Halsey, CSR, Official Court Reporter
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1 you did?
2 A. Yes, sir.
3 Q. That was a supplemental report?
4 A. Right.
5 Q. Okay. Did you take -- I guess the way
6 we got into this, and I have not asked for them, but you
7 said you took notes about your conversation with Darin
8 Routier?
9 A. Actually -- well, yes, there is notes
10 in there, yes, sir.
11 Q. Okay. Could you point me to that
12 part, please, sir?
13 A. Okay.
14 Q. Are you referring to a supplemental
15 report?
16 A. Yes, sir.
17 Q. You didn't have a laptop computer or a
18 typewriter with you?
19 A. Not with me, no.
20 Q. Okay. But I thought you said you took
21 notes?
22 A. I did.
23 Q. Where are the notes?
24 A. That is this right here.
25 Q. Well, that is typed?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. Okay. I didn't take handwritten
2 notes.
3 Q. Oh, you took mental notes. You mean,
4 we have been going through this exercise, and you have
5 been telling me all along that the notes you took were
6 simply mental notes?
7 A. Yes, sir.
8 Q. Okay. And those, I guess, were those
9 timed and dated?
10 A. My mental notes?
11 Q. Um-hum. (Attorney nodding head
12 affirmatively.)
13 A. Well, I have dates and times on there.
14 Q. Okay. But the notes that you took,
15 that you were telling us about, when you interviewed
16 Darin Routier, were mental notes?
17 A. Correct.
18 Q. Okay. All right. Now, how long did
19 you talk to Darin Routier?
20 A. Twenty or 30 minutes.
21 Q. Okay. And had he been interviewed by
22 Chris Frosch prior to the time that you got there?

23 A. Yes, sir.

24 Q. And do you know how extensive he had
25 been interviewed?

Sandra M. Halsey, CSR, Official Court Reporter
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1 A. No, sir.

2 Q. Okay. You didn't talk to Detective
3 Frosch and find out?

4 A. I talked to him briefly, yes.

5 Q. Before or after you interviewed Darin?

6 A. Before.

7 Q. Okay. Where did you talk to him? In
8 the presence of Darin?

9 A. No, just right outside the waiting
10 room.

11 Q. Of course, you didn't make any written
12 notes on that, did you?

13 A. I did not, no.

14 Q. All right. Now, you proceeded from
15 there to where? After you had interviewed Darin Routier?

16 A. Then I went back and went into the
17 room where Damon Routier was.

18 Q. About what time was this, Detective
19 Patterson?

20 A. Sometime just before 6:00 A.M.

21 Q. Okay. So about what -- if you arrived
22 out at the hospital at what time?

23 A. About 4:30.

24 Q. Okay. And you talked to Darin for
25 half an hour or so?

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1 A. Yes, sir.

2 Q. Would it now be five o'clock or
3 thereabouts?

4 A. Or a little after.

5 Q. Where did you go from your interview
6 with Darin Routier?

7 A. I went to the room where Damon Routier
8 was.

9 Q. Okay. And, did you view his body?

10 A. Yes, sir.

11 Q. And, how long did that take?

12 A. I can't give you a time. I was in
13 there a few minutes before I notified the crime scene
14 officer.

15 Q. Okay. And where did you go from
16 there?

17 A. From where?

18 Q. From the room where Darin -- Damon

19 Routier was?

20 A. Well, he was in a room that is there

21 attached to the emergency room, and I just went outside

22 and made a phone call.

23 Q. Okay. And who did you call?

24 A. I called the dispatch, Rowlett Police

25 dispatch and asked for a crime scene unit.

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1 Q. Okay. And who did you talk with?

2 A. I do not remember.

3 Q. Okay. Where did you go from there?

4 You were outside, and you were on the phone, you finish

5 your phone conversation. Where did you go next?

6 A. Back in there and talked to Frosch for

7 a little bit.

8 Q. By this time what time is it?

9 A. I don't know.

10 Q. After five o'clock?

11 A. Well, it's after five, yes, it's just

12 shortly before six.

13 Q. Okay. So you talked with Frosch.

14 Now, during your interview with Darin Routier, did

15 Detective Frosch take any notes?

16 A. Yes, sir.

17 Q. And, in your presence?

18 A. Yes, sir.

19 Q. Written notes?

20 A. Written notes? I can't say for sure,

21 I don't know.

22 Q. Okay. All right. And I mean, is

23 there some reason that you all didn't take written notes?

24 A. No, sir.

25 Q. I mean, I guess I wouldn't know enough

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1 not to take notes. Is that a bad practice, to take

2 notes?

3 A. I don't think so, no.

4 Q. But you just take them sometimes and

5 sometimes you don't?

6 A. Well, in this case I didn't take any

7 notes, no.

8 Q. Okay. So, at any rate, after you have

9 conferred with Detective Frosch, where did you next go?

10 A. I waited on a crime scene unit, and he

11 arrived. At which point we went back into where Damon
12 was and we took photographs.

13 Q. Okay.

14 A. Of Damon's injuries.

15 Q. Okay. You said "we did," are you

16 saying that someone else did it in your presence?

17 A. Right.

18 Q. Do you remember who did it?

19 A. Yes, that was Officer Dwayne

20 Beddingfield.

21 Q. All right. And, what happened after

22 that?

23 A. At which time, the family arrived,

24 they wanted to see Damon, and we let Ms. Darlie Kee go in

25 there for just a moment, and then she left.

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1 Q. Okay. And then what did you do?

2 A. We found out that we could go talk to

3 Darlie Routier.

4 Q. Okay. And had you left instructions

5 with Darin not to leave the room that he was in? Or was

6 he free to leave, or what were your instructions to him?

7 A. Well, I don't recall telling him that

8 he couldn't leave.

9 Q. Okay. So, as far as you were

10 concerned he was free to leave?

11 A. Yes, sir.

12 Q. You didn't tell him anything to the

13 contrary?

14 A. No, sir, not that I recall.

15 Q. Well, that is something you would

16 recall, isn't it?

17 A. Well, I don't remember telling him he

18 couldn't leave, no.

19 Q. How about Detective Frosch?

20 A. I don't know.

21 Q. Not to your knowledge? I mean, he

22 didn't tell him he couldn't leave to your knowledge, did

23 he?

24 A. I don't know if he did or not.

25 Q. Okay. At any rate, who told you that

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1 you could see Darlie Routier?

2 A. I believe it was an officer by the

3 name of Phyllis Jackson.

4 Q. Okay. Was she a young lady who worked
5 there at the Baylor Hospital?
6 A. As a policeman, yes, sir.
7 Q. Part of the Baylor private police
8 personnel?
9 A. Yes, sir.
10 Q. Okay. And about what time was it when
11 you went up to see Darlie Routier?
12 A. About 6:11.
13 Q. Okay. And, who was present when you
14 interviewed her?
15 A. Detective Frosch, and a nurse by the
16 name of Chris, and I can't recall his last name.
17 Q. But a male?
18 A. Yes, sir.
19 Q. Okay. Just the three of you: You,
20 Frosch, the nurse and Darlie Routier?
21 A. That is all that was in there that I
22 saw, yes.
23 Q. Okay. Anybody else, you would have
24 seen them?
25 A. Well, we were behind -- somewhat
Sandra M. Halsey, CSR, Official Court Reporter
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1 behind a curtain. I couldn't see the front door or the
2 door leading into the hallway.
3 Q. All right. Do you know whether or not
4 Darlie Routier had been medicated?
5 A. I do not know.
6 Q. She was there in the hospital,
7 correct?
8 A. Correct.
9 Q. She had injuries that you reviewed?
10 A. Yes, sir.
11 Q. Did you -- were you advised that she
12 had just come out of surgery?
13 A. Yes, sir.
14 Q. Okay. And again, as a detective
15 wouldn't you put two and two together, and figure that
16 she had, in fact, been medicated?
17 A. Well, I don't know.
18 Q. You didn't know?
19 A. No.
20 Q. And I take it that you didn't make any
21 inquiry as to whether or not she had been medicated?
22 A. No.
23 Q. And you didn't think that that might
24 be important when you interviewed her?
25 A. What I did was, I asked her if she was

1 okay, and felt well enough to talk to us, and she said
2 she did.

3 Q. Okay. She was cooperative, wasn't
4 she?

5 A. Yes, sir.

6 Q. And, as matter of fact, answered all
7 of your questions, didn't she?

8 A. Yes, sir.

9 Q. Okay. Did you take notes of that
10 conversation?

11 A. No, sir.

12 Q. Okay.

13 A. Detective Frosch took the notes.

14 Q. And, you know, of course, that he took
15 them, and recorded them accurately?

16 A. Yes, sir.

17 Q. Okay. Even though you didn't take any
18 notes yourself?

19 A. No, because I told Frosch that I was
20 going to ask the questions while he took the notes.

21 Q. Okay. And, you were not under any
22 time restraints, were you?

23 A. No, sir.

24 Q. Okay. So you could have talked to
25 her, I guess as long as she was willing to talk to you?

1 A. Yes, sir.

2 Q. And, she was willing to talk to you,
3 as long as you asked her questions, she would answer,
4 wouldn't she?

5 A. She answered our questions, yes, sir.

6 Q. How long did you talk to her,
7 Detective Patterson?

8 A. Twenty or 30 minutes.

9 Q. Okay. Did you tell Detective Frosch
10 to note, in his notes there, the date and time that the
11 interview began, and the date and time when the interview
12 ceased?

13 A. I did not.

14 Q. Okay. Do you know whether he did or
15 not?

16 A. I know that he -- he has the date that
17 we was there, and the date that we started, or that we
18 went up there, and the time that we went up there.

