

Testimony of Dr. Lisa Clayton

EXAMINATION

19

20 BY MR. TOBY L. SHOOK:

21 Q. Dr. Clayton, could you tell the Court

22 your opinions --

23

24 THE COURT: First of all, state your

25 name, and spell it.

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1 THE WITNESS: Lisa, L-I-S-A, initial

2 K, Clayton, C-L-A-Y-T-O-N.

3 THE COURT: Thank you. Go ahead.

4

5 BY MR. TOBY L. SHOOK:

6 Q. Could you please disclose the opinions

7 that you have come to testify on today?

8 A. Well --

9

10 MR. DOUGLAS MULDER: Judge, I think I

11 can probably sum this up a little bit quicker.

12 THE COURT: All right.

13 MR. DOUGLAS MULDER: She will testify

14 as to what psychic numbing is. She will testify with

15 respect to traumatic amnesia.

16 She will testify as to the effect of

17 the certain sedatives and pain pills and medication. She

18 will testify -- she is a psychiatrist, Judge. She is an

19 MD, and she will testify as to her training in forensic

20 psychiatry.

21 THE COURT: Well, we will place you as

22 an expert. If you will just sum up what your findings

23 are and what you are going to testify to.

24 MR. DOUGLAS MULDER: Well, if I could

25 go on a little bit more, I can do it. She will testify

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1 as to, Dr. Resnick and Dr. Scott's studies with respect

2 to mothers who kill their children. And she studied

3 under Dr. Resnick and trained under him, and she will

4 testify with respect to the six categories of mothers who

5 kill their children.

6 She will testify that she has examined

7 Darlie Routier, that she has spent, however many hours

8 with her that she spent with her, that she has

9 interviewed not only her, but family members.

10 And then, we will go through each of
11 these categories, and she will render an opinion, and
12 tell why it is or isn't applicable to this particular
13 case.
14 That is basically -- she will testify
15 with respect to grieving, and she will testify as to
16 whether or not she believed that on or about the 3rd day
17 of May of 1996, she believed that the accused was
18 involved in a serious suicidal attempt.
19 THE COURT: Well, anything, Mr. Shook?
20 MR. TOBY L. SHOOK: Yes, if I could
21 just ask the doctor some questions.
22 THE COURT: Sure.
23
24 BY MR. TOBY L. SHOOK:
25 Q. So one of your opinions will be about
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1 psychic numbing; is that right?
2 A. Yes, sir.
3 Q. Okay. Could you tell us what that is?
4 A. Psychic numbing is a term that is used
5 by psychiatrists and psychologists to describe someone
6 when they have experienced a traumatic event, whether it
7 be some sort of assault, witnessing an assault, rape,
8 witnessing some sort of tragic life threatening kind of
9 event that may not necessarily threaten them, but
10 threaten someone else.
11 And it just describes how some
12 individuals are essentially -- go through kind of a state
13 of, I guess, psychic shock, is also another term for it,
14 where they may be somewhat emotionalist. They may remain
15 kind of somewhat detached from any type of emotion that
16 other people might expect someone to have.
17 There may be periods of emotion and
18 then also periods of, again, detachment. And again, it's
19 a phenomenon that is seen with anybody that -- or with
20 some people, not all people -- but some people that go
21 through any kind of a tragic, shocking kind of
22 witnessing-type event.
23 Q. And, what are the facts or underlying
24 data that you used to form that opinion in this case?
25 A. Various, I guess, psychiatric
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1 textbooks, there's some articles that have been written
2 about psychic numbing, but predominantly, I guess,
3 psychiatric and psychological textbooks.

4 Q. Have -- is any of your opinion based
5 on the interview with the defendant?
6 A. About the psychic numbing?
7 Q. Yes.
8 A. Yes.
9 Q. Okay. And then also, is any of that
10 done with -- by interviews with relatives, friends?
11 A. Yes.
12 Q. Were any other tests performed?
13 A. Are you talking about in relation to
14 the psychic numbing?
15 Q. Right.
16 A. No, sir.
17 Q. Is that all the data then that you
18 relied on in forming your opinion on the psychic numbing?
19 A. No, I also listened to the 911 tape.
20 Q. Okay.
21 A. And then I also read her written --
22 Mrs. Routier's written statement to the police.
23 Q. Okay. Then is that all the data then
24 that you used in forming that particular opinion?
25 A. Yes, sir.
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1 Q. Okay. Then traumatic amnesia, is that
2 another opinion you will be testifying to?
3 A. Yes. That is something that occurs
4 when, or can occur when an individual, again, experiences
5 some type of traumatic event where they may have kind of
6 no memory for, again, parts of the event. They may have
7 memory of before and then sometime afterwards regain
8 memory.
9 There have been, again, in the
10 literature, psychiatric literature case reports, it's
11 also in psychiatric textbooks that essentially some part
12 of the memory, it's still encoded, but some part of the
13 memory, it's just essentially dissociated from their
14 conscious memory. And, sometimes hypnosis can bring it
15 back, but then sometimes it cannot.
16 Q. And again, what is the underlying
17 facts or data that you used to form that opinion in this
18 case?
19 A. Mrs. Routier's statement. Again, I
20 guess, the 911 tape, the interview, interviews, I spent
21 over 12 hours on different dates talking to Mrs. Routier.
22 The interview with her family, and just various
23 psychiatric textbooks and articles.
24 Q. Okay. And, then, you were going to
25 give an opinion, I believe, on sedatives or the effects

1 of sedatives?

2 A. Yes, sir.

3 Q. Okay. What is that?

4 A. It's basically how certain kinds of
5 sedatives that Mrs. Routier had in her system, I guess,
6 at the first interview when she was still in the
7 hospital, of Demerol and Phenergan.

8 And then, also, throughout the -- I
9 guess the time after she came home from the hospital, she
10 was on painkillers, she, -- various family members and
11 friends, because of her, I guess, emotional state, gave
12 her numerous pills, such as Valium and Xanax.

13 These kind of medications serve as
14 disinhibitors, and if anything, it's almost like some
15 sort of a truth serum.

16 There is a famous type of interview
17 that psychiatrists sometimes use called an Amytal
18 interview, and basically they use Amytal which is a
19 fairly short-acting barbiturate drug. And, it kind of
20 relaxes the person's defenses, and they tell the truth.

21 Again, she was not under that
22 medication, but she was under the influence of numerous,
23 similar medications that would serve to disinhibit her,
24 and while she was being interrogated or interviewed about
25 the offenses, it would -- any type of -- usually any type

1 of disinhibition would be -- she would experience, and
2 most likely it would induce the truth.

3 Q. And, what underlying facts or data
4 have you used to form that opinion?

5 A. Again, her -- all of the ones that I
6 already listed, I guess would be.

7 Q. Her interview as well as the other
8 interviews you talked about?

9 A. Yes, sir.

10 Q. Okay. And Mr. Mulder said you were
11 going to talk about studies on mothers that kill their
12 children; is that right?

13 A. Yes, sir.

14 Q. The six categories. Are you going to
15 render an opinion about that?

16 A. Yes, sir.

17 Q. Okay. What is that opinion?

18 A. Well, Dr. Resnick has listed or
19 proposed six categories. And my opinion about Dr.

20 Resnick's categories are that Mrs. Routier or Mrs.
21 Routier does not fit in any of those categories.
22 Dr. Scott has five categories and,
23 again, in my opinion about his categories are that she
24 doesn't fit in any of those categories either.
25 Q. Okay. What are those categories?
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1 A. Dr. Scott's categories are battering
2 mothers, retaliating mothers, mentally ill mothers,
3 unwanted children, and mercy killings.
4 Dr. Resnick's categories are,
5 altruistic murderers, acutely psychotic murderers,
6 unwanted-child murderers, accidental murderers,
7 spouse-revenge murderers, and then another -- his last
8 category which does not correspond is neonaticide, which
9 is murder of a baby within the first 24 hours of life.
10 Q. And what underlying facts or data did
11 you use to come to that opinion?
12 A. Again, the -- my interviews with
13 Darlie, with her family, again, I guess, the 911 tape,
14 the written statement by her, the various textbooks and
15 articles, and obviously, the articles written
16 specifically about those categories, but then also, other
17 psychiatric textbooks and categories.
18 Q. And what other opinions was it that --
19 grieving, I believe, is that the other opinion you are
20 going to render?
21 A. Yes, sir.
22 Q. What's that opinion?
23 A. That opinion has to do with --
24 everyone grieves in different ways, and that there is no
25 appropriate type of way of grieving. There may -- you
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1 might, if you are going to categorize them, you might, as
2 far as healthy and unhealthy. But people grieve in
3 different ways.
4 I guess I am going to give an opinion
5 about -- that the events at the cemetery, which some
6 people have misinterpreted, was an appropriate form of
7 grieving. Do you want me to go into --
8 Q. Yes, please, your opinion.
9 A. That it was not planned to be that way
10 by Mrs. Routier, that they had had a prayer service
11 before, which she was crying, her mother had told her
12 that she needed to quit crying so much, that they were
13 going to be -- that the neighborhood kids were going to

14 be there and that it would scare them and upset them,
15 that she tried to essentially put on almost an
16 hysterical-like, kind of happy face.
17 Her sister, her younger sister had
18 bought this Silly String, and then, they had the kind of,
19 essentially, celebration as if the child was still alive
20 for the benefit of neighborhood kids. That it reflects
21 some cultural and biblical context, in that Christians
22 are taught, that if they believe in the Resurrection
23 that, you should celebrate a death because the person is
24 no longer here on earth to suffer, but they are in
25 heaven.

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1 That, there are other customs, and the
2 Irish wakes, where people actually party with the
3 deceased body present. And, that there is different
4 cultural standards.

5 And again, grief is not something that
6 is a -- universally applied to everyone in every
7 situation.

8 Q. So your opinion on that, I guess a lot
9 of that came -- the facts on that came with the interview
10 of the defendant?

11 A. Yes, sir. And, then I guess, you
12 know, everything I also listed. I had, I guess, I did
13 review parts, or see parts of the news media tape, and
14 then also my, I guess, biblical and Christian training or
15 knowledge.

16 Q. And, I think the last opinion listed
17 was a suicide attempt on May 3rd?

18 A. Yes, sir.

19 Q. What's the opinion on that?

20 A. My opinion is that Mrs. Routier was
21 not imminently suicidal. That it was more of a gesture.
22 She did not make an attempt. She phoned her husband.
23 It was more kind of -- she was just at
24 her wits end at that moment, that her husband immediately
25 came home, he -- things changed, she began -- he began, I

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1 guess, kind of helping around the house more, that she
2 was never actually going to go through with this.
3 It was not a fatal-type attempt.
4 Obviously, there was no attempt. The outcome, obviously,
5 was not fatal. And, that her partial suicide note that
6 was in her, I guess, diary shows her love and compassion
7 for her sons.

8 That her, you know, depression or
9 dysphoria was related probably to not having her period
10 due to the fact that she was breast feeding. That she
11 had stopped breast feeding but still had not had her
12 period.
13 That within three to four days she
14 began her menstrual cycle again, and there was a dramatic
15 change in her mood, and that this was not some chronic
16 type of depression or postpartum psychosis that lasted
17 until the events on the first -- in the first part of
18 June.

19 Q. And, again, what are the underlying
20 facts and data that you rely on for that opinion?

21 A. I guess her suicide note, the diary,
22 my interviews with her. My interviews with the families,
23 family members. And again, I guess her statement, and
24 then various, again, psychiatric textbooks and articles
25 dealing with depression, suicide attempts and postpartum
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1 depression.

2 Q. Okay.

3

4 MR. TOBY L. SHOOK: If I could have
5 just one moment, please?

6 THE COURT: Yes. Do you have anything
7 else, Mr. Shook?

8 MR. TOBY SHOOK: No, sir. I believe
9 that is all the opinions; is that right?

10 THE WITNESS: Yes.

11 THE COURT: All right, thank you.

12 Bring the jury in, please.

13

14 (Whereupon, the jury

15 Was returned to the

16 Courtroom, and the

17 Proceedings were

18 Resumed on the record,

19 In open court, in the

20 Presence and hearing

21 Of the defendant,

22 As follows:)

23

24 THE COURT: All right. Let the record

25 reflect that all parties in the trial are present and the

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1 jury is seated.
2 Ladies and gentlemen of the jury, this
3 witness has been sworn outside of your presence.
4 This is Dr. Lisa Clayton. C-L-A-Y-T-O-N.
5 Mr. Mulder.

6
7
8

9 Whereupon,

10
11

12 DR. LISA K. CLAYTON,

13

14 was called as a witness, for the Defense, having been
15 first duly sworn by the Court to speak the truth, the
16 whole truth, and nothing but the truth, testified in open
17 court, as follows:

18
19

20 DIRECT EXAMINATION

21

22 BY MR. DOUGLAS D. MULDER:

23 Q. Dr. Clayton, would you tell the jury
24 your name, please?

25 A. Dr. Lisa K. Clayton.

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1 Q. And, you are a physician, a medical
2 doctor?

3 A. Yes, sir.

4 Q. Okay. Will you tell the jury your
5 educational background and experience that qualifies you
6 as a medical doctor?

7 A. Yes, sir, I received my Bachelor's
8 degree in psychology from the University of Oklahoma. I
9 was also a premed --

10

11 THE COURT: Ma'am, you are going to
12 have to speak a lot louder than that so the last two
13 jurors can hear you.

14 THE WITNESS: Oh, okay.

15 I received my Bachelor's degrees in
16 psychology from the University of Oklahoma. I was also
17 premed at the time.

18 I applied, and was accepted into
19 medical school. Four years later, I graduated from Emory
20 University School of Medicine in Atlanta, Georgia.

21 During medical school you rotate
22 through your third and fourth years. You rotate through

23 the various specialties of medicine such as OB-GYN,
24 surgery, internal medicine, pediatrics, and psychiatry.

25 It was during these medical school

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1 rotations that I decided that I wanted to specialize in
2 the medical field of psychiatry.

3 After I graduated from medical school,

4 I did a one year general internship at Emory in Atlanta.

5 This consisted of working in neurology, internal medicine
6 and psychiatry.

7 After I completed my internship, I did

8 two years of full time psychiatric residency training at

9 Emory in Atlanta. I then moved to Dallas, Texas, and

10 completed my fourth year of psychiatric residency

11 training at U.T. Southwestern Medical School in Dallas.

12 There is now a sub-specialty in the

13 field of psychiatry, called forensic psychiatry. It's

14 basically how psychiatry interacts with the law in both

15 civil and criminal matters, and also has to do with

16 taking care of and evaluating inmates who have either

17 been accused of a crime, or already convicted of a crime,

18 and are incarcerated, but have some sort of psychiatric

19 disturbance and need medication.

20 I did a one year -- after I did my

21 four years of residency -- internship and residency, I

22 did an extra year called a fellowship. This was a

23 specialization in forensic psychiatry. I did this at

24 U.T. Southwestern.

25 This consisted this year, of working

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1 solely in forensic psychiatry. I worked at the Dallas

2 County jail, I have worked at the federal prison in

3 Seagoville. I have worked under various other forensic

4 psychiatrists. I attended SMU Law School classes. I

5 also went to various conferences and workshops around the

6 country that had specialization courses in various

7 aspects of forensic psychiatry.

8 Since the time that I have completed

9 my forensic fellowship I have been in private practice in

10 the Dallas area.

11 My private practice consists of both,

12 general adult psychiatry and some forensic work.

13 I have an office by Baylor downtown, I

14 am on staff at Baylor and I see both in-patients at

15 Baylor Hospital, and I also see out-patients.

16 I also work at some senior centers at

17 Baylor and see geriatric patients. I work approximately
18 8 to 10 hours a week at the Dallas County jail, where I
19 see inmates who are accused of crimes or have already
20 been convicted, but they need psychiatric medication
21 evaluations or maybe to be put on suicide watch. But I
22 see them solely as a Dallas County psychiatrist.
23 I work one day a week at Corsicana,
24 residential youth treatment center, where I evaluate
25 juveniles who of been committed to TYC, but then have
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1 also been found to have some severe mental disturbance,
2 and they are sent to Corsicana.
3 I -- and also in part of my forensic
4 practice I evaluate criminal defendants, such as Mrs.
5 Routier, and then I also evaluate cases in civil
6 litigations also.
7 I evaluate people for competency,
8 sanity, dangerousness, that sort of thing. And, I also
9 am on the clinical teaching staff at U.T. Southwestern,
10 where I help out in the community oversee residents who
11 are in training, and, I think that is about it.

12 Q. Okay. Very good.

13 A. And, oh, I'm sorry. I'm licensed to
14 practice medicine in both the states of Texas and
15 Georgia.

16 Q. All right. Dr. Clayton, are you
17 frequently called upon to render a psychiatric opinion,
18 an expert opinion in court?

19 A. I guess I would call it frequently,
20 yes, sir.

21 Q. Okay. Have you testified in court
22 over one hundred times?

23 A. Yes, sir.

24 Q. And you have been qualified as an
25 expert?

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1 A. Yes, sir.

