

## Testimony of Lieutenant Matthew Walling

BY MR. GREG DAVIS:

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1 Q. Sir, would you please tell us your  
2 full name.

3 A. James Matthew Walling, W-A-L-L-I-N-G.

4 Q. Okay, Mr. Walling. How are you  
5 employed?

6 A. I'm a lieutenant with the Rowlett  
7 Police Department.

8 Q. All right. Were you recently promoted  
9 to the position of lieutenant?

10 A. Yes, sir, I was.

11 Q. Okay. When did that promotion occur?

12 A. On January the 2nd.

13 Q. All right. And prior to that, were  
14 you a sergeant with the Rowlett Police Department?

15 A. Yes, sir, I was.

16 Q. How old a man are you?

17 A. 33.

18 Q. Are you married?

19 A. No, sir.

20 Q. Do you have any children?

21 A. No, sir.

22 Q. How long had -- how long have you been  
23 a Rowlett Police Officer?

24 A. A little over 10 years.

25 Q. Let me direct your attention back to,  
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1 it's going to be the evening of June 5th, 1996. Were you  
2 on duty that evening?

3 A. Yes, sir, I was.

4 Q. And what were your responsibilities  
5 that evening?

6 A. I was a patrol sergeant for deep  
7 nights.

8 Q. Officer David Waddell just testified.

9 Were you his supervisor that evening?

10 A. Yes, sir, I was.

11 Q. How many patrol officers were you  
12 supervising?

13 A. Myself and five.

14 Q. Do you remember what time you came on  
15 duty that evening?

16 A. At approximately 9:30.

17 Q. Now, did you actually go out on patrol  
18 yourself?  
19 A. Yes, sir, I did.  
20 Q. Were you in a marked patrol car?  
21 A. Yes, sir.  
22 Q. Were you also wearing a uniform like  
23 you're wearing this afternoon?  
24 A. Yes, sir.  
25 Q. I want to direct your attention,  
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1 Lieutenant, to approximately 2:30 a.m. on June the 6th,  
2 1996, and ask you where you were at that time.  
3 A. I was approximately in the 5000 block  
4 of State Highway 66 in Rowlett on the west side of town.  
5 Q. Okay. Are you familiar with where the  
6 Victory Baptist Church is there in Rowlett?  
7 A. Yes, sir, I am.  
8 Q. Is that also on Highway 66?  
9 A. Yes, sir.  
10 Q. Now Liberty Grove Road and Highway 66,  
11 would that be east or west of that location?  
12 A. That would be west of that location.  
13 Q. Do you know about how far west of that  
14 church that would be?  
15 A. A little over a mile.  
16 Q. Now, at about 2:30 a.m., did you  
17 receive a call over your radio?  
18 A. Yes, sir, I did.  
19 Q. What was the nature of that call?  
20 A. It was regarding a stabbing.  
21 Q. And who was calling you on the radio?  
22 A. It was a communication's officer,  
23 Janice Bloom.  
24 Q. All right. She worked for the Rowlett  
25 Police Department?  
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1 A. Yes, sir.  
2 Q. And what were you informed of at that  
3 time?  
4 A. That there had been a stabbing at 5801  
5 Eagle Drive, and that the Rowlett Fire Department  
6 ambulances had been dispatched.  
7 Q. All right. Did you then proceed to go  
8 to 5801 Eagle Drive?  
9 A. Yes, sir, I did.  
10 Q. Can you tell the members of the jury

11 how far it is from Liberty Grove and 66 to 5801 Eagle  
12 Drive?

13 A. It's about 3.1 miles.

14 Q. All right. And how long did it take

15 you to get from your location to 5801 Eagle Drive?

16 A. Approximately three to five minutes.

17 Q. Now, on the way over there,

18 Lieutenant, did you see any vehicles speeding away from,

19 what is it, Dalrock Heights, is that the neighborhood

20 where 5801 is?

21 A. Yes, sir, it is.

22 Q. Did you see any vehicles leaving that

23 neighborhood at a high rate of speed?

24 A. No, sir, I didn't.

25 Q. Did you see any persons on foot while

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1 you were going over to 5801 Eagle Drive?

2 A. No, sir.

3 Q. Do you remember how you came into that

4 neighborhood, what street that you came in on?

5 A. Yes, sir. I turned in on Willowbrook,

6 and I was behind the ambulance 902.

7 Q. So that would have been one of the

8 ambulances that was sent by the Rowlett Fire Department;

9 is that right?

10 A. Yes, sir. That was the first

11 ambulance.

12 Q. So y'all came in the neighborhood

13 about the same time?

14 A. Yes, sir.

15 Q. As you were coming in the

16 neighborhood, Lieutenant, besides the emergency vehicle

17 that you've just told us about, did you see any other

18 vehicles driving around in that neighborhood?

19 A. No, sir.

20 Q. Did you see any persons on foot as you

21 came into that neighborhood?

22 A. No, sir.

23 Q. Did you then go to the house?

24 A. Yes, sir.

25 Q. And where exactly did you park in

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1 relationship to that house?

2 A. I parked on the northwest side of the

3 lot of the house at the entrance to the alley running

4 behind the house.

5 Q. Lieutenant, if you'll step down,  
6 please, with the Court's permission.

7

8 THE COURT: Yes, sir. You may do so.

9

10 (Whereupon, the witness  
11 stepped down from the  
12 witness stand, and  
13 approached the jury rail  
14 and the proceedings were  
15 resumed as follows:)

16

17 BY MR. GREG DAVIS:

18 Q. Lieutenant, if you'll use this  
19 pointer, please, and just show the members of the jury  
20 where you parked your vehicle when you came up there.

21 A. I partially pulled into the alley and  
22 parked it right here.

23 Q. All right. Did you see any other  
24 police vehicles when you got there?

25 A. Yes, sir. Officer Waddell's vehicle  
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1 was in this area, right around here.

2 Q. Okay. So you came over there closer  
3 to the alleyway; is that correct?

4 A. Yes, sir.

5 Q. All right. Thank you.

6

7 (Whereupon, the witness  
8 resumed the witness  
9 stand, and the  
10 proceedings were resumed  
11 on the record, as  
12 follows:)

13

14 BY MR. GREG DAVIS:

15 Q. When you came up there near the  
16 alleyway, did you look down the alley?

17 A. Yes, sir, I did.

18 Q. Did you see anybody?

19 A. No, sir.

20 Q. Okay. How about Eagle Drive, as it  
21 proceeds, I guess what's going to be west down here. Did  
22 you look down that portion of Eagle Drive?

23 A. Yes, sir, I did.

24 Q. Did you see anybody down there?

25 A. No, sir.

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1 Q. What did you do then, once you got  
2 your car parked?

3 A. I exited the car and came around the  
4 side of the house to the front.

5 Q. Did you actually come inside the house  
6 then?

7 A. Yes, sir. I went through the front  
8 door and met with Officer Waddell in the living room  
9 area.

10 Q. If you would, again, step down with  
11 the Court's permission.

12

13 THE COURT: Yes, go ahead.

14

15 (Whereupon, the witness

16 Stepped down from the

17 Witness stand, and

18 Approached the jury rail

19 And the proceedings were

20 Resumed as follows:)

21

22 BY MR. GREG DAVIS:

23 Q. All right. Lieutenant, first, if

24 you'll -- I think you said that you had just come in the

25 family room; is that right?