19 As far as him jotting down the time we

20 actually started the interview, no.
21 Q. He didn't do that?
22 A. No.
23 Q. And he didn't jot down the time that
24 you --
25 A. Stopped.
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1 Q. Stopped the interview?
2 A. No.
3 Q. And, I guess you didn't think that was
4 important, or you would have had him do it?
5 A. Right, I don't see that that had
6 anything to do with it, no.
7 Q. But at any rate, that conversation
8 lasted some 20 or 30 minutes?
9 A. Something like that, yes, sir.
10 Q. And she was cooperative the entire
11 time?
12 A. Yes, sir.
13 Q. Did you ask her what had happened, or
14 what she recalled?
15 A. Yes, sir.
16 Q. And what did she tell you?
17 A. She told us, at that time, that an
18 intruder had -- well -- she had awoken to find an
19 intruder over her. She struggled with the intruder. She
20 saw him with the knife. I asked her to describe this
21 person, at which time she started to describe the person,
22 and I asked her to stop for a minute and let's start from
23 the very top to what he was wearing.
24 Q. Okay. What did she tell you?
25 A. She said that he was wearing a black
Sandra M. Halsey, CSR, Official Court Reporter
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1 cap. And I said, "Was the bill to the front of the face
2 or was it turned around backwards?" And, she said the
3 bill was to the front.
4 Q. Okay.
5 A. I asked her if she remembered seeing
6 any writing on it. She didn't see any writing or no
7 pictures.
8 I asked her if she knew whether it was
9 a fitted cap, or if it was one that you had to adjust.
10 She did not know.
11 I asked her from the cap, if she could
12 describe his hair, and she said it was a dark colored
13 brown, that was shoulder length. It appeared to be

14 straight.
15 I asked her to describe his face, and
16 she could not describe any part of the face.
17 I asked her to describe what he was
18 wearing, and she said he was wearing a black T-shirt.
19 And I asked her if it was a black pull-over T-shirt, a
20 buttoned-up T-shirt, and she said it was a pull-over,
21 that it didn't have any buttons on it. Didn't have a
22 collar on it, and it was short sleeved.
23 Q. All right.
24 A. I asked her if it had any writing or
25 designs on it, and she didn't see any.
Sandra M. Halsey, CSR, Official Court Reporter
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1 I asked her about a belt. She
2 couldn't remember if there was a belt or not.
3 I asked her about his jeans. The blue
4 jeans, I asked her if she could remember if they were
5 blue blue jeans or a different color. She said blue.
6 She couldn't remember any labels on the jeans.
7 Q. Okay.
8 A. I asked her about his shoes and socks,
9 and she didn't remember any shoes or socks.
10 I asked her -- because of it being a
11 short sleeved T-shirt, if she saw any tattoos or scars on
12 his arms, and she said, no, that she didn't remember any
13 scars or tattoos.
14 Of course, naturally, we think about
15 robbery, and I asked her about her jewelry. And she said
16 the jewelry -- she described her jewelry real well and
17 where it was located.
18 And, I would have to look at my notes
19 to see what else was said.
20 Q. Okay. Are you talking about your
21 written notes?
22 A. No, I'm talking about Frosch's notes
23 or the supplement.
24 Q. You just made mental notes?
25 A. Yes, sir.
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4101

1 Q. All right. Have you had occasion to
2 review Frosch's notes?
3 A. Yes, sir.
4 Q. Before your testimony?
5 A. Yes, sir.
6 Q. Yesterday I suspect?
7 A. Yes, sir.

8 Q. Okay. When is the last time before
9 yesterday that you reviewed them?

10 A. The last time I reviewed Frosch's
11 notes has been -- right after he gave them to me, months
12 ago.

13 Q. All right. Let me hand you what has
14 been marked for identification and record purposes
15 Defendant's Exhibit No. 2 (sic), and you will have his
16 notes in here?

17 A. Yes, sir.

18 Q. Would you find those for me, please,
19 sir? I mean, 72.

20 A. Okay.

21

22 THE COURT: Rather than take up the
23 jury's time, we will take a 10 minute break now, please.

24

25 (Whereupon, a short
Sandra M. Halsey, CSR, Official Court Reporter

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1 Recess was taken,
2 After which time,
3 The proceedings were
4 Resumed on the record,
5 In the presence and
6 Hearing of the defendant
7 And the jury, as follows:

8

9 THE COURT: All right. Are both sides
10 ready to bring the jury back and continue with this
11 witness?

12 MR. TOBY SHOOK: Yes, your Honor, the
13 State is ready.

14 MR. DOUGLAS D. MULDER: Yes, your
15 Honor, we're ready.

16 THE COURT: All right. Bring the jury
17 back, 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: Let the record reflect
5 that all of the parties in the trial are present and the
6 jury is seated.
7 Mr. Mulder.
8 MR. DOUGLAS D. MULDER: Yes, sir,
9 thank you, Judge.
10 THE COURT: You may proceed.

11
12
13 DIRECT EXAMINATION (Resumed)
14
15

16 BY MR. DOUGLAS D. MULDER:
17 Q. Detective Patterson, while the jury
18 was out of the room you went through your entire file
19 here, did you not?
20 A. Yeah, pretty much so.
21 Q. All right. And you were unable to
22 find Chris Frosch's notes there?
23 A. I didn't find them, no.
24 Q. It's your file, isn't it?
25 A. Yes, sir.
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4104

1 Q. All right. You are telling us that
2 Chris Frosch's notes are not in your file?
3 A. I didn't see them in there.
4 Q. Okay. But you reviewed them last
5 night?
6 A. I did, but I didn't look in that file.
7 I've got a copy of his notes.
8 Q. Where is that?
9 A. I just gave you two pages.
10 Q. Oh, you are talking about what is
11 written up here?
12 A. The supplement.
13 Q. Yes.
14 A. I just gave you two pages of the
15 supplement.
16 Q. Yes, sir.
17 A. Yes.
18 Q. Okay. Well, I was talking about his
19 actual notes?
20 A. I don't have that. Are you talking
21 about handwritten notes?
22 Q. Yes, sir.

23 A. I don't have those.
24 Q. Okay. So what you are telling us you
25 reviewed, you apparently reviewed the report that he
Sandra M. Halsey, CSR, Official Court Reporter
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1 made, and not his handwritten notes?
2 A. What I reviewed was -- he has a
3 supplement, and I reviewed this supplement.

4 Q. Okay.

5

6 MR. DOUGLAS D. MULDER: Mark these,
7 please.

8

9 (Whereupon, the following

10 mentioned item was

11 marked for

12 identification only

13 after which time the

14 proceedings were

15 resumed on the record

16 in open court, as

17 follows:)

18

19 BY MR. DOUGLAS D. MULDER:

20 Q. Let me hand you what have been marked

21 for identification and record purposes as Defendant's

22 Exhibits 74 and 75, and I'll ask you if you recognize

23 Chris Frosch's handwriting?

24 A. I'm not sure.

25 Q. Well, I don't know whether you would

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1 take my word for it or not, but he handed those to me,
2 and told me they were his notes?

3 A. Okay.

4 Q. Do you have any quarrel with that?

5 A. No, sir.

6 Q. These are the notes that you saw him

7 taking at the hospital?

8 A. No, sir.

9 Q. Oh, these are not the notes that he

10 was taking at the hospital?

11 A. I didn't see what he was taking,

12 because where I was standing, I was asking questions and

13 he was kind of standing to my left, and I wasn't really

14 paying any attention to him.

15 Q. Well, when you left the hospital, did

16 you review his notes to make sure that he put down what

17 was accurate?
18 A. No, I did not.
19 Q. Why not?
20 A. Well, I just didn't review his notes.
21 Q. Well, I mean, you wanted to be
22 accurate with what she said, don't you?
23 A. Yes, sir.
24 Q. Okay. Well, I mean, what better way
25 to be accurate than either, one, record it with a tape
Sandra M. Halsey, CSR, Official Court Reporter
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1 recorder, and you could have done that, couldn't you?
2 A. We could have, but that is not a
3 policy that we use, no.
4 Q. Okay. Well, I don't care whether it's
5 your policy or not, I just want to know --
6 A. Well, we care that it's our policy,
7 and it's not our policy, and so we don't use a tape
8 recorder.
9 Q. Did you have that option? You could
10 have recorded it with a tape recorder?
11 A. Well, we don't do that.
12 Q. But you could have?
13 A. We don't do that.
14 Q. Well --
15
16 THE COURT: All right. Let's move on.
17 I think everybody understands the question and the
18 answer.
19
20 BY MR. DOUGLAS D. MULDER:
21 Q. Well, you could have video recorded it
22 if you had chosen to?
23 A. But we don't do that.
24 Q. Well, you video record drunk drivers,
25 don't you?
Sandra M. Halsey, CSR, Official Court Reporter
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1 A. That is uniform, that is separate than
2 our division.
3 Q. All right. So you have the equipment
4 available to you?
5 A. We have video equipment, yes, sir.
6 Q. You chose not to do that?
7 A. No.
8 Q. You chose not to take any notes
9 yourself, and you chose not to review your partner's
10 notes.

11 Would you look at those notes now,
12 Defendant's Exhibit No. 74. Would this be the first time
13 that you have looked at them?

14 A. The first time I have looked at this,
15 yes.

16 Q. All right. The first time that you
17 have ever seen his notes, as regards the conversation
18 that took place at approximately 6:00 o'clock, on June
19 the 6th of 1996, is that right?

20 A. Do what now?

21 Q. This is the first time that you have
22 reviewed Chris Frosch's notes with respect to the
23 conversation between you and Darlie at 6:11 or 6:15 or
24 whatever time it was?

25 A. I reviewed his notes. I reviewed his
Sandra M. Halsey, CSR, Official Court Reporter
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1 supplement.

2 Q. Well, are those the notes that you
3 reviewed?

4 A. No, I reviewed the typed supplement
5 that he --

6 Q. All right. I understand that. Would
7 you review his notes, please, sir?

8 A. Sure.

9 Q. Okay.

10

11 THE COURT: All right. You may
12 continue, please.

13 MR. DOUGLAS D. MULDER: Yes, sir.

14

15 BY MR. DOUGLAS D. MULDER:

16 Q. Do you feel like you are well enough
17 acquainted with those notes now to answer some questions?

18 A. Yes, sir.

19 Q. Okay. You had told the jury, or given
20 them an account, and is it fair to say that these notes
21 probably start on this page that I have marked
22 Defendant's Exhibit No. 74, where it says Baylor
23 Hospital, Baylor Medical Center, Dallas, in recovery
24 room, approximately 6:11?

25 Do you see that? Would that be fair
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1 to say that that is probably where those notes start?

2 A. Well, no, it looks like to me it
3 started on the first page.

4 Q. Well, but if you will read that, that

5 appears to be an interview with Darin, isn't it?

6 A. On the first several pages?

7 Q. Yes, sir.

8 A. Yes, sir.

9 Q. Okay.

10 A. These are Detective Frosch's notes and

11 that is probably who you are going to have to ask about
12 that.

13 Q. Okay. Well, inasmuch as you have

14 refreshed your memory from his notes, you have told us
15 about, for example, you gave us a description, and that
16 description was based on what Detective Frosch wrote
17 down, I assume, was it not?

18 A. The description of what?

19 Q. The description of the assailant that

20 Darlie Routier described to you, during the morning of
21 June the 6th?

22 A. And what I can remember, yes, sir.

23 Q. Okay. Did she tell y'all that the man
24 was possibly black?

25 A. She did not tell us that morning, no,
Sandra M. Halsey, CSR, Official Court Reporter
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1 she had told the uniformed officer --

2 Q. Wonder why he wrote it in his notes up
3 there?

4

5 MR. GREG DAVIS: I'm going to object
6 to that, that is improper impeachment.

7 THE COURT: Sustained, sustained.

8 Let's move on. If you want to call Detective Frosch then
9 call him.

10 MR. DOUGLAS D. MULDER: Judge, I
11 intend to call him.

12 THE COURT: Well, then fine. Let's

13 move on to what this witness actually knows of his own
14 knowledge.

15 THE WITNESS: That is not what that
16 says.

17 MR. DOUGLAS D. MULDER: Yes, sir.
18

19 BY MR. DOUGLAS D. MULDER:

20 Q. "Black cap --"

21

22 MR. GREG DAVIS: I'm going to object
23 again to him going into that document.

24 THE COURT: Sustained.

25

1 BY MR. DOUGLAS D. MULDER:

2 Q. Did he have a black cap on?

3 A. She says he had a black cap on.

4 Q. Okay. Shoulder length hair or collar
5 length hair?

6 A. What I remember is, it was about
7 shoulder length -- excuse me, collar length.

8 Q. Did she ever describe the assailant as
9 possibly black?

10 A. I had one of the other supplements,
11 from Officer Waddell showed black or white.

12 Q. Okay. Black or white, is that right?

13 A. Black or white.

14 Q. Now, you were telling us about talking
15 to a lady about an unusual car out there?

16 A. Yes, sir.

17 Q. And talking to this Barbara Jovell
18 about a car, and talking to another lady about a car that
19 was parked in that -- what you call a street, is that
20 right?