2 Q. All right. I'll ask you, Dr. Clayton,
3 approximately how many people have you examined who were
4 charged with criminal offenses?

5 A. Any type of criminal offense?

6 Q. Yes.

7 A. I'm sure over a thousand.

8 Q. Okay. Can you give the jury some idea
9 as to how many people you have examined who are charged
10 with either murder or capital murder?

11 A. Probably, I guess around seventy-five
12 to a hundred.

13 Q. Okay. Dr. Clayton, is there a
14 difference in examining someone who is charged with a
15 serious criminal offense as opposed to seeing someone who
16 is -- as an out-patient in your office?

17 A. Yes, sir.

18 Q. Okay. And what is that difference?

19 A. The difference is, is in an
20 out-patient or office, regular relationship it is a
21 therapeutic relationship. Psychiatrists are essentially
22 taught, in our training to be very accepting and
23 believing of what people tell you, until you find out
24 otherwise.

25 That is the reason that I did the
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1 extra year of forensic fellowship training. Because,
2 when you are working in the realm of criminals, you need
3 to be able to assess and confront that what they are
4 telling you, may in fact be not truthful, out and out
5 lies, and that sort of thing.

6 And so, I have received special
7 training in how to, I guess, confront, how to look for
8 people who are lying, are not telling the truth, and that
9 sort of thing. So, it's much more of an aggressive type
10 of evaluation and interview.

11 The, you know, -- I am not trying to
12 treat the person, I am just trying to evaluate and render
13 an unbiased opinion.

14 Q. Okay. Are there techniques, that you
15 as a physician would employ, to determine whether or not
16 the person you are examining is being truthful with you,
17 or whether they are fudging or lying, or being deceitful
18 or otherwise trying to influence the examination and your
19 ultimate evaluation of them?

20 A. Yes, sir.

21 Q. Okay. Would you tell the jury, just a
22 give them some example of how you do that?

23 A. Well, the best probable technique is
24 time, time, time, and the amount of time you spend with
25 someone, and have it be over different periods, not all
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1 like in one day, but maybe see them and then wait a
2 couple of weeks and then see them again.
3 You have them go over the story, and
4 first you have them talk about something that you know is

5 true, such as their birthdate and where they grew up and
6 that sort of thing. Then you move on, after a period of
7 time, and you observe their body language, their
8 emotional state, their blink rate, their fidgeting, their
9 posture, the tone of their voice, the way they word
10 things, their, I guess descriptions, and just that sort
11 of thing.

12 Then you move on to the topic in
13 question, such as, the crime, the alleged crime. And
14 have you -- have them talk to you about that.
15 Again you observe to see if there is a
16 change in demeanor; and, again, their movements, their
17 voice, their eye contact, their blink rate.

18 A lot of times when people are lying
19 to you they will look you straight in the eye because
20 they have always heard that, you know, you don't -- if
21 you are not looking in the eye, so you look for such
22 things like that, and they will, you know, they will
23 start looking you straight in the eye, instead of kind of
24 the way they have been looking at you before.

25 You also look for the changes in their
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1 voice, motion, the way they relate the story. And then
2 again, you go back and do this over again at a later
3 date.

4 You also are assessing when someone is
5 telling the truth. Most often, anybody relating any kind
6 of story there is slight discrepancies or changes, just
7 because of the way our memory works. So, you are looking
8 for that, versus someone that is telling a rote lie, they
9 tend to be very ridged, the wording is almost exactly the
10 same every single time.

11 So, you look for different kind of
12 nuances, about that In their description. And then
13 again, you do this again, over and over, to -- at
14 different times, if possible, to just assess, you know,
15 whether someone is telling you the truth.

16 Q. Okay. And in the course of your
17 psychiatric practice, are you frequently called upon by
18 prosecutors and defense lawyers, as well as requested by
19 judges, to examine someone and render a professional
20 opinion?

21 A. Yes, sir.

22 Q. Now, Dr. Clayton, are you familiar
23 with the psychiatric studies of Dr. Scott and Dr.
24 Resnick, concerning the categorization by them of women
25 who have killed their children?

1 A. Yes, sir.

2 Q. Okay. And, I think one of the
3 physicians divides it into five categories; is that
4 correct?

5 A. Yes, sir, Dr. Scott has the five
6 categories, and then Dr. Resnick, he has -- his
7 categories pretty much coincide with Dr. Scott's, but he
8 added another category, and he has six categories.

9 Q. All right. Both of those physicians
10 are considered to be two of the leading authorities in
11 that field, are they not?

12 A. Yes, sir, they are.

13 Q. Do you personally know Dr. Resnick?

14 A. Yes, sir, I do. I had the luxury or
15 the pleasure of training under him during my forensic
16 fellowship.

17 Q. Okay. All right. Can you tell the
18 jury what those categories are?

19 A. Okay. Doctor -- you just want me to
20 list them out?

21 Q. Yes, if you would please?

22 A. Dr. Scott's categories are battering
23 mothers, retaliating mothers, mentally ill mothers,
24 unwanted children mothers and mercy killing mothers.

25 Dr. Resnick, he categorized them as
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1 altruistic murderers, acutely psychotic murderers,
2 unwanted child murderers, accidental murderers and spouse
3 revenge murderers, and then his last category, which is
4 in addition, is neonaticide, which is the killing of an
5 infant within the first 24 hours of life.

6 Q. Okay. Would it be fair to say that we
7 could, I think Dr. Scott calls the first category the
8 battered child --

9 A. Yes.

10 Q. Or the battering mother?

11 A. Yes, and that kind of coincides with
12 Dr. Resnick's accidental.

13 Q. Okay. Could you explain to the jury
14 just what that is?

15 A. Well, both of them, are pretty much
16 the -- both of the doctors use pretty much the same
17 description. That it is a child who has experienced --
18 or a mother who has abused the child over a long period
19 of time, and then, actually doesn't mean to kill the

20 child, but just the physical abuse finally does become
21 fatal.

22 And those children show long history
23 of, you know, bruising, broken bones, past injuries, and
24 then finally there is one injury that finally is fatal to
25 the child.

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1 Q. Okay. It is just where they have
2 gotten into a routine, and they just -- that last time,
3 they just went too far?

4 A. Yes, sir.

5 Q. And, many times is that not evident
6 when the pathologist x-rays the child, and can see the
7 broken bones that have mended, and things of that nature
8 that would alert the physician?

9 A. Yes, I mean, it's almost always
10 evident on autopsies that, not only by x-rays but just
11 the physical exam of old bruising, healed wounds and
12 scarring and then the history of the broken bones.

13 Q. Okay. Dr. Scott calls the next
14 category retaliation, or the retaliating mother, and
15 would that correspond to Dr. Resnick's revenge mother?

16 A. Yes, sir, those are the two that
17 correspond.

18 Q. Okay. And, could you acquaint the
19 jury with that category, please?

20 A. This is a category where it's a mother
21 who is usually very angry at the child's father, whether
22 it be her husband or not.

23 Most often the way they talk about it,
24 the mother has been -- is separated, or the father is not
25 living in the home, and it's getting back at the father.

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1 The father may be having an affair and
2 still living in the home. But basically the mother kills
3 the child in order to hurt her husband or the baby's
4 father.

5 Q. Okay. Dr. Scott's third category, is
6 what he calls the mentally ill mother, and I think Dr.
7 Resnick calls that the psychotic mother. Can you tell
8 the jury about that category, please?

9 A. Yes, this is a mother who becomes what
10 we call psychotic or grossly mentally ill. In that they
11 are hearing voices, they are delusional, they are
12 paranoid, they usually don't try to hide the fact that
13 they have killed the baby, they may kill a child that

14 they think is of the devil, or, that God has told them to
15 do this. That sort of thing.

16 They are very disorganized, usually
17 before and after the murders, they exhibit psychotic
18 symptoms that are very evident to even, usually, lay
19 people, before and after the murders and they are
20 basically just very crazy and mentally ill and that is
21 what causes them to kill their children.

22 Q. Okay. And they generally confess and
23 justify it in their own minds, don't they?

24 A. Oh, yes, they don't try to hide the
25 murder and they are very open about it usually.

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1 Q. Okay. All right. And frequently,
2 the mentally ill and the psychotic category would exhibit
3 symptoms that the lay person could recognize readily?

4 A. Yes. Someone that is psychotic, you
5 don't just suddenly snap and for 10 minutes be acutely
6 psychotic and then snap back.

7 It may be a fairly brief psychosis in
8 that it, you know, might just last a few hours today, but
9 there has been -- usually there are symptoms where they
10 aren't able to keep their house, they may not be able to
11 keep themselves groomed.

12 They start saying weird things to
13 their family and friends. They might start talking about
14 hearing voices, they become paranoid.

15 They might have very rapid,
16 unexplained mood swings, where one minute they are
17 talking normally, and the next minute they are crying
18 hysterically and that is probably in response to the
19 voices and the delusions that they are having.

20 And again, it's not -- you don't just
21 go from being totally normal to 10 minutes or an hour of
22 psychosis. It's something that may be limited, but there
23 is a what we call prodromal, and then residual symptoms
24 before and after.

25 But usually it is much longer. I
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1 would say months to years, in these mothers that they are
2 talking about.

3 Q. It's not something that you could turn
4 on and off like a water faucet?

5 A. No, sir.

6 Q. Okay. How about the unwanted
7 category?

8 A. There again, that is the same, in both
9 of the doctors' classifications, those are usually --
10 they are usually predominantly teen-age mothers who have
11 children out of wedlock, the majority of the children in
12 this category show signs and actually the majority,
13 pretty much predominantly all of them show signs of
14 neglect, meaning not being fed properly, they may be very
15 thin, they may have vitamin deficiencies, kind of dirty,
16 not being kept clean.
17 In the category of both of these
18 doctors, over 50 percent actually died from the neglect,
19 meaning that that was the cause on the autopsy was
20 malnutrition, that or untreated medical illness that
21 eventually led to their death.
22 So, again, it's not something the way
23 that you categorize it where it's a very sudden thing.
24 It's usually a long prodromal history of a mother
25 exhibiting signs of rejecting the child before the mother
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1 actually kills the child.
2 Q. Okay. And in Dr. Scott's last
3 category, I believe he calls it the mercy category, and
4 Dr. Resnick calls that category -- or his corresponding
5 category would be the altruistic?
6 A. Yes, sir.
7 Q. Is that correct?
8 A. Yes, sir.
9 Q. So could you explain to the jury that
10 category, please?
11 A. Well, this is the -- well, there is
12 kind of two different types. This is the mother who was
13 suicidal but sees that, you know, the child cannot live
14 without her, or she is afraid that the husband or
15 relatives, or there is no one to take care of the child,
16 and so there is no hope for the child, so, this is the
17 mother that kills her children, and then kills herself.
18 It also is the mother who may have a
19 mentally retarded, terminally ill, chronic illness child,
20 where the mother feels like that the child is "better off
21 dead," and that she needs to kill the child in order to
22 relieve the child's suffering.
23 So those are pretty much the
24 descriptions in that category.
25 Q. All right. That would be the final
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1 category for Dr. Scott, and then I believe that Dr.

2 Resnick had a 6th category, did he not?

3 A. Yes, his was again neonaticide, which

4 is the mother who -- usually it's a mother who has the

5 baby at home, oftentimes the pregnancy has been hidden,

6 and what happens is within the first 24 hours of life,

7 the mother kills the infant.

8 Q. Okay.

9

10 THE COURT: All right. Thank you,

11 Ladies and gentlemen, members of the

12 jury, we're going to take a 15 minute break now. We're

13 going to break until 3:00 o'clock. And, members of the

14 viewing audience, it will be necessary at this time to

15 vacate the courtroom, please.

16 All right. Nothing dangerous, just a

17 housekeeping chore.

18

19 (Whereupon, a short

20 recess was taken, after

21 which time, the

22 proceedings were

23 resumed in open court,

24 in the presence and

25 hearing of the

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1 Defendant, being

2 represented by her

3 Attorney, but outside of

4 the presence of the jury

5 as follows:)

6

7 THE COURT: All right, are both sides

8 ready to bring the jury back and resume with Dr. Clayton?

9 MR. DOUGLAS D. MULDER: Yes, sir, the

10 Defense is ready.

11 MR. GREG DAVIS: Yes, sir.

12 THE COURT: All right, bring the jury

13 back in, please.

14

15 (Whereupon, the jury

16 was returned to the

17 courtroom, and the

18 proceedings were

19 resumed on the record,

20 in open court, in the

21 presence and hearing

22 of the defendant,

23 as follows:)

24

25 THE COURT: Let the record reflect
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1 that all parties in the trial are present and the jury is
2 seated.

3 Mr. Mulder.

4

5 BY MR. DOUGLAS MULDER:

6 Q. Dr. Clayton, you have been called here
7 to testify as regards to Darlie Routier. Do you know
8 her?

9 A. Yes, sir.

10 Q. Do you see her here in court on my
11 immediate left?

12 A. Yes, sir.

13 Q. Have you had occasion to examine her?

14 A. Yes, sir.

15 Q. And has she been made available to you
16 as you required?

17 A. Yes, sir.

18 Q. Can you tell the jury approximately
19 how many times you have seen her?

20 A. I have seen her for these -- this
21 evaluation approximately five or six times for over a
22 total of over 12 hours, probably about 12 and a half
23 hours total time that I have spoken with her in this type
24 of interview setting.

25 Q. Is that relatively long or is it
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1 longer than you usually take to examine and evaluate
2 someone?

3 A. Yes, usually most evaluations are done
4 within an hour to two-hour period. On some other
5 previous capital cases, I have talked with the defendant
6 up to about four hours and usually it's between two to
7 three different times.

8 Q. Okay.

9 A. But yes, I have spent more time.

10 Q. Okay. And, have you likewise been
11 given access to, for example, the 911 tape?

12 A. Yes, sir.

13 Q. Okay. Have you had access to, and do
14 you have a copy of the statement that she made to the
15 police on June the 8th of 1996?

16 A. Yes, sir.

17 Q. I'll ask you if you likewise have a
18 copy of the journal that contains a final entry on May
19 the 3rd of 1996 addressed to her three sons?

20 A. Yes, sir.

21 Q. Okay. That is the statement in which
22 she mentions ending it all or --

23 A. Yes, sir.

24 Q. Or the so-called suicide note?

25 A. Yes.

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1 Q. Have you also had occasion to visit
2 with family members of Darlie Routier's?

3 A. Yes, sir, I have.

4 Q. Now, Dr. Clayton, could you start with
5 the first category that we discussed, and tell the jury,
6 based on your examination and evaluation of Darlie
7 Routier, whether or not she fits in the first category
8 that we talked about that Dr. Scott and Dr. Resnick
9 defined on mothers who kill their children?

10 A. Yes, the first category would be
11 battering mothers, and under Dr. Resnick's classification
12 accidental deaths, again, those are mothers who have
13 physically abused their children for a long time, and
14 then finally one incident of physical abuse, is fatal.

15 Based upon my interviews with Mrs.
16 Routier and her family members, and I guess all of the
17 other things you mentioned, there is no history of any
18 type of physical abuse.

19 There was no history of any type of
20 physical abuse found on autopsy, in fact, it's been
21 reported by not only Mrs. Routier, but her husband, her
22 mother-in-law, and her mother is --

23

24 MR. TOBY SHOOK: Judge, I'll object
25 to hearsay.

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1 THE COURT: Sustained, ma'am. Now,
2 Doctor, just testify as to what you know from your own
3 personal knowledge.

4 MR. DOUGLAS MULDER: Well, Judge, in
5 forming her opinion, she can consider all that.

6 THE COURT: Oh, by all means there.

7 Let's just rephrase your question the right way.

8 MR. DOUGLAS MULDER: Yes, you are
9 doing fine, Doctor. If you will just carry on.

10 THE WITNESS: That Mrs. -- well, it's

11 my opinion, from those sources, that Mrs. Routier did not
12 even physically spank her children, on a regular basis,
13 maybe once or twice in their whole entire lives and that
14 she never used any kind of physical force, to any kind of
15 excess at all with her children in the history.

16 Q. Okay. So she doesn't fit in the
17 category 1 of Dr. Scott and Dr. Resnick's categories?

18 A. No.

19 Q. Okay. How about category 2, the
20 retaliating mother or the revengeful mother?

21 A. Well, again, those are usually mothers
22 who are separated from their spouse, or find out their
23 husband or the baby's father is being in some way
24 unfaithful to them, and kills the children out of
25 revenge.

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1 Again, it's my opinion, from all of my
2 different interviews that Mrs. Routier and -- or Darlie
3 and Darin Routier had a very healthy, strong, marriage;
4 that they were very much in love with each other; that
5 they had what I would consider a normal relationship, in
6 that times they did argue, and maybe raised their voices,
7 there is -- over different matters however, there again,
8 there was a strong bond, and love between them. And that
9 there was, and I guess still is, no reason for any type
10 of retaliation or revenge-type killing.