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1 A. Yes, sir.

2 Q. Lieutenant, if you would if you will  
3 just point out where you first saw Officer Waddell when  
4 you came in the family room?

5 A. He was about right here. (Indicating  
6 on photo.)

7 Q. All right. And, where was -- did you  
8 see anyone else in the family room besides Officer  
9 Waddell?

10 A. Yes, sir. Darin Routier and Darlie  
11 Routier and the other child.

12 Q. All right. Now, you referred to  
13 Darlie Routier. Is that the female sitting over here at  
14 the table with the gray coat on?

15 A. Yes, it is.

16 Q. All right.

17

18 MR. GREG DAVIS: Your Honor, may the  
19 record please reflect that this witness has identified

20 the defendant.

21 THE COURT: Yes, sir.

22

23 BY MR. GREG DAVIS:

24 Q. Can you please point for the members

25 of the jury where the defendant was, when you first saw

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1 her?

2 A. She was standing behind Officer

3 Waddell, right along in here.

4 Q. Okay. And you had mentioned that you

5 saw Darin Routier, the husband. Please point out for the

6 members of the jury where he was.

7 A. He was standing beside her.

8 Q. Okay. So you've got the Officer --

9 the defendant and her husband all in this area; is that

10 correct?

11 A. Yes, sir. The officer was closer up

12 here.

13 Q. Okay. You say that you saw a child.

14 Which child are you talking about?

15 A. There was one child laying

16 approximately here, and then one in front of the TV over

17 here.

18 Q. Okay. Now, what is the first thing

19 that you did then? When you came in, you saw these

20 individuals. Tell the members of the jury, what's the

21 first thing that you did?

22 A. I first asked Officer Waddell to give

23 me a quick rundown or what had happened. And, at that

24 time, he told me that somebody had broken into the house,

25 and that he had been told that a person had left through

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1 the garage area and may possibly still be in the garage

2 area.

3 Q. All right. What did you do then?

4 A. At that time Officer Waddell and I

5 went over to the garage area to search it.

6 Q. With the pointer, again, would you

7 please describe for the members of the jury the route

8 that you took from the family room to investigate the

9 garage.

10 A. Yes, sir. We went right through here,

11 through the utility room door, up to the garage door. I

12 opened the garage door and stepped into the garage.

13 Q. Okay. Did I understand you to say,

14 did you go on what I am going to call the bottom portion  
15 of the -- is this an island there that is in the kitchen?

16 A. Yes, sir, it is.

17 Q. Did you go below that to get to the  
18 garage?

19 A. Yes, sir.

20 Q. Okay. Are you sure that you didn't go  
21 this way, which would have been between the island and  
22 the sink in order to get to the garage?

23 A. Yes, sir, I'm positive.

24 Q. As you're going through the kitchen,  
25 Lieutenant, did you see anything on the floor over here  
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1 between the island, and I believe it's the pantry -- is  
2 it over here?

3 A. Yes, sir.

4 Q. Did you see anything on the floor in  
5 that area?

6 A. There was a broken wine glass here,  
7 and a little bit of blood.

8 Q. Okay. How about over in this area?

9 Were you looking in this area over here, which is going  
10 to be on the other side of the island, and I believe in  
11 the area of the sink, were you looking over there?

12 A. No, sir. I didn't pay very much  
13 attention to that area.

14 Q. All right. Do you know whether or not  
15 there was anything over here laying on the floor or  
16 standing up in this area?

17 A. There was a vacuum cleaner. I don't  
18 know if I saw it when I initially went through, but there  
19 was a vacuum cleaner there.

20 Q. All right. You said -- did you go  
21 through this area; is that correct?

22 A. Yes, sir.

23 Q. Is there a doorway between the kitchen  
24 and the utility room?

25 A. Yes, sir, there is.

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1 Q. Okay. When you went through there,  
2 was it open or was it closed?

3 A. It was open.

4 Q. Was a light on in the kitchen?

5 A. Yes, sir.

6 Q. How about the utility room light? Was  
7 it on or was it off?

8 A. I don't recall if it was on or off.  
9 Q. Is there also a door that leads from  
10 the utility room into the garage?  
11 A. Yes, sir.  
12 Q. All right. And when you first got to  
13 it, was it open or was it closed?  
14 A. It was closed, but not all the way  
15 closed. It was pushed shut, but it wasn't latched.  
16 Q. All right. Did it have a lock on it?  
17 A. Yes, sir, it did.  
18 Q. Did you see -- did you notice anything  
19 unusual about the door?  
20 A. There was blood on the door.  
21 Q. And, on what portion of the door was  
22 the blood?  
23 A. Around the door handle, up and down  
24 around the door handle.  
25 Q. Okay. I guess kind of on the side of  
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1 the door?  
2 A. On the facing, yes, sir.  
3 Q. Okay. Could you see any defects in  
4 the door, such as signs that it had been broken, torn  
5 into, anything of that order?  
6 A. No, sir.  
7 Q. When you looked at the door, did you  
8 see any evidence that there had been forced entry through  
9 that door leading from the garage into the utility room?  
10 A. No, sir, there was not.  
11 Q. Okay. I believe that you just said  
12 that you stepped into the garage?  
13 A. Yes, sir, I did.  
14 Q. All right. When you stepped in there,  
15 was the light on in the garage?  
16 A. I don't recall if it was or not.  
17 Q. All right. Did you have a flashlight  
18 with you?  
19 A. Yes, sir, I did.  
20 Q. How far into the garage did you go?  
21 A. A couple of feet.  
22 Q. All right. And what did you do once  
23 you stepped in a couple of feet?  
24 A. I cleared the garage, looked back over  
25 here, looked over here to see if there was anybody in  
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1 there. I looked over this way. There was a refrigerator  
2 here, and when I looked on the other side of the  
3 refrigerator, and I noticed that the window screen had  
4 been cut.

5 Q. Is there a door to that garage, an  
6 over-head door?

7 A. Yes, sir, there is.

8 Q. All right. Where is that located?

9 A. It's located at the back here.

10 Q. Did you notice whether or not that  
11 garage door was open or closed?

12 A. It was closed.

13 Q. Are there a number of windows on this  
14 wall here?

15 A. Yes, sir.

16 Q. Did you see anything wrong with any of  
17 the other windows?

18 A. No, sir, I didn't.

19 Q. Which window was it where you saw the  
20 screen cut?

21 A. It was this window.

22 Q. Okay. You're referring to this one  
23 here?

24 A. Yes, sir.

25 Q. Okay. Did you go over to the window  
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1 to inspect it closer at that time?

2 A. No, sir, I did not, not from the  
3 inside of the garage.

4 Q. Okay. Why not?

5 A. With the window being cut, I was  
6 making the assumption that he had left out that way,  
7 possibly. So I was going to get around to the backyard  
8 as quick as I could.