21 A. Yes, sir.

22 Q. All right. Were there any other
23 people that reported a small, black car in or around the
24 Routier home that evening, or early morning? Either the
25 evening of June the 5th or the early morning of June the
Sandra M. Halsey, CSR, Official Court Reporter
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1 6th?

2 A. You will have to ask me that again.

3 Q. Okay. Why was it -- why did you care
4 whether there had been mysterious cars, or suspicious
5 cars out there? What importance could that have possibly
6 been?

7 A. Well, at that time, we were looking
8 for an intruder.

9 Q. Okay. So that is what made it
10 important if there were suspicious cars out there? Is
11 that right?

12 A. Yes.

13 Q. Okay. And did you find people who had
14 seen suspicious cars out there?

15 A. Did we find people?

16 Q. Yes.

17 A. The lady, Ms. Watts, told me about a
18 car.

19 Q. That is one.

20 A. But she didn't say black car to me,
21 she just said a car.
22 Q. She said a dark car to one of your
23 other fellow detectives, didn't she?
24 A. Well, I don't know if it was a dark
25 car or -- well, I would have to read that again, but it
Sandra M. Halsey, CSR, Official Court Reporter
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1 was a dark car, mid-sized, and then Ms. Jovell was the
2 one that was telling me that her mother had seen a black
3 car in the alleyway.

4 Q. Okay. Well, did anybody tell you that
5 they had seen a car around midnight, drive up her alley,
6 and look in the garage, and turn -- or toward the garage,
7 and turn around, and leave, and just hanging around in
8 that area, a small, black, car?

9 A. Well --

10 Q. Yes, sir, that is about a 3 inch
11 account. Have you read that?

12 A. Well, there is a supplement about
13 someone telling a uniformed officer about a car.

14 Q. Okay.

15 A. It was dated on 6-8.

16 Q. All right. I mean, it is your report?

17 A. Right.

18 Q. Did you find someone who had seen a
19 small car in the alley shortly before midnight, some two,
20 or two and a half hours before the attack?

21 A. I didn't talk to anybody about that.

22 Q. I know. But that report came in to
23 you, didn't it?

24 A. Which report? That report there shows
25 a different date.

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1 Q. "Drove by the victim's home slowly.

2 Drove in the alley -- "

3

4 MR. GREG DAVIS: I'm going to object
5 to that.

6 THE COURT: Sustained. Please ask the
7 next question.

8 Please answer all of the questions you
9 know of your own knowledge, directly and succinctly, and
10 as quickly as possible.

11 THE WITNESS: Yes, sir.

12

13 BY MR. DOUGLAS D. MULDER:

14 Q. Did you say that this is the first
15 time that you have actually seen the spiral notebook with
16 the handwritten notes?

17 A. Yes, sir.

18 Q. Okay. Now, you were there
19 approximately 20 to 30 minutes, is that what you have
20 previously testified to?

21 A. I was where?

22 Q. At the hospital, at Baylor, talking to
23 Darlie?

24 A. Yes, sir.

25 Q. Okay. Twenty or 30 minutes, is that
Sandra M. Halsey, CSR, Official Court Reporter
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1 right?

2 A. About that.

3 Q. That is not a trick question. I want
4 to move on.

5 A. Approximately, yes.

6 Q. Okay. And, did you then leave the
7 hospital, or did you go back to talk to Darin?

8 A. I don't remember talking to Darin any
9 more after that.

10 Q. Okay. Did you return to the hospital
11 any more that day?

12 A. I don't recall being back at the
13 hospital that day.

14 Q. Of course, you didn't put anything in
15 your notes about it, did you?

16 A. No, sir.

17 Q. You didn't put anything in your notes
18 about talking to Darin, did you?

19 A. Yes, sir.

20 Q. You did?

21 A. I have a supplement showing I talked
22 to Darin.

23 Q. Well, but I'm talking about your
24 handwritten notes?

25 A. I didn't take any handwritten notes.
Sandra M. Halsey, CSR, Official Court Reporter
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1 Not about when I talked to Darin.

2 Q. Okay. No handwritten notes when you
3 talked to Darin, and no handwritten notes when you talked
4 to Darlie?

5 A. No. On that day.

6 Q. Right. You don't recall returning to
7 the hospital that day?

8 A. I don't remember coming back to the
9 hospital.

10 Q. Well, does that mean you could have?

11 A. I could have.

12 Q. Okay. But you wouldn't -- of course,

13 there is no way we will know, because you don't have any
14 notes; is that right?

15 A. I know that I talked to somebody about
16 coming back to the hospital, but I don't remember that I
17 went back to the hospital.

18 Q. All right. When you left the
19 hospital, will you tell the jury where you went?

20 A. That morning?

21 Q. Yes, sir.

22 A. I went back to 5801 Eagle Drive.

23 Q. Okay. About what time did you get
24 back there?

25 A. I can't remember if it was shortly
Sandra M. Halsey, CSR, Official Court Reporter
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1 before 8:00 o'clock or shortly before 9:00 o'clock.

2 Q. Okay. When you got back there, who
3 all was there?

4 A. I can't tell you everyone that was
5 there. I met up with Sergeant David Nabors, and James
6 Cron.

7 Q. Was Nabors in charge of coordinating
8 things?

9 A. The crime scene, yes, sir.

10 Q. That was his responsibility?

11 A. Yes, sir.

12 Q. That would be a Sergeant Nabors?

13 A. Yes, sir.

14 Q. Okay. And he is one of the people
15 that -- he has not testified in this case to your
16 knowledge, has he?

17 A. No, sir, he has not.

18 Q. Okay. But it was his job to
19 coordinate the crime scene?

20 A. Yes, sir.

21 Q. And he would determine what was picked
22 up, and what wasn't, and things of that nature?

23 A. That would be part of his job. Yes,
24 sir.

25 Q. Okay. As the chief investigator
Sandra M. Halsey, CSR, Official Court Reporter
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1 assigned to this offense, you would coordinate your
2 investigation with Sergeant Nabors, I suspect?

3 A. Yes, sir.

4 Q. Did you walk through the scene?

5 A. Yes, sir.

6 Q. Okay. And what was your purpose in
7 doing that?

8 A. James Cron and Nabors took me through
9 the scene, just to show me what they were -- you know,
10 what it looked like had happened in there.

11 Q. Okay. And, what time was that?

12 A. Well, if I got back at shortly before
13 8:00, it was around 8:00; or shortly before 9:00, then it
14 was around 9:00.

15 Q. Okay. So you did it shortly after you
16 arrived back at that area; is that right?

17 A. Yes, sir.

18 Q. Okay. And, at that time, were they
19 processing the scene?

20 A. There had been -- my understanding was
21 that there had been photographs taken.

22 Q. Okay. Had it been processed for
23 fingerprints?

24 A. I don't know.

25 Q. Well, if you went through the scene,
Sandra M. Halsey, CSR, Official Court Reporter
4120

1 Detective, you are probably an old hand at investigating
2 murder cases, aren't you?

3 A. What do you mean an old hand at it?

4 Q. Well, I mean, this wasn't your first
5 one, was it?

6 A. No, sir, it was not.

7 Q. How many had you investigated before?

8 A. I have been on over 50 death
9 investigation scenes.

10 Q. Okay. Well, that wasn't my question.
11 I was talking about murder scenes?

12 A. I have been on 5 or 6 or 7 murder
13 scenes.

14 Q. You have been on some here lately,
15 have you?

16 A. I have worked on -- I investigated one
17 just prior to this one.

18 Q. Okay. How many have you done for
19 Rowlett?

20 A. That I have actually investigated, or
21 personally been involved in, is 5 or 6.

22 Q. Okay. Counting this?

23 A. Yes, sir.

24 Q. Are you counting this as one, or are

25 you counting this as three or two?

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1 A. I am just counting this as one.

2 Q. Okay. So, how long have you been a
3 police officer?

4 A. For 17 and a half years.

5 Q. Okay. So you -- that would be one

6 every, what, 3 years, approximately?

7 A. No, sir.

8 Q. Okay.

9 A. That I have actually been involved in?

10 Q. Well, you said 5 or 6?

11 A. Well, that is only since I have been a
12 detective.

13 Q. Okay. How long have you been a
14 detective?

15 A. Eight years.

16 Q. Okay. So that is one every year and a
17 half?

18 A. Approximately, yeah.

19 Q. Okay. You have been through enough of
20 them where you can tell if something has been dusted for
21 fingerprints, can't you?

22 A. Yes, sir.

23 Q. And how do you tell?

24 A. By the powder.

25 Q. Okay. Had this crime scene been
Sandra M. Halsey, CSR, Official Court Reporter
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1 dusted for fingerprints?

2 A. I didn't look.

3 Q. Well, I mean, you can't help -- you

4 can't miss it if they have dusted it for fingerprints,
5 can you?

6 A. Well, I wasn't -- all we did at that
7 particular time, was just walking through the crime
8 scene. I wasn't watching what other people were doing.

9 Q. All right. Now, when you got out to
10 the garage to the window, you looked at that, didn't you?

11 A. Yes, sir.

12 Q. Okay. Did you see any fingerprint
13 polish -- powder on that?

14 A. Not that I recall.

15 Q. Okay. So you are telling the jury
16 that that had not been printed prior to --

17 A. No, sir, I'm not telling them that.
18 Q. You are just telling them --
19 A. I'm just saying that I don't recall
20 that.
21 Q. Well, and you didn't take any notes?
22 A. No, sir.
23 Q. Okay. Did you notice how close the
24 screen was to the actual window itself?
25 A. The screen was attached to the window.
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4123

1 Q. Okay. Did you notice how close the
2 screen was to the actual windowpane?
3 A. No, sir.
4 Q. Okay. Would it be fair to say that it
5 was very close? Less than an inch?
6 A. I couldn't tell you.
7 Q. Okay. That just didn't seem important
8 at the time?
9 A. Well, I'm not saying it's not
10 important, but I didn't sit there and take measurements
11 on how far the distance between the screen and the
12 window.
13 Q. Well, you could just eyeball it
14 though, couldn't you?
15 A. Well, I could have, but, you know, I
16 didn't do it that way.
17 Q. All right. So you don't have any idea
18 how far the window was from the screen?
19 A. Well, I would say that it was pretty
20 close. It's attached to the window.
21 Q. Okay. So that would limit it some,
22 wouldn't it?
23 A. Yes, sir.
24 Q. And if they were right together, don't
25 you reckon that probably the screen or the window is
Sandra M. Halsey, CSR, Official Court Reporter
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1 close enough to the screen as possible, just far enough
2 away, so that the screen doesn't interfere with the
3 window as the window was raised up and down?
4 A. Yes, sir.
5 Q. Okay. The screen is on the outside
6 and the window is on the inside, isn't it?
7 A. The window is on the inside and the
8 screen on the outside, yes, sir.
9 Q. That makes sense, doesn't it?
10 A. Yes, sir.