11 Q. Dr. Clayton, Dr. Scott and Dr.
12 Resnick's third category, I would like to have you
13 discuss with the jury, is the -- under Dr. Scott the
14 mentally ill mother, and under Dr. Resnick the psychotic
15 mother. Would you explain to the jury whether or not
16 that is applicable based on your examination and your
17 evaluation of Darlie Routier?

18 A. Again, I do not think it is
19 applicable. It's my opinion that Mrs. Routier was very
20 much functional. She was performing regular household
21 chores, she was not saying any bizarre statements, or
22 showing any type of bizarre behavior. There was no
23 evidence that she had any type of psychosis prior to the
24 alleged offense.

25 And then, from hearing the 911 tape
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1 again, that she is, I guess, performing -- or not
2 performing, she is reacting in a very appropriate manner.
3 You know, the distress, she is coherent, she is not
4 talking about, you know, the devil or evil, or some sort

5 of bizarre, psychotic delusion, that you would expect
6 from a mother who had just killed their children in a
7 psychotic state.
8 And then, even after the events she
9 was examined by other psychiatrists at the jail, and then
10 also by me, when I was functioning in my jail psychiatry
11 role, a few days after the arrest, and there has never
12 been any thought by any of these psychiatrists that she
13 had any evidence of any type of psychosis.
14 So, I do not think that she fits into
15 that category.

16 Q. Okay. And that would really be
17 covered by the postpartum psychosis?

18 A. Yes.

19 Q. What exactly is take, and what are
20 those -- I take it those are degrees?

21 A. Yes, they kind of -- they have
22 actually, depending on the textbook that you read, they
23 usually are divided into about three categories. One is
24 postpartum blues.

25 Q. Is that also called baby blues?

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1 A. Yes. Um-hum. (Witness nodding head
2 affirmatively.)

3 Q. Okay.

4 A. And again, this usually happens within
5 two or three days after delivery, up until like about
6 three weeks, feeling just kind of down. Again, usually
7 these -- any type of postpartum problems usually happen
8 with the first baby more than any other pregnancy.

9 But again, it's usually somewhat --
10 it's very close to the time of the delivery. It is more
11 of just kind of a period of dysphoria, that usually, you
12 know, resolves without any kind of treatment or anything.
13 They just start feeling better.

14 Q. Just kind of moody?

15 A. Yes.

16 Q. And for no reason?

17 A. Yes, but again, that is usually
18 within -- usually within the first month of the new
19 infant's birth.

20 Q. Okay.

21 A. And then the second category is
22 postpartum depression with major depression. Again, this
23 is kind of when the blues linger on, and they become what
24 we psychiatrists would call majorly depressed, meaning
25 that their sleep is disrupted, even if the baby is not

1 disrupting their sleep, again it's usually very
2 noticeable to family and friends.
3 Again, this usually happens -- most of
4 these happen within the first three months of the birth
5 of the baby. Then again, oftentimes, it resolves by
6 itself. Some people -- some women do seek psychiatric
7 help, and get put on some type of antidepressant
8 medication.
9 The third category is the postpartum
10 psychosis, where over a period of time, lasting up to one
11 year, the mother can become frankly psychotic. Usually
12 she progresses through the first two stages I told you
13 about, and then she starts becoming paranoid that, you
14 know, something is going to happen to the baby, or
15 somebody is going to hurt her, or she starts hearing
16 voices, she starts acting very bizarre.
17 Usually families report that she quits
18 caring for herself or the baby, housework doesn't get
19 done. Just regular, basic personal hygiene is totally
20 neglected, and these mothers, usually because there is an
21 infant in the home, and the family needs the mom there to
22 take care of the infant, but they usually come to the
23 attention of mental health people very quickly, because
24 of the high demands of caring for an infant, that if the
25 mother is not able to do so in the appropriate way,
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1 family usually bring the mother in, and she receives
2 psychiatric treatment. And that usually does require
3 medication for it to resolve.

4 Q. Dr. Clayton, in the case of postpartum
5 psychosis, in postpartum psychosis, that is severe
6 enough, that it results in violence towards a child, is
7 not the child generally to whom and against whom the
8 violence is directed is the newborn?

9 A. Yes.

10 Q. Is that not practically always true?

11 A. Yes, that is, in I would say probably
12 from 90 to 95 percent of the time, is that it's focused
13 around the infant that has just been birthed by the
14 mother.

15 Q. All right. Doctor, the fourth
16 category would be the unwanted child category, it's the
17 same in both Dr. Scott and Dr. Resnick's research?

18 A. Yes, sir. This is the category that
19 is the majority are unwanted-type pregnancies, wherein

20 the mother is usually teen-aged, there is no social
21 support, there -- from anybody. They may resent the
22 child that -- or the children, and sometimes they are of
23 another -- by another father that -- or they have got a
24 boyfriend who doesn't want children and that sort of
25 thing.

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1 Again, a majority of these children
2 are killed by actual neglect. Meaning that they are not
3 properly fed, they don't -- you know, they may be vitamin
4 deficient on autopsy and that they are actually on
5 autopsy, the reason they have been found to be dead is
6 because of either malnutrition or untreated medical
7 illnesses that the mother has just ignored. So, that is
8 how the majority of these children die.

9 The other ones that may not die
10 actually from the actual neglect do show symptoms of --
11 or evidence of neglect, such as unkept, dirty, not --
12 again the not being fed properly, that sort of thing.

13 So again, this is a very long -- I
14 guess or somewhat long process, in that the mother has
15 not wanted the child, and essentially has rejected the
16 child over a long period of time, and then culminates in
17 murdering the children or the child.

18 Q. And do you think that is applicable in
19 this situation?

20 A. No. Again it's my medical opinion,
21 from my evaluation, that Darlie Routier was a very
22 devoted mother, she went the extra mile as far as her
23 devotion to her children. She had a great amount of
24 social support. Support for her when she needed, I
25 guess, breaks from the children and that sort of thing.

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1 That, again, there is -- my opinion is
2 that there was no lover, or any reason why she needed to
3 rid herself of the two younger children.

4 Again, usually those type of murders
5 are -- you don't just, I guess, murder one of the
6 children, or some of them, it's usually the hole group of
7 children if the mother wants to be childless.

8 Or in the few situations, I guess,
9 where a child has been born by one father, and the mother
10 might kill the children that have been born by the father
11 who she is no longer with, and just want to keep the baby
12 by her newer husband or newer father.

13 So, it's my opinion that she does not

14 fit in that category either.

15 Q. Okay. Doctor, the fifth and last

16 category for Dr. Scott, would be the mercy killing that

17 is the one that correlates to the altruistic for Dr.

18 Resnick, could you tell the jury, based on your

19 examination and evaluation of Darlie Routier, whether or

20 not you feel that is applicable to her situation?

21 A. Well, obviously neither one of the two

22 children had any type of fatal or significant,

23 long-standing chronic illness, where she would have felt

24 that she needed to relieve their pain or suffering.

25 I do not think at the time, that she

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1 was suicidal. I think even when she contemplated or

2 thought about committing suicide, in May, that the note

3 showed -- that she wrote, or part of the note because she

4 stopped before she finished it. It showed a concern and

5 love for her boys, and a plan that she -- the boys were

6 going to be taken care of and would live on without her.

7 There was no evidence that she felt like they could not

8 survive without her, and there would be no one to care of

9 them, and that sort of thing. But all in all, I don't

10 think that she was suicidal at the time of the offense,

11 and I don't think that she killed the two boys and then

12 was trying to kill herself.

13 In the event where a mother kills her

14 children and then kills herself, it's very rare,

15 especially for women, to stab themselves as a method of

16 suicide. It's more likely some sort of asphyxiation,

17 even such as putting all of the kids in the car, and

18 putting them in the garage, and, you know, having carbon

19 monoxide kill everyone of them, including the mother, or

20 some type of gassing again in the home, or some type of

21 overdose, and if there is going to be a violent death,

22 it's usually a gun used.

23 But women, very rarely, kill

24 themselves with a knife. In fact, most -- in the

25 American culture, it's very rare, I guess, maybe common

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1 with Japanese soldiers, but it's very rare for a woman to

2 try to kill herself with a knife.

3 Q. Okay. Doctor, that -- we have gone

4 through Dr. Scott's categories, and Dr. Resnick has one

5 more category, and that is the --

6 A. Neonaticide.

7 Q. Yes, neonaticide. And, can you tell

8 us whether or not that is applicable to this situation?

9 A. Well, obviously it's not, because, she

10 did not -- again that is the category that Dr. Resnick
11 described, in that mothers who kill their infant within
12 24 hours of being born.

13 So obviously, by the fact that the

14 offense that the baby that she had was not harmed, and
15 was much older than -- all of the children were much
16 older than 24 hours old.

17 Q. Okay. Dr. Clayton, based on your 12

18 plus hours of examination and evaluation of Darlie

19 Routier, and based on your examination and evaluation of
20 her family members, and the review of the matters that
21 you have received, do you feel that Darlie Routier was
22 being truthful with you when you examined her?

23 A. Yes, I do.

24 Q. Okay. Now, Dr. Clayton, you are

25 aware that Darlie Routier was questioned by the Rowlett
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1 Police Department on June 6th of 1996, shortly after she
2 came out of surgery for the injuries that she had
3 sustained?

4 A. Yes, sir.

5 Q. And had been given, as I recall, some
6 Demerol and some Phenergan?

7 A. Yes, sir.

8 Q. She was questioned on other occasions

9 again, on June 8th of 1996, and again on June 10th of
10 1996, while she was under sedation and under medication.

11 Can you, as a psychiatrist, tell the

12 jury what effect that medication and sedation and the
13 medications that I have described to you would have on
14 her?

15 A. Yes, those medications, the Demerol to

16 Phenergan then later on the other painkillers, and,
17 benzodiazepine, or sedatives that she was being given,
18 over that time period, have the effect on a person to
19 disinhibit them, much like, somewhat like alcohol.

20 Meaning that they are almost in some

21 cases like a truth serum. There is a fairly famous

22 psychiatric-type interview, called an Amytal interview,

23 where a person is actually given a medication, an IV,

24 that is very short acting, a barbiturate, and, they are

25 asked questions and it is found that people that are

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1 lying, their inhibitions are dropped and they tell the
2 truth.

3 So, if someone is making up something,
4 they are -- because they are essentially somewhat
5 intoxicated by the medication, their ability to lie is
6 decreased and they more often tell the truth.

7 By the fact that Mrs. Routier was on
8 these medications over this time period, and was
9 questioned extensively, if she were lying, it would be,
10 usually at that point, under those conditions, where she
11 would -- where the truth would come out. Meaning that,
12 if she had done this she would have confessed, that sort
13 of thing. By the fact that she was on these medications
14 and did not change her story within any amount of, you
15 know, I did it, versus I didn't, it's my medical opinion
16 that she was being truthful.

17 Q. When she denied it?

18 A. Yes, sir.

19 Q. Okay. A good police strategy is to
20 question someone when they come out of surgery, isn't it?

21 A. Yes, or when they are under some type
22 of sedating-type medication, yes.

23 Q. Okay. Doctor, can you tell the jury
24 whether or not you are familiar with the term psychic
25 numbing?

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1 A. Yes, I am.

2 Q. All right. And will you tell the jury
3 what that is?

4 A. Well, it's a term that has been coined
5 by some psychiatrists, also it's called -- there is a
6 thing or another phrase call psychic shock, and it's used
7 to describe someone's emotional lessness or their
8 decrease in emotional reactivity when they have witnessed
9 some sort of traumatic, tragic event.

10 Either whether they have been
11 assaulted or attacked, or they have witnessed something.
12 There is -- essentially their body may not be in shock,
13 but their emotional reactivity is somewhat decreased. It
14 may fluctuate, meaning that they may kind of go in and
15 out.

16 With different people it's different,
17 but it's something that is recorded in the literature and
18 part of any kind of traumatic stress that people again
19 may, to others seem very cold and not really having any
20 emotions over it, whereas what is probably happened is
21 because of the trauma, on -- to use the psychiatric term,
22 ego, their mind has kind of blocked it off and separated

23 it out, that the emotions from the event. And at times
24 they can appear very emotionless and essentially just be
25 in a shock kind of state.

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1 Q. Okay. Doctor -- Dr. Clayton, are you
2 familiar with the grieving process that went on with
3 Darlie Routier, and with grieving in general?

4 A. Yes, sir.

5 Q. Okay. And, can you express to the
6 jury whether or not you feel her grieving was appropriate
7 or inappropriate given the circumstances?

8 A. I feel like her grieving was
9 appropriate.

10 Q. Okay. Do people grieve in different
11 ways?

12 A. Yes, sir, grieving is a very
13 individual response. I guess I wouldn't -- if I were
14 going to label grieving I wouldn't label grieving either
15 appropriate or inappropriate, because who is to say?
16 Every one is different. We all handle things in
17 different ways.

18 If I were going to categorize it, I
19 would categorize it to healthy and unhealthy grieving.
20 Some people are very stoic and don't elicit a lot of
21 emotion, and more private people, sometimes that is
22 cultural, sometimes it's individual.
23 Other people are more, I guess loud,
24 wailing and sobbing, you know, kind of throw their body
25 over the caskets and that type of grieving. And again,
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1 it's somewhat of an individual and somewhat of a cultural
2 response.

3 Some people, kind of, I guess what I
4 would call wax and wane, meaning that at some points they
5 are very in touch with grieving and emotion, and at other
6 points they aren't. Again, I think some of that has to
7 do with medication, when -- you know, when someone is
8 very, very upset, the family and friends respond, and
9 again, it's my opinion that this is what happened in
10 Darlie's case, is to give her medication to sedate her.
11 Some that wasn't prescribed for her, and probably was
12 given in too strong of doses, where it can almost make
13 someone zombie-ish (sic) like because they are so
14 sedated.

15 Again, I think from my evaluation that
16 Mrs. Routier's grieving was within normal grieving and

17 appropriate.

18 Q. So it was healthy?

19 A. Yes, sir.

20 Q. Okay. Dr. Clayton, are you familiar

21 with the term traumatic amnesia?

22 A. Yes, sir.

23 Q. And what is that, and how does that

24 apply based on your examination and evaluation of Darlie

25 Routier?

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1 A. Again, that is a term that is used in

2 various psychiatric textbooks. To describe when someone

3 is a victim or witnesses something very traumatic. I

4 guess, psychically, and for the most part they have no

5 memory of the event.

6 I guess in literature there is

7 several -- you know, someone being shot at point blank

8 range, and not remembering what happened right before, or

9 someone being raped, and basically having no memory of

10 it. It is basically a type of disassociation where the

11 person walls off the memory in another spot in their

12 brain and has no connection.

13 Again, there is -- at times, sometimes

14 these memories can later resurface. Again, these are

15 kind of -- a lot of times you are seeing this with the

16 sexual abuse kind of stuff. People literally don't

17 remember things, and then later on, bits and pieces kind

18 of come back.

19 I believe that this is probably the

20 case in Mrs. Routier's accounting of the events.

21 And, lack of, I guess, consistent

22 memory throughout the whole offense.

23 Again, it's -- I wouldn't say, I guess

24 it's not common, because most people don't go through

25 hopefully those kind of traumatic events that these other

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1 individuals have, but within victims of traumatic events,

2 there are most definitely memory lapses that there is no

3 real explanation for.

4 Q. And that is not unusual?

5 A. No, not with victims of traumatic

6 events.

7 Q. Dr. Clayton, I believe you have

8 already stated that you did not think that Darlie Routier

9 was suicidal on May the 3rd of 1996, despite any entry in

10 her journal?

11 A. Yes. I guess when I say suicidal, and
12 when I am dealing with it with people and patients,
13 meaning everyone, I think, or most people have thought of
14 what would it be like to just have it all over, or I
15 would like to go to sleep and not wake up, and just be
16 away from here.
17 I think that is very different, and I
18 don't consider that suicidal versus someone who has a
19 plan, is going to -- they, are for sure going to act on
20 it, and they usually do not tell family members. They
21 are secretive because they want their plans to be
22 successful. From my evaluation of Mrs. Routier, it's my
23 opinion that she had suicidal ideation.
24 I think it was more of a cry for attention
25 and help from her husband. She did not complete the
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1 note. She called her husband and told him how bad she
2 was feeling. Again, these are not the acts of someone
3 who was really going to kill themselves. It's more of
4 someone, I want you to realize how bad I am feeling and
5 how I need some help.

6 I think that was the case in -- with
7 Mrs. Routier on May the 3rd.

8 Q. And I believe you said in three or
9 four days, she had the menstrual cycle and things perked
10 up?

11 A. Yes. And again, I think hormonally
12 she was very vulnerable to feeling kind of anxious and
13 dysphoric, and that she would have been classified as
14 P.M.S. And then also, the fact that she had not had a
15 menstrual cycle, since over a year, she had not had one
16 since the birth of her baby.

17 So, by the accounts that she -- once
18 she had, you know, her period, that she felt much better,
19 and I also think that not only that, but just the fact
20 that her husband acknowledged that she was having stress,
21 and responded appropriately, and came home and the
22 situation was remedied.