9 Q. Now, was Officer Waddell in the garage  
10 with you or did he remain behind you?

11 A. He covered me. He was behind me. I'm  
12 not sure how far into the garage that he went.

13 Q. Okay. Now, when you finished clearing  
14 the garage here, and you had seen the window cut here,  
15 what did you do at that point?

16 A. We both exited the garage and came  
17 back through the utility room into the kitchen area. I  
18 left through the house, through the dining room area,  
19 looking and clearing it as I left to make sure there  
20 wasn't anybody there. I came over here and did a quick  
21 search of that, then went out the front door and around  
22 to the backyard.

23 Q. Is that why you took a different route  
24 out of the house?

25 A. Yes, sir.

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1 Q. When you looked in the nook, did you  
2 see anything unusual?

3 A. No, sir.

4 Q. When you looked in the formal dining  
5 area, did you notice anything unusual at that time?

6 A. No, sir.

7 Q. How about the formal living room,  
8 anything unusual about it as you left the house there?

9 A. No, sir.

10 Q. Now, when you left the house,

11 Lieutenant, where did you go to?

12 A. I went around the front the same way

13 that I had come in to the backyard, to the back driveway

14 and to the gate leading into the backyard.

15

16 (Whereupon, the following

17 mentioned items were marked

18 for identification only

19 as State's Exhibits 13,

20 13-A,B,C,D & E,

21 after which time the

22 proceedings were

23 resumed on the record

24 in open court, as

25 follows:)

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1

2 BY MR. GREG DAVIS:

3 Q. Okay. Lieutenant, let me show you

4 what I've had marked as State's Exhibits 13, 13-A, B, C,

5 D and E. Do you recognize these photographs?

6 A. Yes, sir, I do.

7 Q. First of all, State's Exhibit No. 13,

8 is that a true and accurate aerial photograph of 5801

9 Eagle Drive?

10 A. Yes, sir, it is.

11 Q. And State's Exhibits 13-A, 13-B, 13-C,

12 13-D and 13-E, do they truly and accurately depict the

13 backyard of 5801 Eagle Drive as it appeared on June 6th,

14 1996?

15 A. Yes, sir, they do.

16

17 MR. GREG DAVIS: Your Honor, at this  
18 time we'll offer State's Exhibits 13, 13-A, B, C, D and E  
19 at this time.

20 MR. RICHARD C. MOSTY: No objection.

21 THE COURT: All State's Exhibits  
22 offered are admitted.

23

24 (Whereupon, the items

25 Heretofore mentioned

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1 Were received in evidence

2 As State's Exhibit No. 13

3 And 13-A through 13-E

4 For all purposes,

5 After which time, the

6 Proceedings were resumed

7 As follows:)

8 BY MR. GREG DAVIS:

9 Q. Lieutenant, again, now, as we're

10 looking here at these photographs, this backyard that you

11 said you came around, did you come around -- which way

12 did you go around? Did you go around this way to get to

13 the backyard or did you go around this way?

14 A. I went around this way, back around by

15 where I had parked my car and up here, up the driveway to

16 the back gate.

17 Q. Is there a fence around this backyard?

18 A. Yes, sir, there is.

19 Q. Okay. Describe what kind of fence it

20 is.

21 A. It's a wood picket fence painted

22 white.

23 Q. All right. Do you know about how tall

24 it is?

25 A. Approximately six feet.

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1 Q. Okay. Did it have a gate to it?

2 A. Yes, sir, it did.

3 Q. And with the pointer, would you just

4 show us where that gate's located on that aerial

5 photograph. Right there?

6 A. Right there next to that garage door.

7 Q. Okay. When you got back around there

8 did you go immediately into the backyard or did you wait?

9 A. I slowed my pace just a few seconds.

10 About the time I was coming around into the driveway

11 another officer had pulled up. I motioned to him to  
12 follow me to come into the backyard with me to help me to  
13 search.

14 Q. What's his name?

15 A. Officer D. Moore, Darcel Moore.

16 Q. All right. And, did he then join you  
17 up here?

18 A. Yes, sir, he did.

19 Q. Now the gate that you've told us about  
20 that leads into this backyard, did you notice whether or  
21 not it was open or was it closed?

22 A. It was closed.

23 Q. Okay. How did you get in the backyard  
24 then?

25 A. It was latched but there was not a  
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1 lock on it. I lifted up the latch and used the handle to  
2 push it open. It rubbed. It wouldn't open when I first  
3 pushed on it so I had to use my foot at the bottom of the  
4 gate to apply pressure and ended up shoving it open.

5 Q. Was the bottom dragging on the ground  
6 then?

7 A. Yes, sir.

8 Q. So, was it difficult for you to open  
9 that?

10 A. Yes, sir, it was.

11 Q. All right. And the pressure that you  
12 put on there, did I understand you to say it was toward  
13 the bottom portion as you pushed the gate open?

14 A. Yes, sir.

15 Q. All right. Did you actually then go  
16 into the backyard?

17 A. Yes, sir, I did.

18 Q. Now, did Officer Moore accompany you  
19 into the backyard?

20 A. Yes, sir.

21 Q. If you would, please tell the members  
22 of the jury what you saw as you first got in there and  
23 what did you do?

24 A. When I first entered the backyard I  
25 saw -- there was a spa house, a spa there. I looked back  
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1 over at first to where -- to get my bearings on where the  
2 window was that had been cut in the garage. When I saw  
3 that, I went on in, and started to do a search of the  
4 backyard, looking around for things that were covered by

5 my view.

6 I went around past the spa house and  
7 checked on the side of it. Looked around the corner of  
8 the yard, the back yard to where it wraps back around  
9 toward the front yard. And, after doing that, I came  
10 back and I entered the spa, and did a search of the spa.

11 Q. All right. When you first came into  
12 the backyard, Lieutenant, were any lights on in the  
13 backyard?

14 A. No, sir, there weren't.

15 Q. At anytime that you were in the  
16 backyard, did a light come on?

17 A. Yes, sir. About the time I was  
18 walking in front of the spa, a motion-sensor light that  
19 was mounted on the spa came on.

20 Q. Okay. Now I put my pointer on a  
21 wooden object here. Is that the wooden spa that you're  
22 talking about here?

23 A. Yes, sir, it is.

24 Q. Okay. And, do I understand you to say  
25 that as you walked past that the light came on?

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1 A. Yes, sir.

2 Q. How long did you stay in the backyard  
3 before exiting the backyard?

4 A. Approximately one to two minutes.

5 Q. Did the light -- did this  
6 motion-sensor light, did it go off before you had  
7 actually left the backyard?

8 A. No, sir, it didn't.

9 Q. It was still on?

10 A. Yes, sir.

11 Q. Now, if we could, is there also -- I  
12 guess -- well, is there a fish pond or something in the  
13 backyard also?

14 A. Yes, sir.

15 Q. If we could, let's start looking at  
16 State's Exhibits 13-A and 13-B. And if you would, what  
17 does State's Exhibit 13-A show us?

18 A. That's a photograph of the window with  
19 the screen cut. Then immediately outside the window  
20 there's a couple of plastic chairs, a child's toy and  
21 another plastic chair that is overturned.

22 Q. All right. Am I pointing at the  
23 window that you're referring to where the screen was cut?

24 A. Yes, sir.

25 Q. Is this the same screen that you had

1 seen from inside the garage?