11 Q. Okay. And it makes sense that it's
12 close, the purpose being, that you want to leave room for
13 the window to go up and down, so that the screen doesn't
14 interfere with it. But you want it as close as possible?
15 A. Yes, sir.
16 Q. That makes sense, doesn't it?
17 A. Yes, sir, that makes sense.
18 Q. Okay. And if it would work that way,
19 you would probably have -- it probably -- that probably
20 would have seemed unusual to you, and you probably would
21 have remembered that?
22 A. If it wasn't which way?
23 Q. If it wasn't like we discussed, it
24 probably would have looked unusual, and that would have
25 attracted your attention, and you would have, perhaps
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1 reserved that in the halls of your memory?
2 A. I'm not sure what you are getting at.
3 Q. I'm not trying to trick you, I'm just
4 trying to figure out what you saw. You didn't take any
5 notes, did you?
6 A. No, sir.
7 Q. All right. At any rate --
8
9 THE COURT: I think we have
10 established that the gentleman did not take any notes.
11 MR. DOUGLAS D. MULDER: Well, Judge, I
12 keep thinking that he may whip out that whip-out book at
13 any time.
14 THE COURT: I see. Well, let's just
15 move on to the next question.
16 MR. DOUGLAS D. MULDER: All right.
17
18 BY MR. DOUGLAS D. MULDER:
19 Q. At any rate, did you look at the
20 outside of the window?
21 A. Yes, sir.
22 Q. Okay. And did you see some mulch
23 there?
24 A. Out in the back yard?
25 Q. Yes, sir.
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1 A. Yes, sir.
2 Q. All right. And did that appear to be
3 disturbed or undisturbed?
4 A. It didn't appear to be disturbed to

5 me.

6 Q. Okay. How does it look when it's
7 disturbed versus when it's undisturbed?

8 A. What I'm going to have to go on, is
9 what James Cron, another person that was there, along
10 with David Nabors told me about that.

11 Q. Okay. So you are telling me that you
12 can't look at mulch yourself, and determine whether it's
13 been disturbed or undisturbed?

14 A. I think from the time that I got out
15 there and looked at that, that you are talking about the
16 difference between several hours, and, you know, it may
17 be a little bit different from what I saw.

18 Q. Well, I mean, mulch is mulch, isn't
19 it?

20 A. It is, but I think that you are going
21 have to -- it's going to be different when it's
22 somewhat -- from the time that the crime scene unit gets
23 there, and they start looking at this, versus me looking
24 at it, several hours after that.

25 Q. Okay. It's fair to say that you
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1 didn't see anything unusual about it shortly after 8:00
2 or shortly after 9:00 or whatever time you got out there?

3 A. I can't tell you that it -- you know,
4 whether it was disturbed or not.

5 Q. Okay. There was nothing -- was there
6 anything about it that attracted your attention to it?

7 A. I can't tell you that it -- not to me,
8 no.

9 Q. All right. Did you, in the light of
10 day then, did you examine that gate?

11 A. Yes, sir.

12 Q. And what did you observe about the
13 gate?

14 A. I didn't see that -- well, I have to
15 go on what the crime scene officer tells me, because that
16 is part of his notes, and that is part of what he is
17 going to tell me.

18 Q. Well, I understand that, but I'm just
19 talking about what you personally saw. Did you see
20 anything unusual about it?

21 A. I didn't see any blood on the gate.

22 Q. Okay. That would have been unusual?

23 A. Yes, sir.

24 Q. Okay. You didn't see any blood.

25 Anything else?

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1 A. No, sir.

2 Q. Would you have expected to see blood?

3 A. If someone had been inside that house

4 and went out that door I would.

5 Q. Okay. And why is that?

6 A. If someone had been in that -- if an

7 intruder had been in that house, they would have had to

8 have some blood on them, and there wasn't any evidence in

9 the garage of blood, or going out the window of blood.

10 Q. Okay. You figured that the intruder

11 had to have been injured?

12 A. I wouldn't say had been injured.

13 Q. Cut his hands, perhaps?

14 A. No.

15 Q. Cut his leg?

16 A. No.

17 Q. Cut his face?

18 A. I don't know.

19 Q. Well, why would you expect -- where

20 would you expect the blood on the intruder to be?

21 A. On his feet.

22 Q. Okay. Police officers walked

23 throughout that house from the den area through the

24 kitchen, you didn't see any tracks from the police

25 officers, did you?

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1 A. No, sir.

2 Q. Okay.

3 A. It's my understanding that they were

4 careful enough that they didn't step in any blood.

5 Q. Okay. Would you expect to find blood

6 on his hands?

7 A. I don't know.

8 Q. Okay. Well, maybe yes and maybe no?

9 A. I don't know.

10 Q. Okay. How long were you there at the

11 scene?

12 A. That morning?

13 Q. Yes, sir.

14 A. I don't recall.

15 Q. And you didn't make any notes while

16 you were there, however long you were there?

17 A. I didn't take any handwritten notes,

18 no.

19 Q. Okay. What time did you get off duty

20 or what time did you finally leave?

21 A. That day?

22 Q. Yes, sir.

23 A. It was sometime late in the evening.

24 I don't recall what time I left.

25 Q. Was it dark?

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1 A. I don't remember it being dark.

2 Q. It was sometime before dark?

3 A. Yes, sir.

4 Q. When you left?

5 A. Yes, sir.

6 Q. You don't recall going back to Baylor
7 Hospital?

8 A. No, sir.

9 Q. Okay. Did you go to Baylor Hospital
10 the next day?

11 A. Yes, sir.

12 Q. Okay. And about what time did you get
13 there?

14 A. Sometime late in the afternoon.

15 Q. Okay. Just give me your best guess.

16 A. I don't know, sometime late in the
17 afternoon.

18 Q. All right. Before it got dark?

19 A. I don't remember if it was dark or
20 not.

21 Q. Okay. And, can we assume that you
22 continued your usual practice of not taking notes? Can
23 we assume that you didn't take any notes?

24 A. I didn't take any notes, no.

25 Q. All right. Did you go see Darlie
Sandra M. Halsey, CSR, Official Court Reporter
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1 Routier?

2 A. Yes, sir.

3 Q. All right. And how long did you spend
4 with her?

5 A. Fifteen minutes.

6 Q. Okay. Did you visit with her?

7 A. Just for a few minutes, yes, sir.

8 Q. Okay. Did you ask her what had
9 happened again out there?

10 A. No, sir.

11 Q. Okay. Who was -- was Frosch with
12 you?

13 A. Yes, sir.

14 Q. Okay. Was anyone with her?
15 A. There were several people there.
16 Q. Do you recall who was there?
17 A. No, sir.
18 Q. Were they family members, or medical
19 personnel?
20 A. Well, there was someone sitting at the
21 front door, or sitting in her room door, I believe it was
22 a security officer, but I don't remember who was there.
23 Q. Okay. But you remember that people
24 were there?
25 A. There were other people there, yes.
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4132

1 Q. Okay. And, are you telling us that
2 nothing of any import happened at that encounter?
3 A. No, sir.
4 Q. You are not telling us that?
5 A. We didn't talk about what had
6 happened, no.
7 Q. Okay. Just, "How are you? How are
8 you getting along? How is the food?"
9 A. Well, we checked on her well-being,
10 yes.
11 Q. Okay. But nothing about the case?
12 A. No.
13 Q. Okay. And, you say that encounter
14 took about 10 or 15 minutes?
15 A. Yes, sir.
16 Q. Something like that?
17 A. Yes, sir.
18 Q. Okay. And Frosch was with you?
19 A. Yes, sir, he was.
20 Q. Did he take any notes?
21 A. No, sir.
22 Q. Okay. You are sure about that?
23 A. No, I'm not sure. You would have to
24 ask Frosch about that.
25 Q. Okay. Well --
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1 A. I don't remember, I don't know.
2 Q. Okay. Well, first you said no, and
3 then I said are you sure about that, and then --
4 A. Well, I don't know if he took any
5 notes or not.
6 Q. Okay. But you know you didn't?
7 A. I know I did not.

8 Q. Okay. And you left after that?

9 A. Yes, sir.

10 Q. When is the next time you saw Darlie

11 Routier?

12 A. January -- I mean, June the 8th, 1996.

13 Q. That would be the next day?

14 A. Yes, sir.

15 Q. Okay. Now the 6th would be on a

16 Thursday, is that right?

17 A. Yes, sir.

18 Q. The 7th was Friday?

19 A. Yes, sir.

20 Q. And the 8th would be a Saturday?

21 A. Yes, sir.

22 Q. Okay. About what time did you see

23 her, and where did you see her?

24 A. At the police station. And I believe

25 it was -- I would have to look at my notes, but I believe

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1 it was after 4:00 o'clock.

2 Q. Okay. So the first time you saw her

3 on the 8th, which is Saturday, is going to be at the

4 police station?

5 A. Yes, sir.

6 Q. Okay. And, how did she come in there,

7 do you know?

8 A. What do you mean how did she come in

9 there?

10 Q. How did she arrive? Was it by car?

11 A. By two of our detectives.

12 Q. All right. Who had picked her up?

13 A. Detective James Latham and Keith

14 Needham.

15 Q. Okay. And where had they picked her

16 up, do you know?

17 A. At Baylor Hospital.

18 Q. Okay. And then they brought her to

19 your -- to the Rowlett Police Department?

20 A. Yes, sir.

21 Q. Okay. And was that at your

22 instruction?

23 A. I had asked if they would come in and

24 talk to us, yes, Darlie and Darin Routier.

25 Q. Okay. And did they cooperate with

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1 you?

2 A. Yes, sir, they did.

3 Q. All right. And, did you visit with
4 them?

5 A. Yes, sir.

6 Q. Okay. And as best you recall they got

7 there around 4:00 o'clock?

8 A. Yes, sir.

9 Q. Again, no notes were made of this?

10 A. I have a -- I would know the exact

11 time, when I look at what I had read her. I read her the

12 Miranda rights, and it has the time on it.

13 Q. Okay. As a matter of fact, the

14 Miranda rights, that is what you read someone before you

15 take a statement from them frequently, isn't it?

16 A. Yes, sir.

17 Q. Okay. And, you read that to her?

18 A. Yes, sir.

19 Q. And that basically says that, you have

20 a right to remain silent. You have the right to counsel.

21 You can have a lawyer here. You can answer questions.

22 You can refuse to answer questions. You can, basically

23 not cooperate with us if you don't want to. Basically

24 that is what it is?

25 A. Well, that is kind of what it says,

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1 yes.

2 Q. Okay. But it starts out, it says "You

3 have a right to remain silent." It says, "Anything you

4 say can and may be used against you in a court of law."

5 Doesn't it?

6 A. Well, I don't know if it starts off

7 that way. I would have to read the one that I read to

8 her.

9 Q. Okay. How long you been doing this?

10 A. For 17 and a half years.

11 Q. Okay. All right. At any rate, did

12 she give you a statement?