23 Q. Well, three boys could be a stressful
24 situation for any mother, couldn't it?

25 A. Yes, sir.

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1 Q. And that is not unusual, is it?

2 A. No, sir. I think that most mothers
3 and especially mothers that stay at home with their
4 children, either full time or most of the time, every now

5 and then, you know, tell their husbands or, you know,
6 other family members --

7 Q. "I need a break."

8 A. "I need a break. Help me out." And I
9 think that is very common. People just may do it in
10 different ways.

11 Q. Sure. Dr. Clayton, are you familiar
12 with the prayer service at the cemetery, and the birthday
13 party or celebration that followed that? Are you
14 familiar with that?

15 A. Yes, sir, I am.

16 Q. Okay. And, could you give us your
17 professional opinion as to whether or not that was
18 appropriate based on your examination and evaluation of
19 Darlie Routier?

20 A. Well, again, I don't think that I can
21 necessarily say what is appropriate or inappropriate with
22 any family that is grieving over someone that has died.
23 I think it is in the realm of normal grieving, and thus
24 in that way, I guess it would be appropriate, in that
25 there was a prayer service.

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1 Mrs. -- Darlie was tearful, her mother
2 essentially told her that she needed to stop crying
3 because of the birthday party and the neighborhood
4 children being present after the prayer service and that
5 the children were already fearful and having nightmares.
6 And that this was to be a celebration, it was to reassure
7 the children that the little boys were with God, and in
8 Christian cultures, Christianity, in and of itself, talks
9 about the resurrection, and how someone is better off,
10 once they are dead, in that they are with the Lord, and
11 that they are no longer here on the earth. And the
12 Routiers were of the Christian faith, and I think they
13 were trying to, I guess, portray this to the other
14 children. And also, that it was not planned, the party,
15 or the way it was -- the Silly String and the party was
16 not planned by Mrs. Routier, it was her younger sister
17 who bought the Silly String and wanted to kind of --
18 basically, I think the family in some ways were acting in
19 kind of hysterical, almost a pathetic way in acting like
20 the two children were not dead. And trying to almost, I
21 guess, deny the fact that they were dead, in a way, and I
22 think especially what her younger sisters were trying to
23 do was that.

24 Again, different cultures have, you
25 know, grief or have funerals in different ways. What

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1 comes to mind is the wakes, or the Irish-Catholic type
2 wakes, where people actually have parties, and are
3 drinking and partying around the body of someone in a
4 casket.

5 And so, I think different cultures and
6 different people grieve in different ways, and personally
7 I don't feel like any -- no one can say what is
8 appropriate or not appropriate for a family grieving over
9 someone.

10 Q. Okay.

11

12 MR. DOUGLAS MULDER: Thank you. Dr.

13 Clayton. One of the prosecutors will have some questions
14 for you.

15 THE COURT: All right. Mr. Shook.

16 MR. TOBY SHOOK: Thank you, Judge.

17

18

19 CROSS EXAMINATION

20

21 BY MR. TOBY L. SHOOK:

22 Q. Dr. Clayton, I believe the first time

23 you met Mrs. Routier was part of your regular duties, in
24 the Dallas County jail, when you see people that have
25 been put in isolation; is that right?

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1 A. Yes, sir.

2 Q. Okay. And, the time you saw her I
3 believe was back on June the 20th of 1996?

4 A. Yes, sir. I mean, I don't have those
5 notes, but, I think you do.

6 Q. Okay. I think I have got a copy of
7 them here.

8 A. Yes, sir.

9 Q. Okay.

10 A. And I know we have gone over those
11 notes, and yes, I would say that is the date. It was
12 just a few days after her arrest at some point.

13 Q. Okay.

14

15 BY MR. TOBY SHOOK: Mark this, please.

16

17 (Whereupon the next exhibit was
18 marked for identification as
19 State's Exhibit No. 145.)

20

21 BY MR. TOBY L. SHOOK:

22 Q. Dr. Clayton, let me show you some
23 copies, I believe, of the Dallas County Medical Records,
24 marked as State's Exhibit No. 145, and if you could look
25 through those and see if you recognize those as being
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1 records kept by the jail in regards to Darlie Routier?

2 A. Yes, sir.

3 Q. And I believe some of your notations

4 will be in there, is that right?

5 A. Yes, it looks like the first one was

6 on 6-20-96.

7 Q. Okay. Let me see it just a second.

8 I'll give it back to you in a minute.

9

10 BY MR. TOBY L. SHOOK: Your Honor, at

11 this time we will offer State's Exhibit 145.

12 THE COURT: Any objection?

13 MR. DOUGLAS MULDER: Well, Judge, I

14 don't think she is the person who can sponsor some Dallas

15 County jail medical record.

16 THE COURT: Well, she said --

17

18 BY MR. TOBY L. SHOOK:

19 Q. You recognize those, don't you, Dr.

20 Clayton?

21 A. Well, I mean, I don't know if that is

22 the full one. I can recognize my writings on that.

23

24 MR. DOUGLAS MULDER: All right. Okay.

25 I am not finished with it, but --

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1 THE COURT: Any objection?

2 MR. DOUGLAS MULDER: Well, Judge, I

3 don't know. I have not read it. I would like to see it

4 first, if the Court doesn't mind.

5 THE COURT: All right. Well, let Mr.

6 Mulder read it.

7 MR. DOUGLAS MULDER: Judge, this is a

8 20 page deal that has many entries in different

9 handwritings.

10 THE COURT: Well, I think this is the

11 one that the Doctor said she reviewed; is that correct?

12 You reviewed this document; is that correct?

13 THE WITNESS: Well, I don't know

14 specifically if that is the one.
15 THE COURT: Well, perhaps you might
16 want to look at it and see if that is the one that you
17 reviewed.
18 Mr. Shook, hand it to her.
19 THE WITNESS: But I have reviewed her
20 medical records. They are actually in the jail medical
21 record file, they are on blue paper.
22 THE COURT: I understand, I think that
23 would be --
24 THE WITNESS: And they are the
25 physicians notes.
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1 THE COURT: Okay. Mr. Shook.
2 MR. TOBY SHOOK: Do you want me to
3 show it to her?
4 THE COURT: Just show it to her again.
5 MR. DOUGLAS MULDER: Well, we want to
6 see it again.
7 THE COURT: Oh, by all means.
8 MR. DOUGLAS MULDER: Well, Judge, I
9 just hate to sit here for 20 minutes just to read this
10 thing.
11 THE COURT: Well, you know, I have
12 nothing better to do. I might as well sit here.
13 MR. DOUGLAS MULDER: All right.
14 THE COURT: I am very comfortable, and
15 I don't mind waiting.
16 MR. DOUGLAS MULDER: Well, it's fine
17 with me, if it's all right with you.
18 THE COURT: All right. Very fine.
19 THE WITNESS: Do you want me --
20 I haven't specifically -- there are
21 some notes in here that wouldn't have been on the blue
22 paper, they would have been on another color paper
23 because they are not on the physicians.
24 THE COURT: But you recognize that as
25 a document that you have reviewed?
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1 THE WITNESS: Well, I have not
2 reviewed the ones that are not on the blue paper, but the
3 ones -- I did recognize my writing.
4 THE COURT: All right. That is fine.
5 Anything else? Any objection now?
6 MR. DOUGLAS MULDER: Yes, Judge. I
7 would still like to read it, if the Court wouldn't mind.

8 THE COURT: All right. Well, let Mr.
9 Mulder continue to perusing the documents.
10 THE WITNESS: Well, let me just be
11 sure that they have pretty much gotten all my notes.
12 MR. DOUGLAS MULDER: Judge, that
13 happens to be a number of different people's handwriting
14 on there.
15 THE COURT: I understand that. Thank
16 you. All right.
17 MR. DOUGLAS MULDER: And, may I just
18 take the witness on voir dire and ask her something?
19 THE COURT: You may.
20
21
22 VOIR DIRE EXAMINATION
23
24 BY MR. DOUGLAS MULDER:
25 Q. Did you consider what is on these --
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1 what is contained in these records in forming your
2 evaluation and opinions?
3 A. No, we didn't discuss any -- I was
4 seeing her under the guise of being the jail
5 psychiatrist. At that point I was -- I see -- the way it
6 works in the Dallas County jail is I see the women that
7 are in the north tower. I see the women that are on
8 suicide, specifically because of the clothing issues they
9 are on paper drapes and that sort of thing.
10 So, I was seeing her because when
11 someone is in a high profile case they are automatically
12 placed on suicide precautions. And I was not there, I
13 guess, the first day she was arrested, but then I was --
14 and two other male psychiatrists saw her, I guess, in
15 some sort of hold-over cell or something, and then once
16 she was transferred I saw her.
17 And it's rules by the sergeant that
18 women that are housed in a single cell in the Dallas
19 County jail be seen by the psychiatrist every two weeks,
20 every one to two weeks. And so, I was, at that point
21 just basically checking in with her. I guess obviously,
22 my notes talk about how she didn't appear psychotic and
23 the other psychiatrist thought she was not psychotic, so
24 I guess in some sense, I did possibly use -- not those
25 notes, but just some of my first impressions.
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1 But for the most part, I mean, in all
2 I did not interview her anything about her childhood, or
3 her -- the events or anything. It's basically a here and
4 now, how are you doing, I talk to these inmates about 30
5 seconds to a minute. Because, we go along and they open
6 up their little door, their feeder port, and I talk to
7 them through the door with the jailer right there. So,
8 it's basically just: How are you doing? Are you
9 sleeping? Are you suicidal?
10 Again, about a minute interview
11 because I am writing the whole time, and then I move on
12 to the next one, and that was all that those assessments
13 consisted of.
14 Q. Okay. But it is the policy of the
15 Sheriff's office, the policy of Sheriff Bowles of Dallas
16 County to put someone who comes in in a high profile case
17 on a suicide watch?
18 A. Yes, sir, that is usually what
19 happens.
20 Q. It doesn't make any difference whether
21 it is a man or a woman.
22
23 MR. TOBY SHOOK: Judge, are we going
24 back to direct, or --
25 THE COURT: Well, let's authenticate
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1 Exhibit 145. I believe the witness has stated that --
2 Dr. Clayton has said that she did review some pages in
3 there, and her signature or notes appear thereon; is that
4 correct, Doctor?
5 THE WITNESS: Yes, sir, that's
6 correct.
7 THE COURT: Okay.
8 MR. DOUGLAS MULDER: Well, Judge, I
9 obviously had -- I don't have any objections to any
10 entries that she has made.
11 THE COURT: Well, fine. Then State's
12 Exhibit 145, the entries made by this witness are
13 admitted. We will excise the other portions that she
14 cannot recognize.
15
16 (Whereupon, the above
17 mentioned item was
18 received in evidence
19 as State's Exhibit No. 145,
20 for all purposes
21 after which time,
22 the proceedings were

23 resumed on the record,
24 as follows:)
25
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1 MR. DOUGLAS MULDER: Well -- or that
2 she did not author.
3 THE COURT: Did not author, that's
4 correct. I think that the pages that her notes appear
5 on, they are in. The rest of it is out until it's
6 authenticated. Thank you. Let's excise those pages and
7 get on with the trial.
8 And since that document will
9 eventually be excised. You will question Dr. Clayton
10 only on those portions of that exhibit that she has
11 personally reviewed, and I believe your signature or some
12 note of recognition appears on them. Okay?
13 THE WITNESS: Yes, sir.
14 THE COURT: Thank you.

15
16

17 CROSS EXAMINATION (Resumed)

18

19 BY MR. TOBY SHOOK:

20 Q. Okay. Thank you. So the first time
21 you saw the defendant would be on the 20th of June of
22 '96; is that right, Doctor?

23 A. Yes, sir.

24 Q. Okay. And that was part of your --
25 part of your duties as part of your employment with the
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1 Dallas County jail system; is that right?

2 A. Yes, sir.

3 Q. Okay. And, when was it that you
4 became hired as an expert in this case for the defense?

5 A. I think I was contacted sometime
6 around the first of November.

7 Q. Okay. Who contacted you?

8 A. Mr. Mulder's paralegal, Carol.

9 Q. Okay. And, did they -- what were you
10 asked to do at that time?

11 A. I was asked to do a psychiatric
12 evaluation on Mrs. Routier.

13 Q. Okay. Any particular type of
14 psychiatric evaluation?

15 A. No.

16 Q. Okay. I mean, were any goals told to

17 look for this, or look for that, and that kind of thing?

18 A. No, he just -- Carol just said that

19 they wanted to hire me to do a psychiatric evaluation.

20 Then I -- and I would have to look at my notes at what

21 day, but I flew down to Kerrville, and when I met Mr.

22 Mulder for the first time, he asked me just to go in and

23 interview her, and that was basically all he said, and

24 that was on 11-15-96.

25 Q. How long was that interview?

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1 A. That interview was two and a half

2 hours.

3 Q. Okay. Who was present during that

4 interview?

5 A. Just Darlie and I.

6 Q. Was Mr. Mulder ever in there in the

7 interview?

8 A. No, it's my -- I don't, when I do a

9 psychiatric evaluation of someone, in either a criminal

10 or a civil matter, I just want the person and me in the

11 room.

12 I did, essentially, tell her about her

13 rights and told her that I would tell the truth about

14 what happened in our interview.

15 Q. Okay. Now, so you have interviewed

16 her for a total of 12 hours; is that right?

17 A. Well, actually I think 12 and a fourth

18 to 12 and a half.

19 Q. Okay. And you reviewed the 911 tape?

20 A. Yes, sir.

21 Q. And, her voluntary statement, I

22 believe; is that right?

23 A. Yes, sir.

24 Q. Okay. What other materials have you

25 reviewed?

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1 A. The diary.

2 Q. Okay.

3 A. Which included the partially finished

4 note --

5 Q. Right.

6 A. The suicide note.

7 Q. Right.

8 A. That is all.

9 Q. Okay. Have you reviewed any video

10 tapes?

11 A. Not specifically. When -- I guess
12 when the video tape of the --
13 Q. Of the Silly String party?
14 A. Yes, I caught part of that just in
15 watching the nightly news.
16 Q. Okay.
17 A. I didn't even see all of that.
18 Q. Okay. So you have only -- the only
19 part of the Silly String tape you have seen, is what part
20 of it that might have been shown on T.V.?
21 A. Yes, sir.
22 Q. Okay. And, you have interviewed some
23 people besides Darlie; is that right?
24 A. Yes, sir.
25 Q. Who was that?
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1 A. I interviewed her mother-in-law, Mrs.
2 Routier, for about an hour and a half. I interviewed her
3 mother, Mrs. Darlie Kee, for approximately three hours.
4 I interviewed her husband, Darin, for approximately three
5 and a half hours.
6 Q. Okay. Is that all of the people you
7 have interviewed?
8 A. Yes, sir.
9 Q. Any friends, have you interviewed any
10 friends?
11 A. No.
12 Q. Okay. But that is the sum total of
13 people you have interviewed in coming here?
14 A. Yes. I was told by Mr. Mulder and the
15 Routier family, that they would make anybody and anything
16 I wanted available, or any other things, and I did not
17 feel like, after talking to all of the above people I
18 have already talked about, I didn't feel like I needed to
19 talk to more friends and family members.
20 Q. Okay. Now your opinions, I guess,
21 that you have given here today, well, I guess like you
22 would at any time, are only as good as the accuracy of
23 the information you are given; is that right?
24 A. Well, I guess -- no, in that, I guess
25 somewhat in part, but also if someone is sitting there
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1 lying to me, and I get my opinion from what I see, and
2 observe and hear, whether they are being truthful or not.
3 So in that sense, someone I can have
4 an opinion that is not -- it's based on whether -- what

5 the person is telling me is accurate or not.
6 Q. Well, if your other information is
7 inaccurate, your opinion might be inaccurate?
8 A. I'm sorry, could you --
9 Q. Are you saying that if you are given a
10 bunch of inaccurate information, you are going to have
11 good opinions?
12 A. Well, again, what I am saying is part
13 of what I was trained to do, was to assess whether
14 someone is telling the truth or not. So, in that sense,
15 I don't need to -- you know, someone can sit there and be
16 telling me inaccurate information and, I can still make a
17 valid assessment.
18 Q. Are you always going to know when they
19 are telling you the truth?
20 A. I don't think any person can know 100
21 percent of the time, but I think I am within reasonable,
22 medical certainty.
23 Q. And you believe Darlie Routier told
24 you the truth?
25 A. Yes, I do.
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1 Q. Okay. And how about the other people
2 you interviewed? Did you believe they were telling you
3 the truth? Darin Routier?
4 A. I believe that -- yes, that he was
5 telling the truth.
6 Q. Okay. Would you agree, Dr. Clayton,
7 that the more information you have, the more accurate
8 your opinion can be?
9 A. Again, I felt like I had enough
10 information for my opinion to be accurate.
11 Q. I know you felt that you had enough,
12 but would you agree that the more information you have,
13 the more accurate your opinion can be?
14 A. What are you -- as far as --
15 Q. It's kind of a general statement. I'm
16 not trying to trick you or anything.
17 A. Well --
18 Q. Wouldn't you agree that it is good to
19 have as much information as possible when you are forming
20 an opinion?
21 A. Yes.
22 Q. Okay. And so, the more information
23 you get, usually the better your opinion would be, the
24 more accurate it could be?
25 A. Yes, that could be the case.