2 A. Yes, sir, it is.

3 Q. All right. And are these two plastic  
4 chairs that you're referring to here by the window?

5 A. Yes.

6 Q. Okay. When you saw them that evening,  
7 obviously these photographs were taken during the  
8 daytime. Right?

9 A. Yes, sir.

10 Q. You're looking at this during the  
11 night?

12 A. Right.

13 Q. These two chairs, were they still in  
14 the same position, upright position when you first saw  
15 them at approximately, what 2:35, 2:40, somewhere in  
16 there?

17 A. Yes, sir, they were.

18 Q. All right. How about this chair over  
19 here that's been overturned. Was it down in this same  
20 position when you first saw it?

21 A. Yes, sir, it was.

22 Q. What is this, it looks like what a  
23 child's soccer goal or something?

24 A. Yes, sir.

25 Q. Was it still upright in this same  
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1 position when you saw it there that morning?

2 A. Yes, sir, it was.

3 Q. Can you tell us what this light blue  
4 object is here, beside one of these chairs? What does  
5 that appear to be?

6 A. I believe that's a food dish, but I'm  
7 not positive.

8 Q. Now, if we were to look at this, and  
9 continue to the right, would we come to the sliding glass  
10 door that leads into the family room?

11 A. Yes, sir.

12 Q. Is that what's shown on State's  
13 Exhibit 13-B?

14 A. Yes, sir, it is.

15 Q. Okay. Lieutenant, when you're in the  
16 backyard and you're examining this window, could you tell  
17 whether or not there was any light coming from the family  
18 room?

19 A. Yes, sir, there was.

20 Q. All right. And could you determine  
21 what kind of light was coming out of that family room?  
22 A. You could see the reflection from the  
23 TV through the blinds, through the slats, the openness in  
24 the blinds and the interior lights were on also at that  
25 time.  
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1 Q. All right. Is that visible to you as  
2 you stood out here, outside the home?  
3 A. Yes, sir, it is.  
4 Q. Okay. When you looked at the sliding  
5 glass door, did you see any evidence of any forced entry  
6 here?  
7 A. No, sir.  
8 Q. As we look at State's Exhibit 13-C,  
9 are we really continuing 13-A to the left toward the  
10 gate, is that the direction we're looking?  
11 A. Yes, sir.  
12 Q. In fact, do we see an open gate here?  
13 A. Yes, sir.  
14 Q. Is that the gate that you entered  
15 through to get to the backyard?  
16 A. Yes, sir, it is.  
17 Q. Are there additional windows to the  
18 garage shown in State's Exhibit in 13-C?  
19 A. Yes, sir, two additional windows.  
20 Q. Okay. What are these objects -- what  
21 are these long objects here at the side of the gate?  
22 A. Those are fence post, or gate post,  
23 that haven't been cut even with the fence yet.  
24 Q. This gate, does it open -- is it a  
25 gate where you push it in or do you pull it out?  
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1 A. It goes from the outside, standing  
2 outside and you push it in into the backyard.  
3 Q. Is it fair to say that in 13-C we see  
4 that it's been pushed in in an open position?  
5 A. Yes, sir.  
6 Q. The fence and the gate, are they  
7 painted a color?  
8 A. They're painted white.  
9 Q. And, do we see a portion of the fence  
10 and the gate painted white in 13-C?  
11 A. Yes, sir.  
12 Q. Okay. 13-D. What portion of the  
13 backyard are we looking at there?

14 A. That's also the back gate, and it has  
15 part of the spa in it.  
16 Q. And State's Exhibit 13 (sic) finally.  
17 What portion of the backyard are we looking at there?  
18 A. That's the other side of the spa and  
19 it shows the far southwest corner of the backyard.  
20 Q. Okay. Let me ask you, the time that  
21 you were in this backyard, Lieutenant, did you see anyone  
22 in this backyard besides yourself and Officer Moore?  
23 A. No, sir.  
24 Q. Did you hear anything unusual as you  
25 went back to this backyard, sir?  
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1 A. No, sir.  
2 Q. Now, did I understand you to say that  
3 you actually went into this spa?  
4 A. Yes, sir, I did.  
5  
6 (Whereupon, the following  
7 mentioned items were  
8 marked for  
9 identification only  
10 as State's Exhibit 14-A,  
11 B & C, after which time  
12 the proceedings were  
13 resumed on the record  
14 in open court, as  
15 follows:)  
16  
17 BY MR. GREG DAVIS:  
18 Q. Okay. Lieutenant, let me show you  
19 what's been marked as State's Exhibits 14-A, 14-B and  
20 14-C. Do you recognize these to be true and accurate  
21 depictions of the interior of the redwood spa as it  
22 appeared on June 6th of 1996?  
23 A. Yes, sir, they are.  
24  
25 MR. GREG DAVIS: Your Honor, at this  
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1 time we'll offer State's Exhibits 14-A, 14-B and 14-C.  
2 MR. RICHARD C. MOSTY: No objection.  
3 THE COURT: State's Exhibits 14-A, B  
4 and C are admitted.  
5  
6 (Whereupon, the items  
7 Heretofore mentioned



8 Were received in evidence  
9 As State's Exhibit Nos. 14-A  
10 through 14-C for all purposes,  
11 After which time, the  
12 Proceedings were resumed  
13 As follows:)

14

15 BY MR. GREG DAVIS:

16 Q. Lieutenant Walling, if we first look  
17 at -- well, just tell us, what did you see when you came  
18 in that spa that evening?

19 A. There was the -- I flipped the lights  
20 on. Which, the switch was right beside the door. There  
21 was the spa itself that was in the center of the room.

22 There was a bar area, T.V. set, and a stereo.

23 Q. In State's Exhibit 14-A, do we see the  
24 stereo system here?

25 A. Yes, sir.

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1 Q. In 14-B, do we see a portion of the  
2 stereo and a portion of the hot tub itself?

3 A. Yes, sir.

4 Q. And what do we see in State's Exhibit  
5 14-C?

6 A. A television set that was sitting on  
7 the bar in the corner.

8 Q. Okay. Do you recall whether or not  
9 the door to the spa was open or was it closed?

10 A. It was closed.

11 Q. Did you have to open it yourself to  
12 get in here?

13 A. Yes, sir, I did.

14 Q. Sir, did you see any sign at all that  
15 anything had been disturbed inside this redwood spa when  
16 you went in there that morning?

17 A. No, sir.

18 Q. All right. Lieutenant, you have now  
19 cleared the backyard, you've cleared the redwood spa.  
20 Could you tell us what is the next thing you did once you  
21 finished up with this backyard area?

22 A. Exited the backyard. I instructed  
23 Officer Moore to start a search of the neighborhood for  
24 suspects. I went around, back around the front of the  
25 residence, met up with Officer Waddell again and we did a

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1 search of the upstairs of the residence.  
2 Q. And do you know approximately how many  
3 rooms are upstairs in that residence?  
4 A. Three bedrooms. I believe three  
5 bedrooms and an extra living area or a game room and  
6 bathrooms.