13 A. She gave us a voluntary written

14 statement, yes, sir.

15 Q. Okay. And you asked her to, didn't

16 you?

17 A. I asked her if she wanted to.

18 Q. And she cooperated with you, didn't

19 she?

20 A. And she did, yes.

21 Q. How about Darin, was he cooperative?

22 A. Yes, sir.

23 Q. Okay. And by that I mean, did he go
24 so far as to give you the keys to his house?
25 A. No.
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1 Q. Did he give you the keys to his
2 business?
3 A. I don't know about that.
4 Q. Did he give you the keys to his boat?
5 A. I don't know about that.
6 Q. Well, I mean what does that mean?
7 Does that mean he may have?
8 A. Well, someone --
9 Q. Well, does that mean he may have?
10 A. Well, someone else was doing that, and
11 I don't know if he did or didn't.
12 Q. Okay.
13 A. I don't know if he let them in, or if
14 he gave the keys to them. Someone else went over there
15 and done that.
16 Q. All right. Would you recognize her
17 statement?
18 A. Yes, sir.
19
20 MR. DOUGLAS D. MULDER: Let me get
21 this marked.
22
23 (Whereupon, the following
24 mentioned item was
25 marked for
Sandra M. Halsey, CSR, Official Court Reporter
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1 identification only as
2 Defendant's Exhibit No. 76,
3 after which time the
4 proceedings were
5 resumed on the record
6 in open court, as
7 follows:)
8
9 BY MR. DOUGLAS D. MULDER:
10 Q. Let me show you what's been marked for
11 identification and record purposes as Defendant's Exhibit
12 No. 76, and it appears to be a handwritten statement of
13 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 pages. Is that her
14 statement?
15 A. Yes, sir.
16 Q. Okay. And you remember that statement

17 being given to you?

18 A. Yes, sir.

19 Q. Okay.

20

21 MR. DOUGLAS D. MULDER: We will offer
22 into evidence what has been marked and identified as
23 Defendant's Exhibit No. 76, which is her statement.
24 MR. GREG DAVIS: No objection.

25 MR. DOUGLAS D. MULDER: Do y'all mind
Sandra M. Halsey, CSR, Official Court Reporter
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1 if I just --

2 THE COURT: Excuse me, Defendant's
3 Exhibit 76 is admitted.

4

5 (Whereupon, the above
6 mentioned item was
7 received in evidence as
8 Defendant's Exhibit No. 76
9 for all purposes,
10 after which time,
11 the proceedings were
12 resumed on the record,
13 as follows:)

14

15 MR. DOUGLAS D. MULDER: Do you all
16 mind if I take this out or do you --
17 MR. GREG DAVIS: Well, I tell you
18 what, I have got the original. It's been marked as
19 State's Exhibit --

20 THE COURT: Can we substitute that?

21 MR. DOUGLAS D. MULDER: Excuse me,
22 Judge, this is Defendant's Exhibit No. 76-A.
23

24 (Whereupon, the following
25 mentioned item was
Sandra M. Halsey, CSR, Official Court Reporter
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1 marked for
2 identification only as
3 Defendant's Exhibit No. 76-A
4 after which time the
5 proceedings were
6 resumed on the record
7 in open court, as
8 follows:)

9

10 MR. GREG DAVIS: Yes, sir, that will
11 be fine. It already has State's Exhibit No. 32 on it.
12 But, I'll tell you what, if you don't mind, let me just
13 offer State's Exhibit 32 as being the original of
14 Defendant's Exhibit No. 76.

15
16 (Whereupon, the following
17 mentioned item was
18 marked for
19 identification only
20 as State's Exhibit 32,
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 MR. DOUGLAS D. MULDER: Well, inasmuch
3 as this is my case and I am the one offering the
4 evidence, if you don't mind, I'll just mark it myself.
5 MR. GREG DAVIS: Whatever you like.
6 THE COURT: Gentlemen.
7 MR. DOUGLAS D. MULDER: Well, Judge, I
8 just want it clear, who is offering the statement.
9 THE COURT: Gentlemen. Oh, we
10 understand that you are offering the statement. Let's
11 just get it numbered, and marked and offered and let's
12 move on.
13 MR. DOUGLAS D. MULDER: Judge, I'm
14 peddling as fast as I can. If you will --
15 THE COURT: And we appreciate the
16 effort. All right. This is going to be Defendant's
17 Exhibit 76-A; is that correct, Mr. Mulder?
18 MR. DOUGLAS D. MULDER: Yes, sir,
19 that's correct.
20 THE COURT: All right. No objection I
21 assume, Mr. Davis?
22 MR. GREG DAVIS: No objection.
23 THE COURT: All right. Defendant's
24 Exhibit 76-A is admitted.

25
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1 (Whereupon, the above
2 mentioned item was
3 received in evidence as

4 Defendant's Exhibit No. 76-A,
5 and as State's Exhibit No. 32,
6 for all purposes
7 after which time,
8 the proceedings were
9 resumed on the record,
10 as follows:)

11

12 MR. DOUGLAS D. MULDER: Is this in
13 order?

14 MR. GREG DAVIS: Yes, sir, it should
15 be.

16 MR. DOUGLAS D. MULDER: Well, let me
17 just put a staple in there, is that agreeable with
18 everybody?

19 MR. GREG DAVIS: Yes, that is fine.

20 MR. DOUGLAS D. MULDER: Judge, I would
21 like to read this, if I may.

22 THE COURT: That will be fine.

23 MR. DOUGLAS D. MULDER: Okay. I'll
24 read the whole thing.

25 "6-8-96, 4:49 P.M., Darlie Lynn
Sandra M. Halsey, CSR, Official Court Reporter
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1 Routier, 5801 Eagle Drive, Rowlett, Texas, 75088. Time:
2 4:49 P.M. Place: 4401 Rowlett Road, Rowlett Police
3 Department. Officer: Detective J. Patterson, number
4 1004, City of Rowlett, Texas. County of Dallas, State of
5 Texas.

6 "Police officer, Detective J.

7 Patterson, the person to whom I make this written
8 statement, has warned me: 1. That I have the right to
9 have a lawyer present to advise me prior to and during
10 any questioning. 2. If I am unable to employ a lawyer,
11 I have the right to have a lawyer appointed to me, to
12 advise me prior to and during any questioning. 3. I
13 have the right to remain silent and not make any
14 statement at all, and that any statement that I make, may
15 be used in evidence against me at my trial. 4. I have
16 the right to terminate the interview at any time. 5.
17 Any statement that I make may be used against me in
18 court. I do not want to consult with a lawyer prior to
19 and during the answering of any questions or the making
20 of this statement. I fully understand, and do hereby
21 knowingly, intelligently, and voluntarily waive the above
22 explained rights, and I do make this following voluntary
23 statement to the aforementioned person, of my own free
24 will, and without any promises or offers of leniency or
25 favors, and through no fear, coercion, or threat of

1 physical harm, by any person whomsoever.
2 "I am 26 years of age. Have completed
3 12 years of formal education. And can" -- is
4 underlined -- "read, write and understand the English
5 language."
6 You have can and cannot there, and I
7 guess you underline one?
8 A. I asked her if she can, and she said
9 she could.
10 Q. All right.
11 "Darin and my sister Dana came home
12 from working at the shop. The boys were playing with the
13 neighborhood kids outside. I was finishing up dinner.
14 Damon came home and Devon called, and I told him to be
15 home soon, because we were going to eat.
16 "Darin played with the baby Drake with
17 Dana a while, and I had pulled everything together to
18 eat. Devon came home, and we all ate dinner together.
19 After we ate, we cleaned all the plates. I was changing
20 Drake, while Darin put everything in some containers, for
21 leftovers. We all talked a little about how happy we
22 were that the shop had been so busy for the past three
23 weeks, and that we hoped it would continue, since work
24 had been slow for a couple of months. Devon and Damon
25 asked if they could play with one of their friends a
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1 little while longer, and so we said okay.
2 "Darin, Dana and I just sat around and
3 watched a little TV. Later, and I'm not sure of the
4 exact time, I asked Darin to drive Dana, my sister, home
5 because I wasn't feeling too well. While Darin was gone,
6 the boys brought down their blankets and pillows and
7 asked if they could watch TV. I said, 'Yes.' They came
8 downstairs and played on the floor in front of the TV
9 with Drake while I made some popcorn.
10 "About 20 or 25 minutes later, Darin
11 came in, and sat down with us while we watched TV. Drake
12 started to get fussy, so I made him a bottle, and I
13 believe Darin fed him the bottle. Soon after the boys
14 both fell asleep, Darin took the baby upstairs, and put
15 him in his crib and came back downstairs.
16 "We talked a while about a few
17 problems we were having with the car, and the boat, and
18 had a few words between us. Since I had the baby, I had
19 been having some depression. I told Darin that I was

20 depressed because I had not been able to take the boys
21 anywhere because we only had one car.
22 "He told me that he loved me, and
23 asked me if I wanted him to sleep downstairs with me
24 because I wanted to stay up a while and watch TV. I told
25 him no, because I didn't think that he would be able to
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1 sleep on the couch and get any sleep. I had been
2 sleeping on the couch the past week or so, off and on,
3 because the baby slept in our room in the crib, and when
4 he moved, he woke me up.
5 "Darin and I laid together for a
6 little while, and then decided to go to sleep because he
7 had work the next day. This was around 12:30 or 1:00,
8 I'm not sure. He kissed me and said he loved me, and I
9 told him I loved him and would see him in the morning.
10 "After a while, I started to get
11 sleepy. The next thing, I woke up, and felt a pressure
12 on me. I felt Damon press on my right shoulder, and
13 heard him cry. This made me really come awake, and
14 realized there was a man standing down at my feet,
15 walking away from me. I walked after him, and heard
16 glass breaking. I got halfway through the kitchen, and
17 turned back around to run and turn on the light. I ran
18 back towards the utility room, and realized there was a
19 big, white-handled knife lying on the floor. It was then
20 that I realized that I had blood all over me, and I
21 grabbed the knife, thinking he was in the garage.
22 "I looked over and saw the door shut
23 to the garage, and so I thought he might still be in
24 there, and I needed to get Darin. I ran back through the
25 kitchen, and realized that the entire living room area
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1 had blood all over everything. I put the knife on the
2 counter and ran into the entrance, turned on the light
3 and started screaming for Darin. I think I screamed
4 twice, and he ran out of the bedroom with his jeans on,
5 and no glasses and was yelling, 'What is it? What is
6 it?'
7 "I remember saying that he cut them.
8 'He tried to kill me. My neck.' He ran down the stairs
9 and into the room where the boys were. I grabbed the
10 phone and called 911. Darin started giving Devon CPR
11 while I put a towel on my neck, and a towel on Damon's
12 back. I remember telling Damon to hang on, Mommy was
13 there. I looked over at Darin, and saw the glass table

14 had been knocked half way off, and the flower arrangement
15 had been knocked over. I then stood up and turned around
16 and saw glass all over the kitchen floor.
17 "I tried to glance over to see if
18 anything was out of place, or if anything was missing. I
19 took a few steps, and opened the door and screamed for
20 Karen. I was still on the phone with 911. I don't
21 recall what all was said, because everything was
22 happening so fast.
23 "I went back to Damon, and by him, he
24 had stopped moving, and the police walked through the
25 door. The paramedics came and tried to work on the
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1 children. Darin was screaming, 'Who did this? Who did
2 this?' And I started asking if my babies were dead.
3 "Darin was crying and said yes. After
4 that, I just remember screaming, and showing Darin my
5 neck. Darin took me out the front of the house, and by
6 then Darin ran upstairs to make sure the baby was okay.
7 He showed me Drake was okay, and then handed him to
8 Karen, our neighbor. I remember them holding a towel on
9 my neck. And, wiping my arm, and then he put me in the
10 ambulance. Darin got in, but they told him he needed to
11 leave, so they could take me -- so they could take care
12 of me.
13 "I remember get (sic) to the hospital
14 and then them telling me they were taking me to surgery.
15 They took me -- they took off my necklace and put me to
16 sleep. I woke up, and minutes later, the detectives were
17 there asking me all kind of questions."
18 And she signed it "Darlie Routier."
19 A. Yes.
20 Q. And that is her statement as you
21 recall it?
22 A. Her written statement, yes.
23 Q. Yes, sir. Now, in the course of that,
24 Detective Patterson, you had asked her questions, had you
25 not?
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1 A. You mean that there?
2 Q. Yes.
3 A. While she was writing that?
4 Q. Yes, sir.
5 A. No, sir.
6 Q. Okay. You had had your conversation
7 with her ahead of time?