1 Q. Okay. Now, how many people -- what
2 exactly is wrong with Mrs. Routier? What condition is it
3 that she has? Is it traumatic amnesia?
4 A. Well, I said that it's my opinion that
5 she has traumatic amnesia for the events.
6 Q. Okay. And, how many times have you
7 treated someone that has this traumatic amnesia?
8 A. I guess I would say I have treated
9 probably, again, 5 to 10 cases, but again, in that sense
10 the goal of treatment is not necessarily to bring back
11 the memory. Oh, I would say probably 10 plus cases. I
12 have evaluated people or observed that they have had that
13 probably in about the same amount.
14 Q. Okay. And, how many murder defendants
15 have you evaluated that have traumatic amnesia or claimed
16 to have had traumatic amnesia?
17 A. Probably out of that 10 about 5 to 7,
18 for some -- again, it's -- there's spots of memory loss,
19 for the events.
20 Q. Okay. Now---
21 A. I guess you said murder victims?
22 Q. No, I said people accused of murder?
23 A. Yes.
24 Q. Okay. Looking at it from Mrs.
25 Routier's point of view, you are talking about a victim
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1 that would have traumatic amnesia? Is that right?
2 A. Yes, sir.
3 Q. It can cut both ways, can't it?
4 Murderers can have traumatic amnesia also?
5 A. Yes, they can.
6 Q. Okay. A person can commit murder, and
7 just won't remember what they did?
8 A. Yes, I guess in my experience of
9 interviewing murderers that is most predominantly not the
10 case.
11 Q. Right, in fact, I guess you talked
12 about it, what you have to be careful with as a
13 psychiatrist in this situation where someone that is
14 accused of a crime, is that -- I believe your term for it
15 malingering; is that right?
16 A. Yes, sir.
17 Q. Basically in plain English, that means
18 people will lie to you to try to get out of something?
19 A. Yes, sir.

20 Q. Okay. Fake a condition?

21 A. Yes, sir.

22 Q. Lie about their symptoms, that kind of
23 thing?

24 A. Yes, sir, people try to do that.

25 Q. And in this type of situation, you
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1 I have to be extremely careful of people doing that, don't
2 you?

3 A. In what type of situation?

4 Q. Well, in a situation where a person is
5 charged with a crime and --

6 A. Yes, sir.

7 Q. Okay.

8 A. That is the reason I did the forensic
9 fellowship and had the extra training, was to be able to
10 assess that.

11 Q. Okay. Now, let me ask you this, is
12 her traumatic amnesia, is that part of what y'all believe
13 some of the disorders y'all go over -- well, let me ask
14 you this: This is DSM-IV, which is the book y'all use in
15 talking about mental disorders and that sort of thing;
16 right?

17 A. Yes, it's used in classification of
18 mental disorders and for filing insurance claims, and
19 that sort of thing.

20 Q. Is that anywhere in here? Traumatic
21 amnesia?

22 A. I don't think it's listed as a
23 diagnosis in and of itself. I think it's under -- they
24 talk about it some under post-traumatic stress disorder.

25 Q. Okay. It can be part of
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1 post-traumatic stress disorder?

2 A. Yes it can.

3 Q. And, in your opinion, is Darlie
4 Routier suffering from post-traumatic stress disorder?

5 A. Again, I haven't -- I think she had
6 some of the symptoms. She is not -- because of her
7 incarceration, she is not -- she is kind of somewhat
8 removed from real life in order to meet the criteria of
9 post-traumatic stress disorder, but yes, I do think she
10 meets some of qualifications.

11 Q. Does your training tell you that in
12 situations where -- well, I think it's as far as
13 malingering goes, y'all are trained that in situations

14 where a lawyer refers the client to you, you have to be
15 extra careful about malingering or lying; is that right?

16 A. That is the case.

17 Q. Okay. And any time a person has a

18 motive, they are under some legal accusation, obviously,

19 you want to be careful of that?

20 A. Yes, I am very careful.

21 Q. And obviously, the more serious the

22 legal accusation the more motive there is for a person to

23 possibly want to get out of it; is that right?

24 A. Yes.

25 Q. Okay. Now, have you talked to the

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1 defendant about what she does remember about what
2 happened that night?

3 A. Yes, sir.

4 Q. Okay. What has she told you?

5 A. Again, it pretty much -- I have talked

6 to her on several different occasions about it.

7 Q. You have gone over this more than once

8 with her?

9 A. Yes, sir.

10 Q. Okay.

11 A. Her descriptions of the events follow,

12 but with more detail, her -- the written statement that

13 she gave to the Rowlett detectives. I mean, do you want

14 me to just go through that, or --

15 Q. You are saying that the statement she

16 gave to Rowlett was more detailed than what she told you?

17 A. No, no, I went over in very minute

18 details.

19 Q. Just tell us what she remembers about

20 that night, please?

21 A. Do you want me to start with when, in

22 the evening?

23 Q. Well, I guess the evening hours when

24 the family got together there.

25 A. Okay. Because we kind of -- the

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1 way -- the way it worked is she -- she first, again, that

2 is one of the techniques that you start at different

3 places in the events, in the sequence of events because,

4 it's harder if someone is lying for them to lie out

5 sequence.

6 Q. Right.

7 A. So on my first interview, we started

8 actually when she starts having memories of the offense.
9 And so, could I start there? And then later --
10 Q. Yes, go ahead.
11 A. Then later, I had her go back to talk
12 about what led up to that.
13 Q. Well, the best way you feel that you
14 can explain it to the jury, you go that way.
15 A. She talks about hearing and feeling, I
16 guess Damon, on her right shoulder, as she was lying on
17 the couch. She saw a man and stood up and saw him run
18 into -- kind of followed him into the kitchen.
19 She said she put her arm on Damon's --
20 around Damon, and -- or on his chest, and then it dawned
21 that the lights were turned off. And, she describes
22 going over to the island, I guess, in the kitchen, and
23 seeing a knife lying on the floor. Kind of in that, she
24 also describes not really knowing what happened. She
25 kind of felt like her gown, when she woke up, was up to
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1 her waist, but she wasn't sure if that was actually true
2 or not.
3 She said that Damon -- she kind of --
4 she pushed him up against the wall, she ran over and
5 grabbed the knife. And at that point, she realized that
6 there was blood on her night gown. She saw blood kind of
7 dripping down. She said solid blood. And she put the
8 knife on the counter, and she looked across the room,
9 because now she had turned on the light and she saw
10 Devon, I guess who was laying over, back in the living
11 room, and he had no shirt on. And she said that she saw
12 that his eyes were completely open, and he wasn't moving,
13 and she saw, one wound and her mind started -- she
14 describes it as her mind started spinning, she kind of
15 was running around, she describes it as running all
16 around. Didn't feel anything.
17 She looked at the other little boy,
18 Damon, and he was standing there looking at her, and she
19 said there was nothing on the front, so she turned him
20 around and that is when she saw the stab wounds through
21 his shirt. And she told him to lay down, and said hang
22 on, and she said, that the last thing he said to her was,
23 "Okay, Mommy."
24 She runs to the hall, yelling for her
25 husband. She was just screaming at that point. He comes
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1 down running down the stairs, and he had his jeans on.
2 He says he had his glasses on, but she didn't report
3 that, she wasn't -- she didn't remember the glasses.
4 She said that was, that, "Okay,
5 Mommy." Was the last thing that Damon said to her.
6 She said that she ran -- they ran
7 through the hallway together, and then, that he went to
8 Devon, and she grabbed the phone to the right and called
9 911, and she had the phone I guess it was a portable
10 phone and she had it on her shoulder. And she also
11 grabbed a handful of towels, and went over and started
12 wetting them as she was talking to the 911 operator.
13 I had asked her kind of specifically
14 why wetting towels, and she thought that, in retrospect,
15 she said she wasn't conscious of it at the time, but she
16 thought that she had seen something like that on one of
17 the 911, or emergency shows that they have.
18 So, she said that she wasn't -- had no
19 training in, first aid or CPR but Darin did. And so, she
20 grabbed the towels, and that is when she saw, in some
21 mirror -- she was running somewhere, and she still had
22 the phone, I guess, she describes talking to 911, and she
23 saw her neck for the first time, and said something like,
24 "Oh my God, he got my neck."
25 And then she runs in the living room,
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1 and starts putting the towel on Damon's back and Devon
2 (sic) is giving CPR. She reported kind of thinking, at
3 that point, that she didn't know what to do, she didn't
4 know any kind of first aid like Darin did.
5 And, she said she walked back, she
6 laid the towels down and then walked back to Damon, and
7 then she was kind of running around, "I don't know CPR, I
8 felt helpless."
9 Then she ran to the door, and she
10 remembered her friend Karen, I guess, who is a nurse, and
11 she screamed for the neighbor. She said she remembers
12 talking to the 911, and again this is something that most
13 traumatic victims will tell you, is that it seems like it
14 takes forever for the emergency help to get there, and
15 she told me that she goes, "I thought, what is taking
16 them so long," in that help wasn't arriving quick enough.
17 She states that she remembers seeing
18 the vacuum cleaner, seeing the knife again. And she said
19 something about the 911 operator was telling her, you
20 know, "Don't touch anything." And then her response was
21 something like, "I have already touched the knife." And
22 she was crying to her husband, and talking to him about

23 that she shouldn't have touched the knife, they told me
24 not to touch it.
25 She is crying and screaming she says,
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1 and, I guess, thinking and saying my babies are dead, she
2 said that -- Darin said there was no pulse after working
3 on, I guess, Damon.
4 She said, then an officer got there,
5 and he just walked in, and he looked scared and did not
6 move, he just kind of stood there, she said. He didn't
7 do anything.
8 She describes then other people
9 started kind of coming in, and talking and she couldn't
10 think. She describes feeling dizzy, that she couldn't
11 get her breath, that she felt like she was dizzy. And
12 the officer said: "Where did he go?" And she, I guess,
13 told the officer, "Out that door." She said that the
14 officer didn't go out there.
15 And then she said the two officers
16 went to the kitchen and then the paramedic comes in. She
17 remembers seeing -- she described remembering -- she said
18 that the police said that Karen wasn't in the house, but
19 she remembers Karen coming on over, and being there, kind
20 of in -- and she describes a very chaotic scene, where
21 everybody is running around and screaming and everything.
22 She said that the paramedic came in,
23 and then she said, "Is he dead?"
24 And the paramedic pulled him over and,
25 I guess at this point she is talking about Devon. And
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1 his eyes were open, and she said -- or he said he is
2 dead.
3 And then the paramedics started
4 talking to her, and the next thing she remembers is about
5 a necklace, the necklace kind of being embedded in her
6 neck or something, and something about that. And she
7 said most of this is really very hazy.
8 She didn't remember the E.R. She
9 didn't remember really much about getting in the
10 ambulance except that Darin wanted to get in the
11 ambulance and then they said, no, he couldn't.
12 Her next real, kind of clear,
13 consistent, lengthy memory, is her mom being in her room
14 and she was asking her mom if they were both dead.
15 Again, do you want me to go on? I
16 mean, then we're kind of getting into --

17 Q. Well, that gets more into her hospital
18 stay?
19 A. Right.
20 Q. When did her memory clear up?
21 A. Well, again, her memory is very patchy
22 or spotty for a lot of the time, before her arrest.
23 Q. Okay.
24 A. And I even think within the first day
25 or so of her arrest, it's kind of, you know, she kind of
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1 again, remembers some things and then other people told
2 her other things.

3 Q. Okay. So you went over this story
4 with her several times?

5 A. Yes, sir.

6 Q. And in quite a bit of detail?

7 A. Yes, sir.

8 Q. Okay. And, what you have just related
9 to the jury, is that the story that she would tell you
10 every time?

11 A. Yes, sir.

12 Q. Okay.

13 A. Again, I can go back. I started -- we
14 had, where we started that morning, started that evening,
15 you know, with cooking dinner.

16 Again, I started at the point of
17 waking up, I started at the point of waking up in the
18 hospital. I started at the point of Darin running down
19 the stairs. There were just a lot of -- you start at
20 different points?

21 Q. Right. That is -- she gave you the
22 same story?

23 A. Yes.

24 Q. As out and running through, and waking
25 up, and this man is what, walking off? Or where is he
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1 when she spots him?

2 A. Yes, she describes seeing a figure,
3 that I guess she assumes he is a man, kind of with his
4 back to her, walking away, or into the kitchen.

5 Again, I never -- that is -- okay.

6 Q. Now, and then you went into great
7 detail about what happened after that, as far as where
8 she was with the towels and the children and the
9 paramedics and all of that, didn't you?

10 A. Yes, sir.

11 Q. And, basically it was the same story
12 every time?

13 A. Yes, within reason. Again, I think
14 anybody, in that situation, including probably the
15 paramedics and even the police, when something is so
16 chaotic, and everybody is -- everybody's adrenalin is
17 running, and there is some, you know, you may not
18 remember where you step five feet over this way, versus
19 going over to this chair, or picking up this, versus
20 that, and in what order, I mean, there may be some normal
21 discrepancy. In fact, if there are not, I would think
22 someone was not being truthful.

23 Q. Did she ever tell you that she
24 actually went over to Devon and put her hand on his
25 chest, and tried to close his chest wound?

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1 A. Yes, in one of her descriptions, she
2 did.

3 Q. She did tell you that?

4 A. She kind of talked about going over
5 there, going over there to him, and trying to -- well, I
6 guess she was talking about going over there to him, and
7 yes, I think I remember that.

8 Q. Is that one of the later times?

9 A. You mean --

10 Q. When you said -- when you asked her
11 about the story?

12 A. Again, I don't -- I didn't -- I don't
13 know shorthand, so I don't take everything down, but it
14 may not have been the first time I spoke with her, it may
15 have been the second or third time but, I mean --

16 Q. Did you -- you said she remembered
17 seeing a vacuum cleaner?

18 A. Yeah.

19 Q. Where was that?

20 A. She didn't say where it was.

21 Q. Did she ever say she did anything with
22 it?

23 A. I would have to look. Do you want me
24 to go back through whether -- I know there was some -- I
25 know she felt like that there was some discrepancy in the
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1 way that the police detectives had described the vacuum
2 cleaner, and the way that she knew it was suppose to have
3 been, or was.

4 Q. Well, did she ever say that she was

5 using that as a crutch, or walking around with it, or
6 anything like that?

7 A. No, she did not tell me about anything
8 like that.

9 Q. Okay. Now, so, as far as the attack
10 goes, I guess she has no memory of that?

11 A. No.

12 Q. Her boys being attacked and then the
13 assault on her?

14 A. Right.

15 Q. And -- okay. Did you ask her about
16 that, to try to see if she had any memory at all?

17 A. Yes, sir.

18 Q. Okay. And she has just blanked that
19 out apparently, as far as the attack on her children and
20 herself goes?

21 A. Yes, sir.

22 Q. Her earliest memory would be her son
23 touching her and this man walking away?

24 A. Yes, sir. I mean, I guess her
25 assumption is that there was -- that some of it may have
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1 happened while she was still asleep. And, that she
2 didn't kind of awaken or whatever, until her son was
3 pressing on her on arm and said, "Mommy."

4 Q. Has she told you that she was just
5 assuming that, that she was asleep when all this assault
6 occurred?

7 A. Yeah, I mean, she doesn't understand
8 it, and her description was that she wishes she could
9 remember, and she doesn't -- I mean, she doesn't
10 understand why she doesn't have a memory of it.

11 Q. Okay. So she has no memory of this
12 event at all as to when her -- where her children were
13 attacked, when attacked or when she was attacked?