7  
8 (Whereupon, the  
9 Exhibits were  
10 Marked for  
11 Identification  
12 Only, as State's  
13 Exhibit Nos. 16-A  
14 Through 16-F, after  
15 which the proceedings.  
16 resumed as follows:)

17  
18 BY MR. GREG DAVIS:  
19 Q. All right. Lieutenant, let me show  
20 you what's been marked as State's Exhibit 16-A, 16-B,  
21 16-C, 16-D, 16-E and 16-F. Do you recognize these  
22 photographs to be true and accurate depictions of the --  
23 the portion of the upstairs rooms as they appeared on  
24 June 6th of 1996 at 5801 Eagle Drive?

25 A. Yes, sir.  
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1  
2 MR. GREG DAVIS: Your Honor, at this  
3 time we'll offer State's Exhibits 16-A, 16-B, 16-C, 16-D,  
4 16-E and 16-F.

5 MR. RICHARD C. MOSTY: No objection.

6 THE COURT: State's Exhibits 16-A, B,  
7 C, D, E and F are admitted.

8  
9 (Whereupon, the items  
10 Heretofore mentioned  
11 Were received in evidence  
12 As State's Exhibit No. 16-A  
13 through 16-F for all purposes,  
14 After which time, the  
15 Proceedings were resumed  
16 As follows:)

17  
18 BY MR. GREG DAVIS:  
19 Q. If we could, first looking at State's  
20 Exhibits 16-A, 16-B and 16-C. Can you tell us which room  
21 these three photographs depict, sir.  
22 A. That's the upstairs, what I call the

23 game room area.

24 Q. All right. And these items up on the

25 wall that we see here in 16-A, can you tell us what those

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1 are?

2 A. Those are collectibles, like

3 autographs and I believe there were some cards there

4 also, like baseball cards. I'm not sure about that, but

5 they were famous people's autographs.

6 Q. This photograph in 16-B, is that Sammy

7 Davis, Jr.?

8 A. Yes, sir, it is.

9 Q. Okay. Do you recognize the other

10 photograph below that, who that is?

11 A. I believe that that's the defendant,

12 I'm not positive.

13 Q. Okay. The other equipment, the other

14 items shown here in 16-B, what are those?

15 A. It's a rack stereo system, speakers,

16 and I believe those are CDs.

17 Q. Looking at State's Exhibit 16-C, the

18 large object on the left side of this photograph, what is

19 that?

20 A. That's a big screen TV.

21 Q. And the item on the right hand portion

22 of the photograph, 16-C, what's that?

23 A. It's a computer system.

24 Q. Officer, as you came into this room

25 here, the playroom upstairs, did you find anything that

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1 appeared to be missing in this room, sir?

2 A. No, sir.

3 Q. Did there appear to be anything that

4 had been rifled through or moved in this playroom prior

5 to you coming in here?

6 A. No, sir.

7 Q. When you -- is this the first room

8 that you cleared upstairs?

9 A. Yes, sir, it is.

10 Q. What's the next room you cleared --

11 once you cleared the playroom here, what's the next room

12 that you went into?

13 A. The master bedroom.

14 Q. And in relationship to the playroom,

15 where would it be located?

16 A. Just out the door.

17 Q. And State's Exhibit 16-D, tell us  
18 where we are upstairs as we're looking at 16-D?

19 A. You're outside looking into the master  
20 bedroom.

21 Q. Master bedroom being here; is that  
22 correct?

23 A. Yes, sir.

24 Q. And would the playroom be to the right  
25 or to the left?

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1 A. To the left.

2 Q. So it would be over here; is that  
3 right?

4 A. Yes.

5 Q. This door leading into it?

6 A. Yes, sir.

7 Q. Okay. What are we looking at over  
8 here on the right hand side of that photograph?

9 A. Some type of clock, I believe, and  
10 candlesticks.

11 Q. All right. And we're then looking in  
12 the doorway into the master bedroom; is that right?

13 A. Yes, sir.

14 Q. 16-E and 16-F, do they show different  
15 portions of that master bedroom?

16 A. Yes, sir, they do.

17 Q. And just, if you could just orient us  
18 as to what we see in 16-E first.

19 A. This is the bed, the dresser, the  
20 child's crib.

21 Q. All right. Did you find anybody in  
22 this room?

23 A. Yes, sir. Approximately an eight  
24 month old child.

25 Q. All right. Where?

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1 A. She was in -- or he was in the crib.

2 Q. Okay. Did you have an opportunity to  
3 look at him to see if he was okay or not?

4 A. Yes, sir. When we entered the room he  
5 was up on the side of the crib.

6 Q. Did he appear to have any injuries?

7 A. No, sir.

8 Q. Did he appear to be having any sort of  
9 problems at all?

10 A. No, sir.

11 Q. Did you take him with you at that  
12 point or did you leave him there?  
13 A. We left him in the crib.  
14 Q. And why did you leave him there?  
15 A. We hadn't finished searching the rest  
16 of the upstairs. We knew that there wasn't any danger in  
17 that room. He was in the best place that he could be at  
18 the time.  
19 Q. In 16-F, what do we see there?  
20 A. That's open, I guess you would call it  
21 a credenza with a television set in it. And then it  
22 looks off into the master bathroom.  
23 Q. Okay. Again, looking at this master  
24 bedroom, did you find any evidence that anyone had been  
25 pulling open drawers, pulling out items, taking anything  
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1 out of this room, sir?  
2 A. No, sir.  
3 Q. Once you finished with the playroom  
4 and the master bedroom, where did you next go in the  
5 upstairs area?  
6 A. Went to the child's room.  
7 Q. Okay.  
8  
9 THE COURT: Gentlemen, the jury has  
10 been sitting here for an hour and a half so I think we'll  
11 take a 10 minute break now.  
12  
13 (Whereupon, a short  
14 Recess was taken,  
15 After which time,  
16 The proceedings were  
17 Resumed on the record,  
18 In the presence and  
19 Hearing of the defendant  
20 And the jury, as follows:  
21  
22 THE COURT: All right. Let's  
23 continue. Are both sides ready to bring the jury back  
24 and continue?  
25 MR. GREG DAVIS: Yes, sir, the State  
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1 is ready.  
2 MR. RICHARD MOSTY: Yes, your Honor,  
3 we are ready.  
4 THE COURT: All right. Everyone is

5 seated. Bring the jury in, please.

6

7 (Whereupon, the jury

8 Was returned to the

9 Courtroom, and the

10 Proceedings were

11 Resumed on the record,

12 In open court, in the

13 Presence and hearing

14 Of the defendant,

15 As follows:)

16

17 THE COURT: All right. Let's

18 continue, please. Let the record reflect that all

19 parties in the trial are present and the jury is seated.

20

21

22 (Whereupon, the following

23 mentioned items were

24 marked for

25 identification only

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1 as State's 17-A, B & C,

2 after which time the

3 proceedings were

4 resumed on the record

5 in open court, as

6 follows:)

7

8 BY MR. GREG DAVIS:

9 Q. Lieutenant, I believe we were at the

10 point where you said that you were going to check the

11 children's room; is that correct?