8 A. Yes, sir.

9 Q. Okay. And, do you recall in that
10 conversation ahead of time, that you had briefly gone
11 through this entire statement?

12 A. What do you mean?

13 Q. Well, do you remember whether or not
14 you questioned her, prior to the time that she sat down
15 and write this out?

16 A. No, I didn't do that.

17 Q. What did you do?

18 A. Well, I mean she wrote that out, and I
19 didn't talk to her about it, while she was writing. I
20 didn't talk to her while she was writing that out.

21 Q. Had you talked to her before she wrote
22 this out?

23 A. Yes.

24 Q. Okay. And how long did you talk to
25 her before she wrote this statement out?

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1 A. Just a few minutes.

2 Q. Is that 10 or 15 minutes?

3 A. I couldn't tell you.

4 Q. Okay. But at any rate, the time that
5 she began writing this statement was 4:49, or is that
6 when you read the --

7 A. I read the Miranda rights to her, and
8 then I talked to her.

9 Q. Okay. And again you had told her,
10 Detective Patterson, had you not, that you were following
11 a bunch of leads in this case, hadn't you?

12 A. Yes, sir.

13 Q. Okay. Now, had you made up your mind
14 by that time, that she was your prime suspect?

15 A. No, sir.

16 Q. Okay. What leads were you following
17 at that time, Detective Patterson?

18 A. The leads as far as what the crime
19 scene was showing. What her first statement was that
20 she, you know, gave me. That written statement right
21 there.

22 Plus we had two other detectives that
23 was (sic) taking statements that people were calling in,
24 which we call lead sheets.

25 Q. Lead sheets, what are lead sheets?

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1 A. Lead sheets is where someone will call
2 in that they saw some kind of suspicious activity.

3 Q. Um-hum. (Attorney nodding head
4 affirmatively.)

5 A. That they remember something, and
6 these other two detectives were following up with those
7 sheets.

8 Q. Okay. Were they following up on this
9 black car that had been seen out there in the vicinity?

10 A. Well, yes, sir.

11 Q. And, who was following up on the black
12 car?

13 A. Either James Latham or Keith Needham.

14 Q. Okay. Had you all received a call
15 that a man who fit the description that you had given of
16 the assailant, had been spotted in the vicinity?

17 A. No, sir.

18 Q. Okay. Do you recall a man by the name
19 of Reggie Salter?

20 A. Yes, sir.

21 Q. Well, he called in, didn't he?

22 A. Yes, sir.

23 Q. Okay. And didn't he report seeing a
24 man in a black baseball cap, and in a black shirt, and
25 dark jeans the next morning?

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1 A. He called in the next morning.

2 Q. Yes, sir.

3 A. Yeah, but that was on the other end of
4 town.

5 Q. Oh, it was on the other end of town?

6 A. Yes, sir.

7 Q. Well, how big is Rowlett?

8 A. Twenty-two or 23 square miles.

9 Q. Okay. How long does it take to drive
10 from one end of town to the other end of town?

11 A. Right now with the traffic, a long
12 time.

13 Q. All right. Without traffic, if you
14 are doing it after midnight, you can do it in 4 or 5
15 minutes, can't you?

16 A. No, it would take you longer than
17 that.

18 Q. Well, not much?

19 A. Well, I can't tell you, I didn't time
20 it.

21 Q. Well, you can drive from Interstate 30
22 to Highway 66 in 5 or 6 minutes, can't you?

23 A. I don't know.

24 Q. Well, you can do it in less than 10,

25 can't you?

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1 A. I don't know.

2 Q. You don't know about that either?

3 A. No, sir.

4 Q. Okay. Now, Detective Patterson, in

5 the course of your investigation, you found out that

6 Darin had worked on the gate that evening, didn't you?

7 The evening before?

8 A. The day before?

9 Q. That evening before. The evening of

10 the 5th of June?

11 A. Well, I remember the day before, and I

12 don't know if that puts it on the 4th or the 5th.

13 Q. Okay. But you did verify that he had,

14 in fact, worked on the gate, a short time before this

15 happened, didn't you?

16 A. How did we verify it?

17 Q. Well, you are the -- all of the

18 information, remember, is funneled through you?

19 A. Yes.

20 Q. Not through me, but through you?

21 A. Well, I mean --

22 Q. Well, you talked to the neighbor

23 behind you (sic), and the neighbor behind said they saw

24 him working on it.

25 A. Well, I didn't talk to the neighbor

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1 behind.

2 Q. I know it, but there is a report to

3 that effect, isn't there?

4 A. Well, I know that the gate looked like

5 it had been worked on.

6 Q. Well, did you talk -- did somebody

7 talk to the neighbor behind?

8 A. No, not that I know of. I don't know.

9 Q. Okay. Well, have you read your

10 report?

11 A. No, I don't remember seeing that

12 report.

13 Q. Have you read your file?

14 A. Have I? Yes, sir.

15 Q. When did you last read it?

16 A. I just read bits and pieces of it just

17 the last few weeks. I have not read the whole thing in
18 several, several months.

19 Q. Okay. At one time I assume you read
20 it. I mean, that is the purpose of getting these
21 reports, is to assimilate it all, isn't it?

22 A. Yes, sir.

23 Q. Okay. I mean you are the guy who is
24 supposed to be --

25 A. There is no way I can remember it all.
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1 Q. Well, you don't have to remember it
2 all, but you can -- you are telling me you don't have
3 anything in your file about that?

4 A. No, sir.

5 Q. Okay. When you walked through the
6 residence there, you got into the kitchen, didn't you,
7 Detective Patterson?

8 A. Yes, sir.

9 Q. Did you see the broken glass on the
10 kitchen floor?

11 A. Yes, sir.

12 Q. Okay. And was Officer Mayne with you?

13 A. No, sir.

14 Q. Did you talk to Officer Mayne out at
15 the scene?

16 A. No, I talked to Nabors and James Cron.

17 Q. Okay. Were you careful not to step in
18 any of the glass?

19 A. I didn't step in any of the glass.

20 Q. Okay. Did you check your shoes after
21 you got back out of the house to see if there was glass
22 in the soles of your shoes?

23 A. What I did was, is that I didn't go
24 through the part where the glass was laying.

25 Q. Okay. So you didn't come up on the
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1 wine rack then, did you?

2 A. I saw the wine rack.

3 Q. But you didn't get close enough to
4 inspect it?

5 A. I could see it from where I was.

6 Q. How far were you from the wine rack?

7 A. A few feet.

8 Q. Okay. But, not close enough to step
9 on any glass?

10 A. No, sir.

11 Q. Okay. When you got out of the house,
12 did you look at the bottoms of your shoes?
13 A. No, sir, I did not.
14 Q. You didn't?
15 A. No, sir.
16 Q. It might have been a good practice to
17 see if you had, in fact, stepped in any glass?
18 A. I didn't step in any glass.
19 Q. Well, how do you know until you look
20 at the bottom --
21 A. I didn't step anywhere around where
22 that glass was on that linoleum floor.
23 Q. Well, I know that, Detective, but, did
24 it ever cross your mind that maybe somebody else had
25 tracked glass in, and in stepping on the carpet you would
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1 have stepped on that glass and tracked it around?
2 A. Well, I didn't check my soles, but I
3 didn't step in any glass.
4 Q. You have seen police officers at the
5 scene of an offense before, haven't you?
6 A. Yes, sir.
7 Q. Everybody wants to touch the gun,
8 don't they?
9 A. No.
10 Q. They don't? They don't want to touch
11 the weapons?
12 A. No, sir.
13 Q. They all stand back, and, in fact,
14 it's probably not even necessary to put people at the
15 door, and put tape around to keep the officers out, is
16 it?
17 A. Well, you know, with our department,
18 we don't have to worry too much about those officers
19 doing that, because they are pretty well trained and they
20 know exactly what to do. That tape is to keep, you know,
21 bystanders out.
22 Q. Okay.
23 A. It's to keep other people out.
24 Q. Okay. Did you determine that there
25 was, in fact, a security light out in the back yard?
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1 A. I was told there was.
2 Q. Well, did you ever go out there?
3 A. I saw the security light.
4 Q. Okay. So you were not only told it,

5 but you saw it?

6 A. Yes.

7 Q. Okay. And, did you know where you had
8 to go in the back yard to activate that light?

9 A. No.

10 Q. Okay. Well, I mean, a light just
11 comes on when you go in the back yard?

12 A. I didn't check that. David Nabors
13 checked that.

14 Q. Okay. And did he -- he conducted some
15 experiments out there, didn't he?

16 A. I believe he did, but you will have to
17 ask him. I don't know, I wasn't there.

18 Q. Well, he filled out a report, didn't
19 he?

20 A. Yes, sir.

21 Q. Did you read the report?

22 A. No, sir.

23 Q. Well now, wait a minute now. You are
24 the chief detective and these reports --

25 A. His report says that the light stays
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1 on for somewhere around 18 minutes.

2 Q. Is that all it says?

3 A. Well, there's more pages to it than
4 that.

5 Q. Okay. Well, did you read his report
6 or not?

7 A. Yes, sir, I did.

8 Q. Okay. Well, you told the jury that
9 you didn't?

10 A. Well, I know, but I did.

11 Q. You did?

12 A. Yes, sir.

13 Q. Okay. Well, I mean, any reason you
14 would tell them that you didn't read it?

15 A. No, it was just my mistake for saying
16 that I didn't.

17 Q. Okay. As a matter of fact, in the
18 report he says that --

19

20 MR. GREG DAVIS: I'm going to object
21 to that as being hearsay.

22 THE COURT: Sustained.

23 MR. GREG DAVIS: He can ask David
24 Nabors about it.

25 THE COURT: Sustained.

1

2 BY MR. DOUGLAS D. MULDER:

3 Q. David Nabors is here, is he?

4 A. Yes, sir.

5 Q. Okay. And, you know from your
6 investigation that you don't have -- that you can walk
7 from that window to the gate, on the paved, exposed
8 aggregate there, and not activate the light. You know
9 that, don't you?