14 A. Yes, sir.

15 Q. Okay. Now you only caught part of
16 that Silly String video, I guess you said, on the news;
17 is that right?

18 A. Yes, sir.

19 Q. Okay.

20

21 MR. TOBY SHOOK: Judge, could I have
22 just a moment, please?

23 THE COURT: Yes, you may.

24 MR. TOBY SHOOK: All right. Let me
25 play something here.

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1 THE WITNESS: All right.
2 MR. TOBY SHOOK: All right. We have
3 another copy. Judge, I don't see the original videotape.
4 We have another copy.
5 THE COURT: Perhaps Ms. Wallace
6 wouldn't mind going to get that.
7 MS. SHERRI WALLACE: Yes, sir.
8 THE COURT: Well, let's move on to
9 something else.
10 MR. TOBY SHOOK: All right.
11
12
13 BY MR. TOBY L. SHOOK:
14 Q. All right. When do you think that
15 this traumatic amnesia took place. When did it start?
16 Right there at that time?
17 A. Well --
18
19 THE COURT: I believe Ms. Wallace has
20 located that other copy now, if you want to go ahead, Mr.
21 Shook.
22 MR. TOBY SHOOK: Yes, sir.
23 THE COURT: By agreement, that is an
24 extra copy of that tape, and it can be shown; is that
25 correct?
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1 MR. DOUGLAS D. MULDER: Absolutely.
2 THE COURT: Thank you. Let's move on.
3 MR. TOBY SHOOK: Okay. Thank you.
4 THE COURT: All right. Okay. Can
5 you see it from there?
6 THE WITNESS: Yes.
7 MR. TOBY SHOOK: Is everybody going to
8 be able to see this? Can you see it, Dr. Clayton?
9 THE WITNESS: Um-hum. (Witness
10 nodding head affirmatively.)
11 MR. TOBY SHOOK: Okay. I want to show
12 you -- this is the latter part of the interview, just
13 show you one part of it.
14
15 (Whereupon, a portion of
16 the video was played for
17 the jury, after which time,
18 the proceedings were
19 resumed on the record,

20 as follows:)

21

22 THE WITNESS: Okay.

23

24 BY MR. TOBY L. SHOOK:

25 Q. Did you hear that?

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1 A. Yes, sir.

2 Q. Do you want me to play it again?

3 A. No, sir.

4 Q. I mean, I know it was kind of quick?

5 A. No, sir.

6 Q. Okay. "He went after something

7 defenseless, something so defenseless first, then he came
8 to me, but he went after them first."

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

11 Q. Did you hear her making that
12 statement?

13 A. Yes, sir, I did.

14 Q. Okay. That is a pretty positive
15 statement, isn't it, Dr. Clayton?

16 A. I think it's an assumption.

17 Q. You think it's an assumption?

18 A. Well, that she made, and I think
19 everybody else also pretty much made, as far as how the
20 events occurred.

21 Q. Well, why do you think it's an
22 assumption that she made, that she said, "He went to them
23 first, and then he tried to come to me"?

24 A. I guess I just -- this has just been
25 an assumption made by her and everybody else, I think,
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1 with this case.

2 Q. Well, she didn't say that she is
3 assuming that on that statement, does she?

4 A. No, she does not.

5 Q. She sounds pretty positive about what
6 she is talking about, doesn't she?

7 A. Well, again, I think she -- she thinks
8 that is the way it occurred, but I don't think that comes
9 from her memory.

10 Q. So --

11 A. Or she has not told me that comes from
12 her memory.

13 Q. So when she makes this statement, and

14 this is back on the 14th of June.

15 A. Yes, sir.

16 Q. Okay. She just doesn't know what she
17 is talking about?

18 A. Well, I think she is stating what she
19 thinks is true.

20 Q. Okay. She is just assuming that, and
21 that is your opinion?

22 A. Yes, sir.

23 Q. Okay. If she has amnesia, traumatic

24 amnesia, it should be pretty consistent, shouldn't it? I

25 mean if she doesn't remember the events, she shouldn't

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1 remember the events, right?

2 A. Well, again, and it's something that,

3 I guess, I questioned her extensively about was that she

4 had, you know, various people, kind of, "Well did you

5 fight him off? Do you remember that?" And, at some

6 point, everybody has somewhat of a sense of -- or

7 somewhat of a suggestibility realm, and I think we talked

8 about that, and she stated that she had made a

9 statement -- and I can't remember to whom, but she said

10 something like, "I must have tried to fight him off. It

11 must have happened, that, you know, he, you know, was

12 trying to stab me and I was fighting him off."

13 But as far as her consistent

14 recollection of the events, that I have kind of related

15 to you, that has all been very consistent. I think we

16 talked about it, and I questioned her about various

17 statements that have either been, I guess, stated that

18 she said, or that she may have actually said, at some

19 point, how they might be more -- have been more

20 suggestions, or her trying to make sense out of what

21 happened. And in the sense that: It must have happened

22 like this.

23 Q. So, if you heard, or are given

24 information that on the -- when she was at Baylor

25 Hospital, that she told a nurse, that she laying on her

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1 right side in her bed and she said, "I was lying just

2 like this when it happened. I went to sleep. Damon woke

3 me up. There was a man wrestling at my neck area, and I

4 yelled, and he went off, and ran off."

5 Would that be just her trying to

6 remember events or perhaps that is just -- perhaps she

7 didn't get her story straight yet?

8 A. Well, it's my opinion that is probably
9 a misrecollection of either Mrs. Routier, or the nurse,
10 as to exactly what was worded when.
11 Q. So your opinion is that would just be
12 a misrecollection on her part?
13 A. Or the witness that says that is what
14 she said.
15 Q. Oh, the witness. That would be a
16 mistake on the witness's part?
17 A. Well, when anybody is recounting
18 something that they have heard in a very traumatic event,
19 words like must have happened, or it must have been this
20 way, or maybe it did, might get lost or misunderstood.
21 Q. Well, have you interviewed any of
22 these nurses that heard her various stories of how this
23 happened?
24 A. No, I was not privy to talk with them.
25 Q. Okay. Of course, the other
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1 explanation for it could be, Dr. Clayton, is that she
2 just had not gotten her story straight?
3 A. I guess that could be one explanation,
4 yes.
5 Q. Right. And you say that you tested
6 her, to make she is telling the truth, and you can do
7 that by having her go through this story, and checking
8 for discrepancies, and that sort of thing, and you
9 started at different points; is that right?
10 A. Yes.
11 Q. Okay. Now, if she is saying, "I have
12 traumatic amnesia," and she can't remember any of the
13 assault, you obviously can't question her or try to trick
14 her on that, can you?
15 A. Well, you can question her about the
16 events, or what does she think happened, and that sort of
17 thing, but as far as --
18 Q. Well, if she says, "I just don't
19 remember what happened." You can't really question her
20 about a whole bunch, can you?
21 A. No, not about specific details.
22 Q. If she says "I can't remember anything
23 about how I was attacked or my children were attacked,
24 you can't test her on her truthfulness on that, can you?
25 I mean, that kind of shuts it down, doesn't it?
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1 A. Well, about the specific details, yes,
2 sir.

3 Q. Okay. And that is what is important
4 here, isn't it? The specific details. I mean, this can
5 be kind of a convenient defense, if you say "I just don't
6 remember what happened." That prevents detectives from
7 asking questions like, "Well, golly, how could you sleep
8 through your children being murdered, Mrs. Routier?"
9 "I just don't remember. I have got
10 traumatic amnesia".

11 A. Well, sometimes some events are
12 unexplainable.

13 Q. Right.

14 A. And there have been other case reports
15 and literature where people, when -- even when they
16 wanted to remember specific events were unable to, and
17 just didn't. And, it is my opinion that this is one of
18 these cases.

19 Q. Okay. But, this type of traumatic
20 amnesia, it's very rare, isn't it?

21 A. Again, people not remembering events,
22 it's somewhat rare, as far as in the general population,
23 because, not that many people are attacked, or have that
24 violent assault. But, among violent assault victims, it
25 may not be the common occurrence, but it's not, you know,
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1 it does happen. I mean, I don't know what you
2 statistically mean by rare.

3 Q. Okay. Well, if she tells detectives
4 on the morning when they question her on the 6th, that
5 she struggled with this man on the couch, are you saying
6 that she was just being -- that they were suggesting this
7 to her, or she was misinterpreting things?

8 A. Well, in any kind of police or
9 detective interrogation, there are a lot of different
10 interpretations about what they are doing with their
11 questioning, and whether a lot of times, police or
12 detectives interrogating someone, or questioning him, may
13 say, "Well, could it have happen like this and that?"

14 And so, I don't know, I wasn't there,
15 and I have not seen any kind of statement written, or
16 heard anybody say that statement, that she said that.

17 So --

18 Q. Okay. And if she told any other
19 nurses throughout the day that, "This man was standing
20 over me, and tried to attack me, and I fought him off".
21 That would be just something that she is trying to
22 explain to them or just something that she is grabbing

23 out of the thin air, or something that they are
24 suggesting to her?
25 A. Again, I would have had to -- for me
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1 to know that she actually told those nurses that, I would
2 have had to hear that for myself.

3 Q. Okay. And if she told a good friend
4 of hers, by the name of Barbara Jovell, that the man was
5 standing over her, and started to stab her and she was
6 able to block the knife, again, would that be just
7 something that she was just making up?

8 A. Again, I would have had to -- for me
9 to believe that actually happened, I would have to hear
10 her telling her that.

11 Q. Why would you have to be there, and be
12 present, Dr. Clayton?

13 A. Because I know of this woman's mental
14 history.

15 Q. Okay. Now, that you saw this video
16 tape -- do you know of the nurses mental history?

17 A. No, sir, I don't.

18 Q. Is that why you would have to -- well,
19 why would you have to be there when the nurses --

20 A. Well, again, for someone to remember a
21 statement that someone made in the course of their work
22 six months ago, I mean, I have trouble, you know,
23 recollecting things, and I have taken handwritten notes,
24 again, people's memory is not infallible, and if they
25 have not taken notes and --

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1 Q. So if they have taken careful notes,
2 you could trust their memory more on that, couldn't you?

3 A. I would be more likely to trust their
4 memory, yes, sir.

5 Q. If you knew one of those nurses took
6 two and a half pages worth of notes, within the day of
7 her telling that, would you trust the nurse then?

8 A. Well, again, I would have to know the
9 nurse and the situation and also read the notes.

10 Q. Okay. So you just have to know the
11 nurse and the situation, before you could trust her,
12 whether she is telling the truth about that?

13 A. Well, for you to have me make an
14 opinion about something that was said, I would -- again,
15 it would be best if I had heard actually what was being
16 said, and in what context.

17 Q. Okay. And this videotape you just saw
18 of her statement, that he went to them first, and then he
19 tried to come to me. Does it look like anyone was
20 suggesting anything to her at that time?

21 A. Not at that time, but I know that she
22 had been -- had come from a police interrogation. And
23 also had had, I think one other one in the hospital
24 before that.

25 Q. You told this jury that when the
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1 police came and questioned her that she was on Demerol?

2 A. That is my understanding, yes.

3 Q. Okay. And because she was on Demerol,
4 that acted as kind of a truth serum?

5 A. Well, Demerol is a narcotic, and so is
6 Phenergan, and yes, they tend to -- again it's a lot
7 like, people are more disinhibited and, in trying to --
8 where you just, in like similar to when someone is
9 drinking, except it is usually a little heavier sedation,
10 to kind of disinhibit inhibition, that people are more
11 likely to tell the truth, or not be able to follow along
12 with previous lies or deceptions. They are just not as
13 sharp, so the truth comes out.

14 Q. So, are you telling this jury, that if
15 she was on some Demerol there, and had committed this
16 murder, that she would have told the police: "I did it."
17 Because Demerol acts like truth serum?

18 A. Well, I said, that is a possibility,
19 yes, sir, that if she were going to -- I mean, most
20 people that commit murders confess. Most people have --

21 Q. They do?

22 A. Yes, sir, they do. At one point or
23 another.

24 Q. I guess they keep giving me the wrong
25 cases.

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1 All right. Are there any studies that show
2 that Demerol acts as a truth serum?

3 A. No. Again, I am comparing it to the
4 Amytal interview, and there are many, many studies about
5 that being --

6 Q. What is a Amytal interview?

7 A. Amytal is another narcotic, that is
8 used in the psychiatric community, when someone is either
9 consciously or subconsciously not being truthful.

10 Q. They don't use Demerol for that, do

11 they?

12 A. No, Demerol is longer acting. That is

13 one of the reasons that Amytal is used, is because it is

14 very short acting, and they come out of it.

15 Q. Is that other drug you talked about,

16 is that a painkiller?

17 A. Amytal?

18 Q. Yes.

19 A. It can be used somewhat that way.

20 Again, it's somewhat of a heavy sedation. You might use

21 it in some sort of surgery procedure. It basically, to

22 my knowledge, is pretty much just used in those type of

23 interviews at this point.

24 Q. Do you know how much Demerol she was

25 given before the detectives talked to her?

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1 A. No, I do not.

2 Q. Okay. If it was a very light amount,

3 would that change your opinion on that?

4 A. Well, again, I would -- because of the

5 Phenergan also, and I know that she was given, or I -- I

6 seem to recollect that she was given 25 milligrams.

7 Q. What is Phenergan?

8 A. Phenergan is another narcotic that is

9 used to sedate people. It is also used to decrease

10 nausea, vomiting and also diarrhea.

11 Q. And they give you the Phenergan with

12 the Demerol to keep you from getting an upset stomach,

13 right?

14 A. Yeah, but anybody that has had a

15 Phenergan shot, knows that it -- unless you have been

16 addicted, and using it on a daily basis, it makes you

17 very sedated.

18 Q. Okay. But having this traumatic

19 amnesia, again, that prevents any detective or anyone

20 else from asking key questions about what may have

21 happened in that room, doesn't it, Dr. Clayton?

22 A. Well, it's my understanding that

23 from --

24 Q. Is that right, Dr. Clayton?

25 A. No, it doesn't prevent a detective

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1 from asking that.

2 Q. It doesn't? So --

3

4 MR. DOUGLAS MULDER: Excuse me, Judge,

5 if he will just do her the courtesy of letting her answer
6 the question.

7 THE COURT: Well, I think both sides
8 should do that, yes, sir. Mr. Shook, please do that, and
9 ask another question and then let her answer that.

10 THE WITNESS: Well, I don't think it
11 prohibits the detective from asking.
12

13 BY MR. TOBY SHOOK:

14 Q. Well, it would prevent -- I guess if
15 the person said, "I just have amnesia, and I can't
16 remember."

17 He can't ask her those few questions.

18 It wouldn't do him any good, would it?

19 A. Well, I don't know, I'm not a
20 detective, but I think that he could ask the questions,
21 and I think that they -- my understanding is that they
22 did, over many, many hours, on different occasions.

23 Q. Do you think that she slept through
24 this attack?

25 A. I guess it's my opinion that probably
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1 she was somewhat -- she was -- she probably didn't awake,
2 and maybe was somewhat, because of her injury at the
3 time, was kind of in some sort of daze, or again, people
4 can get up and walk around and do a lot of things, and
5 still kind of not be conscious. There is something
6 called somnolism.

7 Anyway, I can't for sure tell you, but
8 again, I believe she is telling me the truth when she
9 describes the events.

10 Q. Do you know how close those boys were
11 to her on the couch?

12 A. I think they were within a few feet.

13 Q. Okay. And you knew that Damon -- do
14 you know what kind of stab wounds Damon received?

15 A. Damon, my understanding is that he was
16 stabbed in the back.

17 Q. Okay. How many times?

18 A. I don't know, several.

19 Q. At least four penetrating wounds, and
20 two incised wounds.

21 A. All right.

22 Q. And Darlie told you that she was a
23 light sleeper, didn't she?

24 A. No. What she told me was that she had
25 always thought that she was a light sleeper, but it is

1 more that she -- once she was awake, she had trouble
2 getting back to sleep.
3 Q. Okay. Did she tell you, or do you
4 remember reading in her voluntary statement that she
5 wanted to sleep downstairs because she woke up when the
6 baby turned over?

7 A. She said -- yeah, I read that in the
8 statement.

9 Q. Okay. If Damon Routier was about one
10 foot from her, or two feet at the most, when he was
11 stabbed in the back, do you believe that she could have
12 slept through that?

13 A. I don't know.

14 Q. What does your common sense tell you?

15 A. That probably she wouldn't have been
16 asleep.

17 Q. Okay. And, if her other son, Devon,
18 was about as far as from me to you when he was stabbed in
19 the chest twice. Do you think that she would have slept
20 through that?

21 A. I don't know.

22 Q. Well, what does your common sense tell
23 you?

24 A. I guess, that at that distance, I
25 think some people could possibly sleep through it,

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1 depending on the amount of noise and what happened.

2 Q. What about if she was hit a whole
3 bunch and caused blunt trauma to her arms, she is not
4 going to sleep through that, is she?

5 A. No, sir.

6 Q. And she is certainly --

7 A. I would not --

8 Q. You wouldn't think she would?

9 A. I would not think so.

10 Q. Okay. And you wouldn't think she
11 could sleep through getting her throat slashed, or her
12 arm cut, or anything like that, would you? You probably
13 would wake up if that happened, wouldn't you?

14 A. Again, yes, but I think that she has
15 no memory of it, and I think that it's explainable.

16 Q. Okay. You read over her voluntary
17 statement; is that right?

18 A. Yes, sir.

19 Q. And you also -- well, let me ask you

20 this: Do you remember in the voluntary statement, her
21 making the statement that, in the middle of all this
22 commotion going on, with the children laying there
23 bleeding, Darin trying to administer CPR; do you have a
24 copy of it?

25 A. Yes, sir.

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1 Q. Okay. Good. Go to page 7. I'm
2 sorry, page 8, and in the middle there, you see the
3 sentence that starts out, "I then stood up and turned
4 around and saw glass all over the kitchen floor."