12 A. Yes, sir.

13 Q. All right. Let me ask you to look,

14 please, at State's Exhibit 17-A, 17-B and 17-C. Do these

15 fairly and accurately depict the children's rooms as they

16 appeared on June 6, 1996?

17 A. Yes, sir, they do.

18

19 MR. GREG DAVIS: Your Honor, at this

20 time we'll offer State's Exhibits 17-A, B and C.

21 MR. RICHARD C. MOSTY: No objection.

22 THE COURT: All right. Then State's

23 Exhibits 17-A, B, C are admitted.

24

25 (Whereupon, the items

1 Heretofore mentioned

2 Were received in evidence

3 As State's Exhibit No. 17-A

4 through 17-C for all purposes,

5 After which time, the

6 Proceedings were resumed

7 As follows:)

8

9 BY MR. GREG DAVIS:

10 Q. Again, Lieutenant, if we could, just

11 looking here at State's Exhibit 17-A, where are we in the

12 upstairs portion of the house when we're looking?

13 A. We're on the, I guess, the balcony.

14 When you come up the stairs you're on the landing, just

15 outside the game room and master bedroom looking towards

16 the door.

17 Q. The master bedroom and the playroom

18 would be on the left side here?

19 A. Yes, sir.

20 Q. All right. So now we're looking on

21 the other side of the landing over here; is that right?

22 A. Yes, sir.

23 Q. And we're still seeing the same clock

24 and candelabra that we see in the other photograph; is

25 that right?

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1 A. Yes, sir.

2 Q. This room here in 17-A, what room is

3 that?

4 A. That's a child's room.

5 Q. All right. Did you find anything

6 unusual in this room, sir?

7 A. No, sir.

8 Q. Anything that appeared to have been

9 taken out of place, thrown on the floor or anything of

10 that order?

11 A. No, sir.

12 Q. State's Exhibits 17-B and 17-C, is

13 that another child's room?

14 A. Yes, sir, it is.

15 Q. And in relationship to this first

16 child's room, would it be to the right past this bathroom

17 area?

18 A. Yes, sir.

19 Q. And in general, what was the condition

20 of this child's room?

21 A. At the time that we went in and did

22 our search, there wasn't anything out of place. This bed  
23 was made up though.

24 Q. So, we see a multi-striped comforter

25 here; is that right?

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1 A. Yes, sir.

2 Q. And when you and Officer Waddell first

3 came in there, the bottom bunk was made up just like the  
4 top bunk; is that right?

5 A. Yes, sir, it is.

6 Q. Is there something here on top of this  
7 top bunk?

8 A. There's a child's toy rifle.

9 Q. All right. You didn't find -- did you  
10 find any real weapons in this room, sir?

11 A. No, sir.

12 Q. Anything that appeared to be out of  
13 order here, or appear to have been taken out, or looked  
14 at, or anything of that order?

15 A. No, sir.

16 Q. Okay. Now, when you finished up with  
17 the two children's rooms, were there any other rooms to  
18 search upstairs?

19 A. No, sir, just the bathroom.

20 Q. All right. So, anything unusual here?

21 A. No, sir.

22 Q. All right. So you finished up all  
23 upstairs. What did you and Officer Waddell do at that  
24 point then?

25 A. We both came downstairs. At that  
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1 point I exited the house and got on my portable radio,  
2 and I had already previously called for some other units  
3 into the area. I started finding out their locations and  
4 assigning them job assignments. And I made a few more  
5 calls for crime scene and --

6 Q. Well, had you had an opportunity prior

7 to going upstairs to actually -- I think, did I

8 understand you to say that you went through the nook, the  
9 dining room entryway and you also looked into the living  
10 room; is that right?

11 A. Yes.

12

13 (Whereupon, the following



14 mentioned items were marked  
15 for identification only  
16 as State's Exhibits  
17 15-A,B,C,D,E & F,  
18 after which time the  
19 proceedings were  
20 resumed on the record  
21 in open court, as  
22 follows:)

23

24 BY MR. GREG DAVIS:

25 Q. Lieutenant, if you would, if you will  
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1 now look at State's Exhibits 15-A, 15-B, 15-C, 15-D, 15-E  
2 and 15-F. I'll ask you if they truly and accurately  
3 depict the dining room, the formal living room, the  
4 breakfast nook and portions of the kitchen as they  
5 appeared on June 6th, 1996?

6 A. Yes, sir, they do.

7

8 MR. GREG DAVIS: Your Honor, at this  
9 time we'll offer State's Exhibits 15-A, 15-B, 15-C, 15-D,  
10 15-E and 15-F

11 MR. RICHARD C. MOSTY: No objections.

12 THE COURT: State's Exhibits 15-A, B,  
13 C, D, E and F are admitted.

14

15 (Whereupon, the items  
16 Heretofore mentioned  
17 Were received in evidence  
18 As State's Exhibit No. 15-A  
19 through 15-F for all purposes,  
20 After which time, the  
21 Proceedings were resumed  
22 As follows:)

23

24

25 BY MR. GREG DAVIS:

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1 Q. Lieutenant, first if we could look at  
2 State's Exhibit 15-A. What room are we looking at here?

3 A. That's the dining room.

4 Q. All right. And, several items on the  
5 table here?

6 A. Yes, sir.

7 Q. Did there appear to be anything out of

8 place in the formal dining room when you looked at it  
9 that morning, sir?

10 A. No, sir, it was -- the dishes were  
11 set. Everything is just like it is now.

12 Q. Okay. 15-B and 15-C, which room does  
13 this show?

14 A. That's the living room.

15 Q. Okay. Do there appear to be anything  
16 missing or out of order in the formal living room when  
17 you looked at it that morning, sir?

18 A. No, sir.

19 Q. State's Exhibit 15-D, what room is  
20 that?

21 A. That's the breakfast nook.

22 Q. All right. And what object is that on  
23 the left. Does it appear to be some sort of cabinet?

24 A. Like a china cabinet, or something  
25 like that.

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1 Q. Did there appear to be anything  
2 missing or out of order in the breakfast nook area when  
3 you looked at it that morning?

4 A. No, sir.

5 Q. State's Exhibit 15-E, what room is  
6 that?

7 A. That's the kitchen.

8 Q. Okay. And what portion of the kitchen  
9 are we looking at?

10 A. That's the island counter.

11 Q. This is. Correct?

12 A. Yes.

13 Q. Is this going to be the same island  
14 right here?

15 A. Yes, sir.

16 Q. Okay. And in State Exhibit 15-E, can  
17 you tell which end of the island that we're looking at?

18 A. No, sir, I don't recall which end that  
19 is.

20 Q. All right.

21 A. I think it's the end that you first  
22 come to when you're coming from the living room into  
23 there, but I'm not sure.