10 A. No, I do not know that.

11 Q. Okay. Let me ask you, while they are
12 looking for Mr. Nabors' report, let me ask you this:
13 There was a viewing of the body, is that right? Of the
14 youngster's body?

15 A. Yes, sir.

16 Q. Okay. And after that, there was a
17 funeral the next day?

18 A. Yes, sir.

19 Q. Did you attend the funeral?

20 A. Yes, sir.

21 Q. Okay. And then I believe, on the
22 14th, there was a prayer service at the grave side, were
23 you aware of that?

24 A. Yes, sir.

25 Q. Okay. And, did you attend that?

1 A. No, sir.

2 Q. Did you place a microphone by the
3 grave side for the prayer service, so that you could
4 record and intercept things that were said at the grave
5 side?

6 A. I did not.

7 Q. Who did?

8 A. Two other detectives.

9 Q. Why did they do that?

10 A. In case someone went out there and
11 made a confession about what happened.

12 Q. Did you realize that that was -- was
13 that done with your knowledge?

14 A. Yes, sir.

15 Q. Did you know that that is a violation
16 of federal law? That is a federal felony.

17

18 MR. GREG DAVIS: I'm going to object
19 to that, that calls for some legal conclusion.

20 THE COURT: I will sustain the
21 objection.
22 MR. DOUGLAS D. MULDER: Okay.
23
24 BY MR. DOUGLAS D. MULDER:
25 Q. But you are telling this jury, that
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1 you folks put microphones at the grave side, to monitor
2 the conversations of the people who had gone there to
3 pray, and to mourn and grieve at the passing of these two
4 children?

5 A. Yes, sir.

6 Q. And recorded all that?

7 A. Yes, sir.

8 Q. And these were hidden, so that the
9 people couldn't find them. I mean, it was designed to be
10 done surreptitiously, was it not?

11 A. So that they couldn't -- that they
12 didn't see it, that's right.

13 Q. And you would record those private
14 moments, is that right?

15 A. Yes, we did.

16 Q. Did your -- who all knew about this
17 besides you?

18 A. Detective Frosch.

19 Q. And who else?

20 A. The two detectives that set it up.

21 Q. Okay. But you were a part of it, it
22 was done, not only with your knowledge but at your
23 insistence, wasn't it?

24 A. I didn't insist on anyone to do it.

25 Q. But y'all got together and thought it
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1 would be a good idea?

2 A. Yes, sir.

3 Q. Okay.

4

5 MR. DOUGLAS D. MULDER: Mark this
6 please.

7

8 (Whereupon, the following
9 mentioned item was

10 marked for

11 identification only as

12 Defendant's Exhibit No. 77,

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

18

19 BY MR. DOUGLAS D. MULDER:

20 Q. Let me hand you what has been marked
21 for identification and record purposes as Defendant's
22 Exhibit No. 77. I'll ask you if that is Sergeant Nabors'
23 report?

24 A. Yes, sir, it is.

25 Q. Does that refresh your memory?

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1 A. Well --

2 Q. Did the district attorney's office
3 know that you had surreptitiously planted microphones at
4 the grave side to monitor those private conversations?

5 A. Could you tell me what that word
6 means?

7 Q. Surreptitiously?

8 A. Yes, sir.

9 Q. Secretly.

10 A. No, I don't remember, I don't think
11 the D.A.'s office knew about that.

12 Q. You didn't tell them? Do you know if
13 that is a violation of state law was well?

14 A. Not that I remember.

15 Q. Okay. Have you reviewed that report?

16 A. I didn't review the whole page, just
17 what is highlighted.

18 Q. Okay. Do you recognize that as having
19 seen it before?

20 A. Um-hum. (Witness nodding head
21 affirmatively.) Yes, sir.

22 Q. Okay. You know, based on your
23 investigation, that you could pass on the paved area,
24 from the window to the gate, and not trip or set off the
25 security lights, don't you?

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1 A. Yes, sir. It says that you can walk
2 on the paved part from the gate to the window without
3 triggering the light.

4 Q. Okay. And you didn't have to take
5 anybody's word for it, I mean, you know from experiments
6 that were performed out there, weren't there, to your

7 knowledge?

8 A. Yes, sir.

9 Q. Okay. Did you, in the course of your
10 investigation, determine how many fingerprints were
11 lifted out there at the residence?

12 A. I don't remember any fingerprints
13 being lifted.

14 Q. Okay.

15 A. What I remember is the palm print.

16 Q. Okay. Finger or palm prints?

17 A. Yes, sir.

18 Q. How many lifts were taken, do you
19 know?

20 A. I don't recall, I don't know.

21 Q. Okay. That just didn't seem important
22 to you?

23 A. Well, that's important to me, but that
24 is also someone else's -- you know, I have to delegate,
25 you know, some of this to other people, because I can't,
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1 you know, do it all. And, I don't remember how many were
2 taken.

3 Q. Okay.

4 A. Or lifted.

5 Q. Okay. After you had the -- after
6 Darlie had written this statement for you, did you
7 continue to talk to her?

8 A. No, sir.

9 Q. Okay. How long did it take her to
10 write this statement?

11 A. I don't remember.

12 Q. Well, I mean, can we agree that it
13 didn't take more than probably a half an hour?

14 A. Well, no, I don't remember.

15 Q. Well, can we agree that it didn't take
16 more than an hour?

17 A. I don't remember.

18 Q. Okay.

19 A. It took her longer than 30 minutes.

20 Q. Okay. Did it take her more than an
21 hour?

22 A. I don't remember.

23 Q. Okay. But you are saying that you
24 were just sitting there, and were not asking any
25 questions?

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1 A. I was not sitting there the whole
2 time.
3 Q. Oh, you just left her there in the
4 room?
5 A. I left her in the room during part of
6 it. And I check on her to see if she was completed with
7 it or not.
8 Q. Okay. When she finished it, did y'all
9 talk further?
10 A. No, sir.
11 Q. What did you do?
12 A. I just read it over, and I asked her
13 if this was everything, and she said yes.
14 Q. Okay. Did you read it over out loud?
15 A. No, sir.
16 Q. You read it over to yourself?
17 A. Yes, sir.
18 Q. Okay. Did you have any further
19 discussion with her about what had happened out there
20 that evening?
21 A. On the 8th?
22 Q. Yes.
23 A. No.
24 Q. Okay. Are you sure about that?
25 A. I don't recall talking to her any more
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1 about it, no.
2 Q. Okay. Have you testified on another
3 occasion under oath, that we may have discussed, whether
4 or not she struggled with the man, I'm not sure?
5 A. Well, I don't recall that. I have
6 testified on other occasions about this, but I don't
7 remember saying that.
8 Q. Would it refresh your memory to see
9 that?
10 A. Yes, sir.
11 Q. And then you might remember that
12 perhaps that was discussed, or you didn't know whether it
13 was discussed or not?
14 A. Well, I don't remember at this point
15 if it was discussed.
16 Q. Okay. Are you saying that it may well
17 have been discussed?
18 A. I'm saying that I don't remember it.
19 Q. Okay.
20
21 THE COURT: Well in the interest of
22 time, we will adjourn now until 1:10 for lunch.

23 Perhaps over the noon hour, both sides
24 can go through all documents and get them in line, and
25 make sure that the witnesses are aware of what is going
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1 to be asked.
2 Members of the jury, the same
3 instructions as always, do not discuss the case among
4 yourselves, or with anyone else. Do no investigation on
5 your own. Do not speak to anyone about it. If someone
6 tries to speak to you, tell the bailiff who is with you
7 at the time, and should you hear any publicity, radio, or
8 TV or newspapers, please ignore it.
9 Let's see everybody back here at 10
10 minutes after 1:00 o'clock. Thank you.

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 THE COURT: All right. Everybody is
22 back after lunch. Are both sides ready to bring the jury
23 in and resume the trial?
24 MR. GREG DAVIS: Yes, sir, the State
25 is ready.

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1 MR. DOUGLAS D. 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: All right. Be seated,

17 please. Let the record reflect that all parties in the
18 trial are present and the jury is seated.

19 Mr. Mulder.

20 MR. DOUGLAS D. MULDER: Yes, sir, your
21 Honor.

22

23

24 DIRECT EXAMINATION (Resumed)

25

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1 BY MR. DOUGLAS D. MULDER:

2 Q. Officer Patterson, I'm going to get
3 into where we were when we left off in a minute, but just
4 so that you and I are on the same wave length, do you
5 understand what the federal law is, as regards to
6 monitoring private phone conversations?

7 A. No, sir.

8 Q. Weren't you a narcotics officer?

9 Didn't you work drugs?

10 A. Yes, sir.

11 Q. Well, in that capacity didn't you have
12 occasion to get wire taps?

13 A. Well, if you're saying that I violated
14 some law, then I'm not going to say anything else about
15 that.

16 Q. Well, you're going to answer my
17 questions.

18

19 THE COURT: Well --

20

21 BY MR. DOUGLAS D. MULDER:

22 Q. Are you going to take the Fifth, is
23 that what you are going to say?

24 A. If you're saying that I violated some
25 state or federal law, then I'm not going to answer it

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1 until I have legal counsel.

2 Q. Well, I suspect you better get legal
3 counsel then, because I am suggesting to you that that is
4 exactly what you did.

5

6 MR. GREG DAVIS: Object to him
7 suggesting anything. The officer has already stated that
8 he doesn't know.

9 THE COURT: Sustained.

10 MR. DOUGLAS D. MULDER: Judge, it

11 doesn't make any difference to me whether you warn the
12 man or not. The Court knows the law, and it's a
13 violation of state and federal law.

14 THE COURT: Mr. Mulder, I know the law
15 and --

16 MR. DOUGLAS D. MULDER: This is a
17 federal felony.

18 THE COURT: Mr. Mulder, please,
19 please. Officer Patterson is a law enforcement officer
20 and is presumed to know the law in Texas, yes, sir.
21 I have advised him of his rights in
22 this regard. And you do have a right, under the Fifth
23 Amendment of the Constitution of the United States, not
24 to say anything that might tend to incriminate you in any
25 way. And you certainly understand all of that, do you
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1 not?

2 THE WITNESS: Yes, sir.

3 THE COURT: So you are an experienced
4 law enforcement officer, you have warned a lot of other
5 people of their rights, you know what the Miranda
6 warnings are, do you not?

7 THE WITNESS: I do.

8 THE COURT: Well then, if you know
9 what the Miranda warnings are, then I think that that
10 speaks for itself. You understand what you can do and
11 what you can't do. Do you need any further counselling,
12 do you think? Any explanation of what your rights are
13 under the law?

14 THE WITNESS: No, sir.

15 THE COURT: Okay. Fine. I think we
16 have covered that. So ask your questions. If he wants
17 to answer it, he will, if he does not, then he can invoke
18 the Fifth Amendment.