5 A. Well, I'm not sure where that is.

6 Q. Page 8, it should be up at the top.

7 A. Then holding a towel --

8 Q. Go to page 8. Is it the next one?

9 Let me check it out. No, that's too far. Here it is.

10 A. Okay.

11 Q. All right. Do you see where it says,
12 "I then stood up and turned around, and saw glass all
13 over the kitchen floor."

14 A. Yes, sir.

15 Q. That is part of the statement where
16 she is -- Darin has come down and is attending to Devon,
17 and she is calling 911; is that right?

18 A. That is my understanding.

19 Q. All right. And then, the next
20 sentence is, "I tried to glance over to see if anything
21 was out of place, and if anything was missing."

22 A. Yes.

23 Q. Okay. And she told you on the 911, I
24 believe it is apparent on the 911 tape, she says,
25 "Nothing is touched, nothing is touched," one time in
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1 there; is that right?

2 A. I don't remember hearing that
3 statement.

4 Q. Okay. Does it seem strange to you,
5 that a mother that is witnessing all this, was woken up,
6 her children are stabbed, and her husband is trying to
7 administer aid, and she starts taking an inventory, to
8 see if items are missing; does that seem like strange
9 behavior to you?

10 A. Well, again, human behavior, people do
11 a lot of different things, and focus on a lot of
12 different things when things are happening.

13 My view of the situation is, and her
14 description of it repeatedly to me was that that may have
15 been like a split second kind of look, or later on
16 something that she kind of thought about, but her main
17 concern was the boys and their, you know, being hurt.

18 Q. Well, but we know from her statement
19 that at one time during that scenario, her concern was,
20 she wanted to see if any of her items were gone.

21 A. Well, again, if you are looking
22 around, or if you are just glancing at a room, you might
23 just glance and make a statement about that.

24 Q. So you think that is a normal
25 reaction?

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1 A. To glance at a surrounding when you
2 are --

3 Q. Well, are you assuming that she just
4 glanced at the surrounding?

5 A. Yes.

6 Q. Okay. Do you recall on the 911 tape
7 her saying about the knife, "Oh, I picked it up. Maybe
8 we could have gotten prints off of that."

9 A. The way I remember the tape, is
10 hearing the operator saying, "Don't pick up or don't
11 touch that, and then her saying, 'Oh I picked it up.'"

12 Q. Okay. Do you have a copy of the
13 transcript or did you just listen to it?

14 A. I just listened to it.

15 Q. Okay. Let me show you what has been
16 marked as State's Exhibits 18-E, and I will let you start
17 looking at page 9.

18 A. All right.

19 Q. And if you will go over to the next
20 page, do you see where she starts talking about picking
21 up the knife?

22 A. Yes.

23 Q. Okay. Now, at that point, actually
24 the 911 operator was saying: "You need to let the police
25 officers in the front door," is that right? At least,

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1 according to that document.

2 A. Yes.

3 Q. Okay. And then her response is, "His
4 knife was lying over there, and I already picked it up";
5 is that right?

6 A. Well, I see it, but it is printed as

7 unintelligible --

8

9 MR. DOUGLAS MULDER: Judge, this is --

10 we will object --

11 THE COURT: Just a minute, ma'am.

12 MR. DOUGLAS MULDER: Judge, this is

13 misleading and this is out of context, and he knows that.

14 He knows that there are a number of

15 conversations going on at that same time, that a police

16 officer is already there, and she's talking to the police

17 officer, and she is talking to her husband, and she is

18 talking to 911.

19 THE COURT: What is your legal

20 objection?

21 MR. DOUGLAS MULDER: Well, that is my

22 objection.

23 THE COURT: Okay. Overruled. Go

24 ahead.

25 MR. DOUGLAS MULDER: He has misadvised

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1 the witness as to the circumstances.

2 MR. TOBY SHOOK:: I'm not trying to

3 misadvise you, Doctor. It comes up several times.

4 THE WITNESS: Yes.

5 THE COURT: Go ahead, continue.

6

7 BY MR. TOBY SHOOK:

8 Q. Now, I just want to talk about the

9 time she talks about getting prints. That only comes up

10 once.

11 A. Yes.

12 Q. Okay. And then, the operator says,

13 "Okay, it's all right. It's okay." And then, it says,

14 female caller, "God, I bet we could have gotten the

15 prints maybe, maybe."

16 Do you think that is normal behavior

17 for a mother on the 911 call, talking to an operator,

18 while her children are lying there dying?

19 A. Well, I think it is in the realm.

20 Again, I listened to the whole tape, and the whole

21 conversation sounds very in the realm of appropriateness,

22 or of a mother with two dying children.

23 Q. Okay. So, you think there was nothing

24 inappropriate, or abnormal, or strange about that comment

25 at all?

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1 A. Not in the whole context of the 911
2 call, no, sir.
3 Q. Okay. What did she tell you about --
4 what her suicide was all about? The May 3rd suicide
5 attempt.
6 A. Well --
7 Q. Or contemplation of suicide.
8 A. Well, it wasn't an attempt. Again,
9 her description of it was that she was just feeling kind
10 of somewhat overwhelmed. That, she had, I guess, bought
11 some over-the-counter pills and she was thinking about
12 taking them. That she started writing out the note, but
13 then she didn't think she could do it. Or thought about
14 writing it, I don't remember which, but in the event, she
15 called her husband, and essentially told him that, "You
16 need to come home. I'm feeling really bad."
17 And he came home, and they cried, and
18 talked and things got better very shortly after that.
19 Q. Okay. And, did she tell you that the
20 first time you talked to her, when you saw her in jail
21 back on June the 20th?
22 A. Well --
23 Q. Let me get some of that stuff out of
24 your hands.
25 A. When, I saw her, pretty much, I
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1 think -- whenever you are interviewing someone, like, as
2 far as in jail, to assess if they are suicidal. What I
3 always do, that first interview is a little longer, is
4 you ask them about past suicide attempts. I didn't know,
5 I mean, I wasn't privy to any of the police things, so
6 just in my regular talking to her as an inmate, I asked
7 her if she had ever -- was she suicidal now, and she said
8 no, and -- that -- and I asked her if she had ever
9 thought of -- or if she had ever had any other suicide
10 attempts.
11 And she said no, she had not had an
12 attempt, but that she had thought about suicide. And,
13 she again, this is her just talking to me as a jail
14 psychiatrist, that she felt tired and upset, and that she
15 actually bought some over-the-counter pills, but wrote a
16 note and knew she couldn't do it, she called her husband,
17 he came home, they talked and cried, and she felt better,
18 and that the depression was gone after -- totally gone by
19 a month.
20 She said things were better. She
21 talked about them starting to do things as a family.
22 Doing things I mentioned -- or she mentioned I remember,

23 roller blades. She denied -- I asked her, then I asked
24 her, "Do you know anybody that has actually killed
25 themselves?"

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1 Again, that is a question you ask,
2 because it increases their risk factor.

3 Q. Okay. And, you are referring to your
4 notes that you made?

5 A. Yes, sir.

6 Q. Made there?

7 A. Yes, sir.

8 Q. If I could see those for just a
9 moment?

10 A. Yes, sir.

11 Q. The documents here, State's Exhibit
12 145, your notes from all of your visits, are included in
13 all of that; is that right?

14 A. Yes, to my knowledge they are.

15 Q. From what you have seen; right?

16 A. Yes, sir.

17 Q. And then I guess, the two other
18 psychiatrists, their notations are contained in here?

19 A. Yes.

20 Q. And then I believe there are some
21 nurses notations also; is that right?

22 A. Yeah, in the way you have the
23 documents put together, in the actual chart, the way it
24 is, is the doctors' notes are on blue sheets and they are
25 separate from the nurses' notes.

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1 Q. Okay.

2 A. Which are on, I think, white sheets.

3 Q. But they are all kept together, are
4 they not?

5 A. Yes, but they are not in -- again they
6 are separated out. The doctors, from day one to the
7 current date are in one place, and then the nurses, from
8 day one to the current are in another place. They are
9 not like blue, white, blue, white pages.

10 Q. They are all regular business records
11 for the stuff that you do when you see --

12 A. Yes, sir.

13 Q. Patients out there?

14 A. Medical records.

15 Q. Medical records?

16 A. Yes, sir.

17 Q. You use business records. Okay. But
18 they are all kept in the regular course of you and the
19 other doctors and the nurses duties; is that right?

20 A. Yes, sir.

21 Q. Okay. And, they are on the Dallas
22 County medical records sheets that -- the information
23 that you usually put it on; is that right?

24 A. Yes, sir.

25 Q. And all of these records here are all
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1 related to Darlie Lynn Routier; is that right?

2 A. That is my understanding, I mean, yeah
3 if they have got a name on it, I assume, yes.

4 Q. Okay.

5

6 MR. TOBY SHOOK: We will offer all of
7 State's Exhibit 145 at this time, Judge.

8 MR. DOUGLAS MULDER: Judge, again we
9 don't have any objection to the notes that Dr. Clayton
10 took on there, but we're not going to agree -- A: We
11 have not read it; and, B: We are not going to agree to
12 some notes that --

13 THE COURT: Well, take time to read it
14 right now.

15 MR. DOUGLAS MULDER: This may take
16 some time --

17 THE COURT: All right.

18 MR. DOUGLAS MULDER: Well, Judge, one
19 other thing, she is not the custodian. She is not the
20 proper person to support this.

21 THE COURT: Well, then my ruling is,
22 if she is not the custodian, I am going to let in those
23 records that she can identify. I think I have made that
24 clear. And the others, they can question her about them,
25 but we're not going to admit those.

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1 She is not the custodian of the
2 records, and so, I think we have already admitted those,
3 and she has said that -- the Doctor has said that she can
4 identify, and the others will not be admitted at this
5 time.

6 So, what else do we have to rule on?

7 Let's move on.

8 MR. DOUGLAS MULDER: All right.

9

10 BY MR. TOBY L. SHOOK:

11 Q. All right. Well, let me show you the
12 first page here. Those are some nurses' notes taken on
13 the 18th of June; is that right?

14 A. Yeah. Again, I don't feel like -- I
15 don't feel confident in talking about anything but the
16 notes that I know I wrote, because --
17

18 THE COURT: All right. That's fine.

19 MR. DOUGLAS MULDER: Well, Judge, he
20 is try to do indirectly what he cannot do directly.

21 THE COURT: I understand all of that,
22 and the ruling stays the same. Let's move on to
23 something else, Mr. Shook.

24

25

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1 BY MR. TOBY L. SHOOK:

2 Q. Do you think that someone might have
3 slipped something in there, Doctor?

4 A. No, I just don't know that -- I am not
5 familiar with that part of the record, but I do recognize
6 my own writing.

7 Q. Well, let's stick just to your notes.

8 Okay?

9 A. Okay.

10 Q. First of all, when you first saw --

11

12 THE COURT: We are going to continue
13 with this witness, ladies and gentlemen, if we can
14 possibly finish today.

15

16 BY MR. TOBY L. SHOOK:

17 Q. When you saw her on the 20th, you
18 didn't feel any need to prescribe antidepressants, or any
19 other medication at that time, did you?

20 A. I don't know -- feel any need, I
21 thought that her -- as far as treating, I guess, my
22 medical opinion, as far as treating depression, is that
23 you don't necessarily treat someone for major depression,
24 when they have just undergone a traumatic event. Because
25 that is appropriate to have a depressed mood, and grief

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1 and sorrow. So --

2 Q. Did you prescribe any antidepressants
3 or medications at that time?

4 A. No, I did not.

5 Q. Okay. She was able to sleep and eat
6 okay at that time, wasn't she?
7 A. She again, she -- her eating, she
8 described as fair. She said her sleeping was -- I guess
9 I wrote okay. Again, I think I was assessing it in the
10 context of the situation. Most people don't go to sleep
11 and -- but she was having -- or getting some sleep.
12 Usually the way the jail works and just after any
13 traumatic situation it is within an hour or two, and then
14 another hour. But -- I assessed her sleeping as
15 appropriate for the situation.

16 Q. Okay. And, you have not seen all of
17 this tape that was taken by Channel 5 out at the grave
18 site, called the Silly String party, have you?

19 A. No, I have not.

20 Q. Okay. But you say that that is an
21 appropriate grief response. That is appropriate
22 behavior; is that right?

23 A. Well, the events surrounding it have
24 been described to me by Mrs. Routier, her husband, her
25 mother, and I guess I have heard various comments, or
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1 seen various comments other people have made about it in
2 the paper, and the description.

3 Q. But you have not seen it yourself;
4 right?

5 A. No, I have not seen the whole thing,
6 no, sir.

7 Q. It has only been described to you by
8 the defendant, her husband, and the mother?

9 A. And the news media.

10 Q. And the news media?

11 A. Yes, sir.

12 Q. And, you think that that is
13 appropriate behavior what went on out there?

14 A. Well, again, I don't think it's -- I
15 don't think you can say what is appropriate and not
16 appropriate in grief situations. I think everybody
17 grieves differently, and that, if people were at an Irish
18 wake, or something like that, that some people might
19 think it was inappropriate.

20 I think it's in the realm of normal
21 grieving. And I know that Mrs. Routier is on trial for
22 murder, but everybody else there is not, so obviously,
23 they were, you know, grieving in the same type of way
24 that she was.

25 Q. And, how much are you paid for your

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1 work that you have done?
2 A. I'm paid an hourly fee.
3 Q. How much is that?
4 A. Two hundred and fifty dollars an hour.
5 Q. Okay. Are you paid any more while you
6 testify?
7 A. No, sir, it's my -- I bill, actually
8 I'm kind of in the middle of the road for forensic
9 psychiatrists. Some of the other ones bill up to three
10 hundred and fifty to four hundred dollars an hour.
11 But, I bill for my time, no matter
12 whether it's reviewing records or testifying, it's all a
13 part of my time. So I bill the same amount.
14 Q. And what is your total bill for this
15 case going to be? Do you have that totaled up yet?
16 A. No, I don't. I have not -- I have not
17 totaled it up. My secretary bills monthly, and I don't
18 even know if she has sent out the bill for December.
19 Q. Okay.

20 A. And I know she has not sent it out for
21 January, because it's not over yet.
22 Q. Okay. As far as the categories you
23 were going over that Mrs. Routier doesn't fit into. One
24 was revenge; is that right? Or what was that category
25 called?

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1 A. I think specifically, retaliation or
2 spousal revenge.
3 Q. Spousal revenge.
4 A. Yes. That was Dr. Resnick's category.
5 Q. Okay. And, of course, your
6 information about their relationship comes from Darin
7 Routier and Darlie Routier; is that right?
8 A. Well, also, the mother-in-law.
9 Q. Okay.
10 A. And then her mother.
11 Q. And her mother?
12 A. Yes.
13 Q. So as far as whether there is any
14 problems in their relationship, and what was going on,
15 you have to depend on those people to give you the
16 accurate information; is that right?
17 A. Yes.
18 Q. Okay. And did she tell you that they
19 had been fighting that night, that Wednesday night?

20 A. She -- yes, I mean, again, throughout
21 the whole, I guess, 12 and a half hours, she has been
22 very forthright and honest about their problems, their
23 lumps and bumps in the marriage.

24 Q. What were they fighting about?

25 A. She was upset because he -- his Jaguar
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1 had been breaking down all the time, and I guess what had
2 kind of culminated it, was that he had left it somewhere,
3 and the man had called her that afternoon, and kind of
4 been rude to her, about having Darin come get the Jaguar.
5 People kind of described Darin, or the
6 people that I have interviewed, as someone that you kind
7 of have to tell him several times to do something before
8 he does it.

9 So, she was kind of aggravated she
10 stated because he hadn't -- he didn't take care of the
11 Jaguar and here she was having to deal with this man
12 calling her up and being rude, while she had her kids,
13 and, you know, neighborhood kids and everybody in and out
14 of the house.

15 Also, she was a little bit upset
16 because Darin was taking her -- I guess she had a
17 Pathfinder, and that kind of was leaving her and the
18 kids, and they were wanting to go do things and run
19 around, now that school was out. And so, she was upset
20 about that.