24 Q. Okay. Are there certain items up  
25 there on top of that island?

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1 A. Yes, sir, there are.  
2 Q. Okay. Seems to be a red and a black  
3 object here. Do you know what those are?  
4 A. It's a wallet, and like a Day Timer  
5 book.  
6 Q. In what condition were those things?  
7 A. They were as they are in the picture,  
8 laying on top of each other.  
9 Q. Did it appear that either one of them  
10 had been opened?  
11 A. No, sir.  
12 Q. Are there two other objects, besides  
13 the Day Timer and the wallet there?  
14 A. Yes, sir, a set of car keys and a  
15 watch.  
16 Q. All right. The darker object being  
17 the car keys and then we see a gold watch; is that right?  
18 A. Yes, sir.  
19 Q. Were they in plain view that morning?  
20 A. Yes, sir, they were.  
21 Q. State's Exhibit 15-F. What portion of  
22 the kitchen are we looking at there?  
23 A. That's that counter top that separates  
24 the kitchen from the family room.  
25 Q. Okay. This area right here?  
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1 A. Yes, sir.  
2 Q. Okay. And are there certain objects  
3 shown on top of this kitchen counter or kitchen bar?  
4 A. Yes, sir, several rings, I believe a  
5 bracelet, maybe a couple of bracelets. I'm not sure if  
6 there's a necklace there or not. I didn't look at this  
7 close enough to see if it was a bracelet or a necklace.  
8 Q. All right. And these items right  
9 here, the jewelry and the bracelets, the rings, the other  
10 bracelet right here. Were these items also out there in  
11 plain view where you could see them?  
12 A. Yes, sir.  
13 Q. Let me just ask you, Lieutenant, in  
14 your search of the downstairs portion of the house and  
15 your search of the upstairs portion of the house, did you  
16 find any sign that anyone had been in that room looking  
17 for property in any of those rooms, sir?  
18 A. No, sir.  
19 Q. Now, let's go back, if we may now,  
20 you've checked downstairs. You've gone outside. You've  
21 checked upstairs. You come downstairs with Officer  
22 Waddell. Correct?

23 A. Yes, sir.

24 Q. And again, if you will, tell us what

25 you did when you came downstairs after finishing the  
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1 searching upstairs.

2 A. When I came downstairs I exited the

3 residence into the front yard. And at that time I got on

4 my portable radio and called to find out where the

5 additional units were that I asked to come over. I

6 started assigning perimeter areas, or different areas for

7 them to set up and different areas for them to drive in

8 attempt to locate the suspect. Also, I called for a

9 crime scene unit. I had my lieutenant notified. And I

10 also attempted to arrange for a helicopter search, and a

11 K-9 unit.

12 Q. Okay. And, were you successful in

13 getting a K-9 unit out here?

14 A. Yes, sir.

15 Q. How about the helicopters?

16 A. No, sir. I contacted D.P.S.

17 helicopter division and was told that a helicopter was

18 not successful for a night search in a neighborhood like

19 that.

20 Q. Let me ask you, Lieutenant, whether at

21 anytime that evening that you came in contact with any

22 vehicles driving along Eagle Drive?

23 A. Yes, sir. Approximately during this

24 time when I was on my radio in the front yard a car came

25 around from the side of the house towards the front of

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1 the house.

2 Q. Okay. We're now looking at State's

3 Exhibit No. 8 here, which is the aerial of the house.

4 Can you use this pointer and just indicate for the

5 members of the jury where you saw this car?

6 A. I was right along in this area here,

7 and the vehicle was coming down here. And about when it

8 got right along in here I was in the street and I stopped

9 it.

10 Q. All right. Can you tell us what kind

11 of car it was?

12 A. It was a dark colored Sedan.

13 Q. All right. How many people were

14 inside?

15 A. I think there were four.

16 Q. All right. What did you do once you

17 got the car stopped?  
18 A. Since at the time I had a suspect  
19 description, I ordered everybody out at gunpoint.  
20 Q. All right. Let me just ask you, you  
21 said you had a suspect description. Correct?  
22 A. Yes, sir.  
23 Q. What was the suspect description that  
24 you had at the time that you stopped this vehicle?  
25 A. A white male wearing a dark colored  
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1 ballcap, a black shirt and blue jeans.  
2 Q. All right. You got the car stopped  
3 now. Just pick it up from that point, please.  
4 A. Yes, sir. I stopped the car, I had  
5 the occupants, which there were four, exit the car and  
6 place their hands along the hood of the car, at which  
7 time I identified them.  
8 Q. All males or all females?  
9 A. There were two white males, one black  
10 male and one female.  
11 Q. All right. You got everyone out?  
12 A. Yes, sir.  
13 Q. How was the lighting out there at that  
14 location where you had these people out?  
15 A. It was pretty good. There was a  
16 street light nearby.  
17 Q. All right. What did you do -- once  
18 you got them out, what did you have them do?  
19 A. I had them place their hands on the  
20 front of the car, so that I could check them for weapons.  
21 I checked them for weapons and I checked the interior of  
22 the vehicle for anything relating to this crime. I  
23 identified them.  
24 Q. Okay. Let me ask you: Did any of  
25 these people in this automobile -- let's talk about the  
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1 three males. That's what you were looking for, a male,  
2 correct?  
3 A. Yes, sir, white male.  
4 Q. Any of the two white males then match  
5 the description that you had been given?  
6 A. No, sir, both were wearing  
7 light-colored shirts.  
8 Q. Okay. Wearing light-colored shirts?  
9 A. Yes, sir.  
10 Q. Either of them wearing ball caps?

11 A. No, sir.  
12 Q. Did you look at the occupants to see  
13 whether you could see any blood on any of these  
14 occupants?  
15 A. Yes, sir, I looked individually at  
16 each one, made them show me their hands, front and back.  
17 I looked up and down their clothes, checked their shoes  
18 by looking at them.  
19 Q. What did you see?  
20 A. I didn't find anything.  
21 Q. How about the outside of the vehicle?  
22 A. I examined it and I didn't find  
23 anything.  
24 Q. All right. Did you look inside the  
25 vehicle?  
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1 A. Yes, sir, I did.  
2 Q. Did you see any blood inside the car?  
3 A. No, sir.  
4 Q. Okay. How about any clothing? Did  
5 you find any dark T-shirts, any ball caps, any other  
6 clothing inside the car?  
7 A. No, sir, I didn't.  
8 Q. Okay. What did you do then once you  
9 finished the search of the occupants, you identified them  
10 and you completed the search of the vehicle, what did you  
11 do with them?  
12 A. I released them.  
13 Q. All right. And, once you released  
14 that vehicle then -- let me just ask you: How long have  
15 you been out here at 5801 Eagle before you see this car  
16 coming down Eagle, going -- I suppose east on Eagle? How  
17 long had you already been there by this time?  
18 A. It was approximately between 10 and 30  
19 minutes, I'm not exactly sure.  
20 Q. And that's how much time had passed  
21 before you stopped it?  
22 A. Yes, sir.  
23 Q. After you had already searched them,  
24 you released the vehicle, what's the next thing that you  
25 did?  
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1 A. I started stringing up crime scene  
2 tape, positioning the crime scene tape around the scene  
3 to keep any other vehicles out, and to secure it from  
4 anybody walking up.