19 MR. DOUGLAS D. MULDER: Yes, sir. Let
20 me just ask you something.

21

22 BY MR. DOUGLAS D. MULDER:

23 Q. Do you understand any more about it
24 now than you did before the Judge talked to you? About
25 what the law is?

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1 A. No one has read me any statute that I
2 violated a law.

3 Q. Okay. Would you like to have time to
4 read both the state laws and the federal laws as regards

5 to the surreptitious collection of conversation such as
6 you and those other officers that you told us about
7 before lunch recorded?

8 A. I would like to read it, yes.

9

10 THE COURT: Well then, in that case,
11 do you have another witness that you can put on the
12 stand?

13 MR. DOUGLAS D. MULDER: Would the
14 Court let me go on to some other matters and then let him
15 read that during the -- during the --

16 THE COURT: Proceed. Let's just don't
17 get into that area. Go into something else.

18 MR. DOUGLAS D. MULDER: Yes, sir.

19

20 BY MR. DOUGLAS D. MULDER:

21 Q. In all fairness to you, don't you
22 think that it is appropriate that anything I ask you
23 about that, or any remarks that you make be recorded?

24 A. Do I think it's fair?

25 Q. Yeah, fair to you?

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1 A. Well, I don't understand what you are
2 saying.

3 Q. Well don't you think that any -- I'm
4 not going to ask you to make any comments about that
5 until you have had time to get legal counsel and to talk
6 with your lawyer, about the state law and the federal
7 law. But don't you think that in fairness to you, if I
8 questioned you about that, that our conversations ought
9 to be recorded?

10 A. Well, at this time, until I have legal
11 counsel, or until I read that, if I violated something,
12 then I'm not going to answer you.

13 Q. Well, I guess I'm missing the point.
14 But in fairness to you, so that your jury, if it comes to
15 that on down the line, will know exactly what you said
16 and what admissions you made or didn't make, don't you
17 think in fairness to the prospective defendant, that
18 those conversations should be recorded, so that there is
19 no question about what was said?

20 A. I don't understand what you are
21 saying.

22 Q. Well, all right. Let me put it in
23 another way, and maybe I can make this a little more
24 artful.

25 I guess the bottom line is this: If I

1 am going to question you about criminal conduct, don't
2 you think in fairness to the person questioned, and then
3 I tell you that I'm going to use that, whatever you say
4 on down the line against you, or I could have, it has
5 that possibility. Don't you think in fairness to the
6 person questioned, that your answers ought to be recorded
7 so that there is no question about what you said or
8 didn't say?

9 A. I still don't understand what you are
10 saying.

11 Q. All right. Let me run at it from
12 another direction. Suppose you were going to question me
13 about a traffic violation for speeding from here to San
14 Antonio, or something -- well, let's make it something
15 more serious than that. But you are going to question
16 me.

17 Do you think, in fairness to me,
18 whatever I say, should be recorded, so that on down the
19 line a week from now, or two weeks from now, or a month
20 from now, if you intend to use that against me, that
21 there would be an accurate rendition of what I have said,
22 so that we don't have to rely on your memory?

23 A. Well, until I get legal counsel about
24 what you are saying, I'm not going to answer you.

25 Q. Okay. You don't even have the answer,
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1 do you? But you were a narcotics officer, weren't you?

2 A. Yes, sir.

3 Q. And in that capacity, did you record
4 conversations?

5 A. I did.

6 Q. Okay. You ought to be familiar with
7 the law?

8 A. Well --

9

10 MR. GREG DAVIS: I'm sorry, excuse me,
11 I thought we were done with this until we had a break.

12 THE COURT: Mr. Mulder, let's move on
13 to some other area, other than what this is.

14 MR. DOUGLAS D. MULDER: Yes, sir.

15 THE COURT: And then we can get back
16 on this after we take a break.

17 MR. DOUGLAS D. MULDER: Yes, sir, I
18 understand.

19

20 BY MR. DOUGLAS D. MULDER:

21 Q. I had asked you if you questioned her,
22 prior to the time that she made this written statement.

23 Do you recall that?

24 A. Yes, sir.

25 Q. And what was your answer, Mr.
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1 Patterson?

2 A. That we talked a few minutes.

3 Q. And what did you talk about, Mr.

4 Patterson?

5 A. I don't recall.

6 Q. Do you recall when you testified under
7 oath, on August the 26th and 27th of 1996, do you recall
8 that?

9 A. I remember testifying, but I don't
10 remember the dates.

11 Q. Do you remember being under oath at
12 that time?

13 A. Yes, sir.

14 Q. You swore to tell the truth?

15 A. Yes, sir.

16 Q. Do you recall being asked: "Did you
17 ask her questions as she was writing, or did she just
18 write it out in long hand?"

19 Do you recall answering, "Well, we had
20 talked a little bit right before, prior to that. And
21 then she wrote it out."

22 "What did y'all talk about?"

23 "The same thing. I just asked her
24 what happened."

25 Is that right?

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1 A. Can I look at that?

2 Q. You bet.

3 A. Okay.

4 Q. Do you recall being asked those
5 questions and making those answers?

6 A. Yes, sir.

7 Q. Okay. So you did talk with her about
8 what had happened before she wrote it out in long hand?

9 A. Just a few minutes, yes, sir.

10 Q. And, at that time, you asked her to
11 write it out in long hand then, after you had quizzed her
12 about it?

13 A. I asked her if she would, yes, sir.

14 Q. Again, nothing recorded, no notes by
15 Patterson?
16 A. No, sir.
17 Q. All right. And I asked you, if in
18 that conversation she had told you that she had struggled
19 with a man; is that right?
20 A. That -- do what now?
21 Q. Did she tell you in this conversation
22 that you had, before she wrote her statement out, that
23 she had struggled with the man?
24 A. She had told me that on the 6th.
25 Q. Did she tell you that on the 8th?
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1 A. I don't remember her telling me that
2 on the 8th.
3 Q. You aren't saying that she didn't tell
4 you that, are you?
5 A. I don't recall her telling me that on
6 the 8th.
7 Q. All right. Well, that doesn't -- do
8 you recall being asked this question: "Detective
9 Patterson, the first time you spoke with her, she told
10 you about a struggle on June the 8th. Did she say
11 anything to you about a struggle occurring between her
12 and the intruder?"
13 Answer: "Not in the report, she
14 doesn't."
15 And by that, you meant not in her
16 handwritten version, I take it?
17 A. Okay.
18 Q. She didn't write a report, but I take
19 it that you are talking about what she wrote down; is
20 that right?
21 A. Right.
22 Q. Okay. "Did she, in that conversation
23 with you on June the 8th -- did she, in conversations
24 with you on June 8th?"
25 "I honestly don't remember if she did
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1 or not."
2 Is that what you said?
3 A. Can I read that?
4 Q. You bet.
5 A. Okay.
6 Q. Did you make that answer? Under oath?
7 A. Well, it says that I did, yes, sir.

8 Q. Well, I mean, do you have any
9 recollection or not?
10 A. Well, it says that I said that.
11 Q. Well, that is not what I asked you.
12 Does that refresh your memory, or are you still telling
13 the jury that you don't know, one way or the other?
14 A. Well, I mean, that is the statement
15 that I made on June the 8th.
16 Q. Well, you now remember that?
17 A. Well, after reading it, yes.
18 Q. Okay. All right. Is that the -- are
19 you telling this jury now, that you don't know whether
20 she discussed that with you or not?
21 A. Well, that says that I don't remember
22 if she said anything about a struggle, but in her written
23 statement, she didn't say that she struggled with him.
24 Q. All right. That was going to be my
25 next question. After you read her statement, did you
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1 discuss it with her?
2 A. No, sir.
3 Q. You didn't discuss it with her?
4 A. No, sir.
5 Q. Why is that?
6 A. Well, I didn't feel that I needed to.
7 Q. Why not?
8 A. I just didn't.
9 Q. Well, apparently you said in the
10 conversation on the 6th, that y'all didn't write anything
11 down about it?
12 A. Well, I didn't say that we didn't.
13 Q. No, I say that you didn't. I say you
14 didn't.
15 A. I didn't write anything.
16 Q. Well, do you see anything in Frosch's
17 notes here, that he had at the hospital?
18 A. Well, I read Frosch's supplement
19 report.
20 Q. You read a report that you all did
21 sometime later?
22 A. Yes.
23 Q. Not the notes that he took there in
24 the hospital?
25 A. Right. That is nothing uncommon, you
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1 know that.

2 Q. Well, you don't know what I know?

3 A. Well, but that is nothing uncommon.

4 Q. No. I suggest to you, that it is

5 uncommon. And I suggest to you, that in fairness, if you

6 are going to hold her feet to the fire, for something

7 that you claim she said, that you would at least have the

8 honesty to -- to record it or --

9

10 MR. GREG DAVIS: I object to this as

11 being argumentative, it's not even a question.

12 THE COURT: All right. Gentlemen. If

13 you will please direct questions to the witness. If the

14 witness will answer to the point, briefly and succinctly

15 and straight to the question asked. Thank you.

16

17 BY MR. DOUGLAS D. MULDER:

18 Q. Don't you think, Mr. Patterson, that

19 in all fairness, that if you are going to hold somebody

20 accountable for a statement that you claim that they

21 made, that you would at least record the statement

22 accurately? Is that too much to ask?

23 A. I did.

24 Q. You didn't record it at all. You

25 wrote nothing down, and he wrote a sentence or two.

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1 MR. GREG DAVIS: Well, I'm going to

2 object to what those notes may or may not say. Detective

3 Frosch is back there if he wants to question him on

4 those. This officer didn't make those notes.

5 THE COURT: All right, gentlemen. If

6 you will just ask the question, if that is a document of

7 a prior hearing in which this witness testified to, let's

8 get straight to the point. Officer Frosch is present.

9 We can call him later. He is back there, Mr. Davis?

10 MR. GREG DAVIS: Yes, sir, he is.

11 THE COURT: All right.

12

13 BY MR. DOUGLAS D. MULDER:

14 Q. Mr. Patterson, when you went through

15 the residence, with the other detectives on the walk

16 through on June 6th, did you see some towels with blood

17 on them in the den area?

18 A. The towels I remember were in the

19 hall.

20 Q. Towels in the hall. All right. How

21 many towels did you see in the hall?

22 A. I don't -- I didn't count them.

23 Q. Were they bloody?

24 A. There were some washcloths that had

25 some blood on them, or had something that appeared to be

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1 like blood.

2 Q. Were they wet when you saw them?

3 A. I don't recall if they were or not.

4 Q. Were you told that they had been wet?

5 A. No, sir.

6 Q. Did you inquire as to whether or not

7 they were wet?

8 A. No, sir.

9 Q. It didn't make any difference?

10 A. It made a difference.

11 Q. She told you she put wet towels on the

12 boys, didn't she?

13 A. In her written statement.

14 Q. Did she ever tell you that she put wet

15 towels on the boys?

16 A. Well, in her written statement she

17 did.

18 Q. All right.

19

20 MR. DOUGLAS D. MULDER: Judge, might I

21 suggest that -- I am at the point that I would like to go

22 back into that, but I have another witness that I could

23 put on, and if we could get him counsel.

24 THE COURT: That is fine.

25 If you will step down, please.