21 And, then also, they had a boat that
22 they had not really used in a long time, and because of
23 now that they had the baby, she said that she wasn't
24 planning on using it. I guess, because they wouldn't
25 take the baby out to the lake, and so, she felt like that
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1 something needed to be done because here they had this
2 car that wasn't working too well, that was going to cost
3 them money to fix, and here they had this boat that was
4 not working well, that was going to cost them money to
5 fix, and both of these were kind of Darin's deal, and she
6 wanted him to -- I guess, my understanding was that she
7 wanted him to make a decision and get something done.
8 Darin, you know, they argued back and
9 forth, they argued, and she stated that kind of -- and he
10 also stated that what kind of came out of it was that he
11 was going to fix the boat, and then sell it because they
12 weren't going to use it, and then get the car fixed, and
13 then consider buying more reliable than a Jaguar, a

14 little more reliable means of transportation.
15 Q. And, do you believe that they had a
16 very happy relationship from what they told you?
17 A. Yes, I do.
18 Q. Okay. And, you believe Darlie when
19 she tells you that she can't remember any of this that
20 happened?
21 A. Yes, I do.
22 Q. Okay. But you were not present at the
23 house during any of this, were you, Dr. Clayton?
24 A. No, sir, I was not.
25 Q. And you were not present at the house
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1 during the month leading up to this, and saw how their
2 relationship was personally, did you?
3 A. No, I did not.
4 Q. Okay. But you trust and believe the
5 versions of what they have told you?
6 A. And, also, I guess his mother, and
7 then also her mother. Yes, sir.
8 Q. Okay.
9 A. Again, they -- I don't want to
10 mislead that they -- either one of them told me
11 everything was perfect and they never had arguments or
12 fights. I think that both of them, which is one of the
13 reasons that I tended to believe them, did admit, to
14 fights and disagreements, and you know, problems that
15 regular married people have in their relationship.
16 And I think also, his mother and her
17 mother both were very much the same way, in that they
18 didn't paint this couple as just being the perfect
19 idyllic couple, but they were just a normal, happy,
20 married couple, with problems that came up, and
21 disagreements, and faults and weaknesses and that sort of
22 thing.
23 But, everybody, again, I feel like was
24 very forthright and truthful in their descriptions of
25 them.
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1 Q. Okay. What it boils down to is this,
2 I guess: It happened one of two ways, some stranger came
3 in and did this horrible killing; or, you have been
4 fooled by the defendant and she did it?
5 A. Well, I think there is another
6 possible explanation is that, maybe this wasn't -- and I
7 know that both of them have told the police, on numerous

8 occasions that there were some different individuals that
9 might have had some motive.

10 Q. Who are these people?

11 A. They're -- I guess, a man that had
12 worked around where they did at the shop. I guess his
13 name is Glenn. And that he had made threats against
14 them, and he had allegedly kind of come on to Basia.
15 His wife had called up Darlie, and
16 talked to her, and Darlie had told the man's wife, call
17 Basia, and I guess Basia told the man, yes, that he had
18 made threats to come on to her, and, that this man --

19 Q. Let me stop you there for a second,
20 and I will let you continue. Who was telling you this
21 about this man named Glenn?

22 A. Both Darlie and Darin.

23 Q. Okay. Okay. And this is a man that
24 threatened them, you say, or they told you that -- Darlie
25 told you this man named Glenn had threatened her?

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1 A. Yes, that he had made some threats,
2 and she also told me that she had told the police
3 detectives about this.

4 Q. When did she say she told the police
5 detectives this?

6 A. From the very beginning, it's my
7 understanding.

8 Q. Did she think that this man was the
9 one that came in there?

10 A. She didn't identify him as being a --
11 specifically, but she thought that he might have -- he --
12 you know, he was someone with possibly a motive, because
13 he had just gotten a divorce and lost his rights to his
14 kids, essentially because of this whole deal with his
15 wife and Basia and Darlie, not -- I guess not lying for
16 him.

17 Q. Okay. And so, she says she told the
18 police that this man, Glenn, might be the one?

19 A. Yes. And she said that, I guess, a
20 couple of weeks prior to the murder the divorce was
21 final, he had lost custody of his little boy, he
22 supposedly has a history of being somewhat physically
23 abusive, and had been arrested several times for
24 fighting, and that a lot of people are afraid of him
25 because of his temper.

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1 Q. Okay. Does he look anything like the
2 man she saw leaving the house?
3 A. We didn't really go into that. I
4 mean, when I was talking about -- this is just more of
5 her expressing her frustration with the police not
6 looking at any leads.
7 Q. So she says that she told the police
8 that this man named Glenn has threatened me, and y'all
9 need to check him out?
10 A. Um-hum. (Witness nodding head
11 affirmatively.)
12 Q. Okay. Anyone else? Did she give
13 anyone else as a suspect?
14 A. Well, my understanding is that she
15 told, I guess, the detectives, Patterson and Frosch,
16 this.
17 Q. Okay.
18 A. And, I don't know about anybody since
19 then.
20 Q. Okay. That is the only one then?
21 A. The only police?
22 Q. The only suspect?
23 A. Oh, yes, that was the only -- yeah,
24 that was the one that she mentioned to me.
25 Q. Okay.
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1
2 MR. TOBY SHOOK: That is all we have,
3 Judge.
4 THE COURT: Mr. Mulder.
5 MR. DOUGLAS MULDER: I'll be brief.
6
7
8 REDIRECT EXAMINATION
9
10 BY MR. DOUGLAS MULDER:
11 Q. Frustrated with the police and their
12 investigation?
13 A. Yes, sir.
14 Q. All right. Just a thing or two, and I
15 will be brief. But when I first contacted you I told you
16 that I had just got into this case, a week or ten days,
17 or two weeks ago, or whatever.
18
19 MR. TOBY SHOOK: Judge, I will object
20 to the leading.
21 THE COURT: Well --
22 MR. DOUGLAS MULDER: Well, Judge, they

23 brought it up.

24 THE COURT: Well, go ahead, Mr.

25 Mulder. I think that is offered merely, what is being
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1 said, not for the truth of the matters asserted, but

2 let's just go ahead and be brief, Mr. Mulder.

3

4

5 BY MR. DOUGLAS MULDER:

6 Q. You understand that I had just

7 recently come into the case?

8 A. Yes, sir.

9 Q. All right. And, I told you that you

10 could see --

11

12 MR. TOBY SHOOK: Judge, I will object

13 to that. That is hearsay.

14 THE COURT: I'll sustain that.

15 MR. DOUGLAS MULDER: Judge, this was

16 gone into.

17 THE COURT: All right.

18

19

20 BY MR. DOUGLAS MULDER:

21 Q. You set up the guidelines - -

22

23 MR. TOBY SHOOK: Judge, was that

24 sustained?

25 THE COURT: Mr. Mulder, phrase your

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1 questions properly.

2 MR. DOUGLAS MULDER: Yes, sir.

3 THE COURT: All right, go ahead.

4

5 BY MR. DOUGLAS MULDER:

6 Q. You set up the terms under which you

7 wanted to see Darlie, did you not?

8 A. Yes, sir.

9 Q. And I agreed to them?

10 A. Yes, sir.

11 Q. You just said that you would tell the

12 truth, regardless of what it was?

13

14 MR. TOBY SHOOK: I will object to

15 leading and bolstering.

16 THE COURT: I will sustain as to the

17 bolstering. The jury is instructed to disregard the
18 comments of the witness. Next question. Go ahead,
19 please.

20 MR. DOUGLAS MULDER: Yes, sir.

21

22 BY MR. DOUGLAS MULDER:

23 Q. And, I dare say, in the majority of
24 the cases in which you are hired, you probably don't end
25 up testifying, do you?

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1 A. In the capital, when I am hired, I
2 have been hired several times by the defense in capital
3 murder cases, and, yes, I don't usually testify, because
4 when I come back, I give my honest opinion, after I have
5 interviewed the person, and done the evaluation.

6 And when I come back, most often, what
7 I say, the defense doesn't want to use me, because, I say
8 the person either admits it to me when they didn't admit
9 it to the police or in court. Or, that they are lying,
10 and they have got a history of being anti-social, and,
11 you know, I can't say anything good about this
12 individual.

13 So, yeah, most of the time in capital
14 murder cases, I am not asked to testify by the defense
15 when they -- when I have been hired to evaluate them.

16 Q. Okay. You made a statement to Mr.

17 Shook on cross examination that you could make a valid
18 assessment, even though you didn't get the truth, or even
19 though people lied to you, or give you false information
20 about a situation. You said that you could still make a
21 valid assessment.

22 Will you clear that up, so that -- I
23 know where you going on it, but will you clear that up
24 for the jury?

25 A Well, I am just saying that I have
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1 interviewed a lot of criminal defendants, and I can
2 assess, even when they are lying to me, a valid
3 assessment that they are lying to me.
4 I don't -- you know, the way he was
5 making the question, it would be every one would have to
6 tell me the truth in order for me to make a valid
7 assessment, and that is not the case.

8 I can make a valid assessment if
9 someone is lying to me, when they are lying to me.

10 Q. Okay. You have furnished Mr. Shook

11 with copies of all of your notes?

12 A. Yes, sir.

13 Q. Okay. And in that, in the notes, you

14 had questioned Darlie or she had told you about dreams

15 that she had had about these events?

16 A. Yes, sir.

17 Q. Can you briefly tell us what the

18 dreams were?

19 A. Well --

20 MR. DOUGLAS MULDER: That is my last

21 question, Judge.

22

23 THE COURT: Well, Mr. Shook may have

24 some further cross.

25 THE WITNESS: Would you -- in my

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1 notes, I don't know where in my notes -- I know that she

2 talked about having dreams --

3

4 BY MR. DOUGLAS MULDER:

5 Q. Nightmares or dreams?

6 A. Well, yes, I was just trying to see

7 where, I don't have them numbered. Oh, she said 5 to 7

8 times she had dreamed of laying on the couch with this

9 man laying on her, touching her, that the knife is on her

10 chin, he was saying something, but she couldn't see him.

11 She was fighting him.

12 He falls off, hits the coffee table,

13 and lands on Damon, stabbing him. That she was beating

14 him, hitting him, and he reaches over and tries to stab

15 patient. She wakes up at that point, and she said that

16 in some of the dreams that she saw the man wearing a

17 baseball cap, and sometimes she didn't.

18 And that she had the dream several

19 times within that first month of what had happened.

20 Q. Okay.

21

22 MR. DOUGLAS MULDER: I believe that's

23 all. We will pass the witness.

24 MR. TOBY SHOOK:: Nothing further,

25 Judge.

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1 THE COURT: You may step down, ma'am.

2

3 (Whereupon, the witness

4 was excused from the courtroom.)

5

6 THE COURT: All right. Ladies and
7 gentlemen, we're going to be recessed until tomorrow
8 morning, at 9:00 o'clock. Same instructions as always:
9 Do no investigation on your own. Do not speak about this
10 case with anybody. The case is not over yet.
11 If someone tries to talk to you, tell
12 the bailiff who is with you at the time. Do no
13 investigation on your own. You will decide this case
14 from the testimony you hear, and the evidence that you
15 will receive in this courtroom.
16 Will everybody please stop moving
17 their books and have a seat, please, just a minute.
18 All right. This case, the publicity
19 is rampant about this, it may be on the radio, or T.V.,
20 or in the newspapers, if it is, please ignore anything,
21 you see or hear, and it would be a good idea not to read
22 the papers, listen to the radio, or see T.V., while this
23 case is going on.
24 Wear your juror badge at all times,
25 and see you tomorrow morning at 9:00 o'clock.
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1

2 (Whereupon, the jury
3 was excused from the
4 courtroom, and the
5 proceedings were held
6 in the presence of the
7 defendant, with her
8 attorney, but outside
9 the presence of the jury
10 as follows:)
11
12 THE COURT: All right. Thank you.
13 Can the attorneys please remain?
14 MR. RICHARD MOSTY: Can Dr. Clayton
15 go?
16 THE COURT: Dr. Clayton and Dr.
17 DiMaio, you are free to go. Please do not discuss your
18 testimony with anybody. Ma'am, particularly with the
19 T.V.
20 THE WITNESS: I'm not saying anything.
21 THE COURT: If this shows up on the
22 T.V., that would be a violation, and you could end up in
23 the Kerr County jail.
24 THE WITNESS: No, I'm not saying
25 anything.

1 THE COURT: All right. I understand
2 that we may be -- I understand that we may be
3 approaching -- you willing be closing -- you will have
4 one more witness, Mr. Mulder; is that it?
5 MR. DOUGLAS MULDER: I didn't say that
6 I have one more witness.
7 THE COURT: Well, do you or don't you?
8 MR. DOUGLAS MULDER: Well, I told you
9 that I would take three days, and I will finish up by
10 noon tomorrow.
11 THE COURT: All right. By noon
12 tomorrow. Excuse me, I don't mean one more, but you will
13 be finished by noon tomorrow, is that right?
14 MR. DOUGLAS MULDER: I will indeed,
15 your Honor.
16 THE COURT: All right. So if there is
17 any rebuttal coming on, you will have witnesses ready?
18 MR. GREG DAVIS: Yes, sir.
19 THE COURT: And, I assume you will
20 have some sur-rebuttal is that correct?
21 MR. DOUGLAS MULDER: Well, it depends
22 on the rebuttal.
23 THE COURT: I understand that. But,
24 if you will have any sur-rebuttal witnesses ready then we
25 can do that too.

1 When do both sides anticipate finally
2 resting and closing?
3 MR. DOUGLAS D. MULDER: Well, Judge --
4 THEH COURT: We won't hold you down.
5 I understand.
6 MR. DOUGLAS MULDER: Well, then it
7 kind of depends on them. You wouldn't want me to put my
8 rebuttal on now, do you?
9 THE COURT: Well, that would be
10 wonderful. It would be nice of you.
11 MR. DOUGLAS MULDER: Well, I don't
12 know what the rebuttal will be until I hear theirs.
13 THE COURT: Well, I understand what
14 you are saying. But do you think that we will be able to
15 get this to the jury by Friday? That is what I am asking
16 both sides. Do you think that is a possibility?
17 MR. DOUGLAS MULDER: Anything is
18 possible, Judge.
19 THE COURT: Well, I know it is, but it

20 may not be probable. Do you think it is legally probable
21 that we might get that done?
22 MR. DOUGLAS MULDER: Well, it kind of
23 depends on their --
24 THE COURT: I understand.
25 MR. DOUGLAS MULDER: Well, do you want
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1 me to comment on it or not?
2 THE COURT: Well, do you think that is
3 possible?
4 MR. DOUGLAS MULDER: Well, it depends
5 on their rebuttal.
6 THE COURT: I understand.
7 MR. DOUGLAS MULDER: If they have a
8 day's worth of rebuttal, then it probably won't be
9 possible.
10 THE COURT: Well, I don't think it's
11 going to be that long.
12 MR. DOUGLAS MULDER: All right.
13 MS. SHERRI WALLACE: Doug, do you mean
14 by that, you would be finished by tomorrow at noon, is
15 that our cross examination of your witnesses as well?
16 MR. DOUGLAS MULDER: I would think
17 that with reasonable cross examination, then I will be
18 finished tomorrow at noon, or so.
19 THE COURT: All right. Well, here's
20 the thing. Well, I assume Mr. Hagler is going to be in
21 charge of the Charge; is that correct? For your side.
22 MR. DOUGLAS MULDER: He will do the
23 "haggling" for our side.
24 THE COURT: That is fine.
25 And, who will do the haggling for the
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1 State's side?
2 MR. GREG DAVIS: Well, I don't know
3 that there will be haggling here.
4 THE COURT: Okay. Well, all right.
5 Well, whatever will be.
6 MR. GREG DAVIS: We will find someone.
7 THE COURT: Well, let's get someone to
8 get on the Charge because the Charge is pretty well done.
9 When we do get into argument, by agreement it is an hour
10 and a half to the side; is that correct?
11 MR. DOUGLAS MULDER: Yes, sir.
12 MR. GREG DAVIS: Yes, sir.
13 THE COURT: Any number of lawyers can

14 argue, but the total to each side is just going to get an
15 hour and a half.

16 So, on that note we will see everybody
17 tomorrow morning, 9:00 o'clock. Let's have all the
18 witnesses, rebuttal and sur-rebuttal ready to go if
19 necessary.

20 MR. GREG DAVIS: I can tell you that
21 we will have some of them, we may not have all of them
22 here tomorrow.

23 THE COURT: I understand.

24 MR. GREG DAVIS: But we will do our
25 very best.

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1 THE COURT: I understand what you are
2 saying, we will just do the best we can do.

3 MR. DOUGLAS MULDER: Judge, if we go
4 into -- if we go into Thursday, does that mean that we
5 are going to argue Thursday or does that mean that we are
6 going to argue Friday?

7 THE COURT: Well, I would like to --
8 what I ideally like to do is finish up and have arguments
9 in the morning and then give the case to the jury. That
10 is what I would like to do.

11 MR. DOUGLAS MULDER: Argue Friday?

12 THE COURT: Yes, or whenever -- you
13 know. I mean, both sides will put on their cases.
14 Obviously, if it runs through Friday, we are not going to
15 do it. But I am saying if we could do it, I would like
16 to argue first in the morning, and then give the case to
17 the jury during the day.

18 MR. DOUGLAS MULDER: Well, I think
19 that is --

20 THE COURT: As opposed to arguing in
21 the evening and giving the jury -- giving the case to
22 them then.

23 MR. DOUGLAS MULDER: Are you going to
24 sequester the jury?

25 THE COURT: Well, it depends on what
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1 you want to do. Do both sides want them sequestered? It
2 depends. If you don't want them sequestered, I will
3 certainly consider that.

4 Why don't you think about it and let
5 me know. You don't have to make an ironclad statement
6 now. Just think about it, and let me know what you want
7 to do.

8 MR. DOUGLAS MULDER: Okay. We will do
9 that.
10 See you in the morning.
11 THE COURT: You bet.