5 Q. All right. Now where is Officer  
6 Waddell during the time that you're doing this?  
7 A. When I initially exited the house from  
8 the upstairs' search, I told Officer Waddell to remain on  
9 the front door and not let anybody in the crime scene.  
10 Q. Okay. Let me just ask you: Were  
11 there ambulances out here at 5801 Eagle?  
12 A. Yes, sir, there were.  
13 Q. Had any of the ambulances left by the  
14 time you started stringing this security tape up?  
15 A. One had.  
16 Q. All right. How about the others,  
17 still there?  
18 A. I believe it was still there.  
19 Q. All right. Officer Walling, I'm going  
20 to show you a clear overlay that's been marked as State's  
21 Exhibit 8-A and ask you whether or not you see a red and  
22 yellow line on this overlay.  
23 A. Yes, sir.  
24 Q. Is that a true and accurate depiction  
25 of where you strung the outside perimeter tape that  
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1 morning?  
2 A. Yes, sir, the red line is.  
3 Q. And do you see a single yellow line on  
4 this overlay also?  
5 A. Yes, sir.  
6 Q. Is that an accurate depiction of  
7 another set of tape that you had strung later that  
8 morning on June 6, 1996?  
9 A. Yes, sir, it is.  
10  
11 MR. GREG DAVIS: Your Honor, at this  
12 time we'll offer State's Exhibit No. 8-A.  
13 MR. DOUGLAS MULDER: No objection.  
14 THE COURT: State's Exhibit Number 8-A  
15 is admitted.  
16  
17 (Whereupon, the item  
18 Heretofore mentioned  
19 Was received in evidence  
20 As State's Exhibit No. 8-A  
21 For all purposes,  
22 After which time, the  
23 Proceedings were resumed  
24 As follows:)  
25 BY MR. GREG DAVIS:

1 Q. And again, as we're looking here on  
2 this diagram, Officer, the yellow and the red, when did  
3 you string that tape?

4 A. Approximately 10 minutes after we  
5 arrived at the residence.

6 Q. All right. Is this the line that  
7 you're stringing while Officer Waddell is at the front  
8 door?

9 A. Yes, sir, it is.

10 Q. Once this one got strung, were any  
11 vehicles allowed inside that perimeter?

12 A. No, sir.

13 Q. What's the purpose of putting this  
14 line up?

15 A. To keep vehicles -- to preserve the  
16 integrity of the crime scene. To keep vehicles and  
17 persons on the other side of it from entering in.

18 Q. This single yellow line that we see  
19 around 5801 Eagle, what does it represent?

20 A. It is the interior crime scene tape  
21 that was put up maybe an hour or two later. It condensed  
22 the crime scene area to the house itself and the yard.

23 Q. Okay. Now, if you know, how long did  
24 the outside perimeter remain up? Once you strung it  
25 there in the morning of June the 6th, do you know how

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1 long this outside perimeter remained there?

2 A. It still remained up for several  
3 hours.

4 Q. All right. Into the later portions of  
5 June 6th?

6 A. Yes, sir, I believe so.

7 Q. All right. This inside perimeter with  
8 the single yellow line, was it removed on June 6th also?

9 A. No, sir, it remained for several days.

10 Q. Several days? Was this area -- did it  
11 remain secure for several days?

12 A. Yes, sir, approximately two weeks.

13 Q. All right. And during that period of  
14 time, this line was up. Correct?

15 A. Yes, sir.

16 Q. Were civilians allowed to enter  
17 through this tape during those several days that Rowlett  
18 continued to have possession of this house?

19 A. No, sir, they weren't.



20 Q. In the photograph, can you see a  
21 vehicle here parked on the front portion of the house?

22 A. Yes, sir.

23 Q. What is that?

24 A. That's a Rowlett police car. An  
25 officer was stationed in this area each -- for 24 hours a  
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1 day, for every day that we held the crime scene.

2 Q. Do you know the last day that Rowlett

3 actually had possession there?

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

5 Q. Several days though?

6 A. Several days.

7 Q. Okay. Officer, once you completed  
8 stringing this outside perimeter, just tell us the next  
9 thing that you remember doing.

10 A. I made several other transmissions or  
11 talking on the radio to the officers in the area, to find  
12 out their status and where they were and see if they had  
13 found anything during the search.

14 At one point the defendant was sitting  
15 on the front porch, I went up and asked her if she could  
16 tell me what happened and talked to her for a few  
17 minutes.

18 Q. All right. Can you please tell the  
19 members of the jury what the defendant told you out there  
20 that morning?

21 A. She had told me that she was asleep on  
22 the couch and that she had been awakened and felt  
23 somebody standing over her. Then she realized that she  
24 had been stabbed and she began struggling with the  
25 person. And that they had ran out through the kitchen  
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1 door into the garage.

2 Q. And when she told you that she had a  
3 struggle with the individual, did she indicate to you  
4 that morning where that struggle had taken place?

5 A. Yes, sir, at the couch.

6 Q. At the couch?

7 A. Yes, sir.

8 Q. Are you sure that she didn't tell you  
9 that the struggle occurred between the kitchen and the  
10 family room?

11 A. No, sir. She said that when she woke  
12 up, the person was standing over her, and that she was  
13 laying on the couch, and that she began struggling with

14 him.

15 Q. Okay. And, that he ran through the  
16 garage; is that right?

17 A. Yes, sir.

18 Q. Did she give you a description of that  
19 person at that time?

20 A. Yes, sir, it was a white male, wearing  
21 a dark-colored ball cap, a black T-shirt and blue jeans.

22 Q. Okay. She didn't say it was either a  
23 black or white man?

24 A. No, sir, she said a white male.

25 Q. And, how long had you been at this  
Sandra M. Halsey, CSR, Official Court Reporter  
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1 residence when you had this conversation with the  
2 defendant?

3 A. It was within, probably within the  
4 first ten minutes. When I talked to her, it was prior to  
5 me stopping the car.

6 Q. All right. Go ahead and have a seat  
7 back there.

8

9 (Whereupon, the witness

10 Resumed the witness

11 Stand, and the

12 Proceedings were resumed

13 On the record, as

14 Follows:)

15

16 BY MR. GREG DAVIS:

17 Q. Lieutenant Walling, let me ask you:

18 Once that area was taped off, and once an officer was  
19 posted on that door, did you ever reenter that house?

20 A. Yes, sir, I did.

21 Q. And can you tell the members of the  
22 jury what time it was that you reentered 5801 Eagle  
23 Drive?

24 A. A few minutes after 6:00 o'clock that  
25 morning, on June the 6th.

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1 Q. All right. Was there still an officer  
2 posted on the front door when you entered the house?

3 A. Yes, sir, there was.

4 Q. Do you remember his name by any  
5 chance?

6 A. Officer Steve Ferrie.

7 Q. Is he a member of the Rowlett Police

8 Department?

9 A. Yes, sir, he is.

10 Q. Had you given him any instructions, or  
11 had anyone given him any instructions about sealing off  
12 that area?

13 A. Yes, sir. He was told not to allow  
14 anybody into the residence.

15 Q. Do you know whether or not someone had  
16 been on the front door before Officer Ferrie took over?

17 A. Yes, sir. There was Officer Steve  
18 Wade.

19 Q. Is he also a member of the Rowlett  
20 Police Department?

21 A. Yes, sir, he is.

22 Q. Had anyone given him instructions  
23 about limiting the access to that house?

24 A. Yes, sir.

25 Q. And who had given him those  
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1 instructions?

2 A. I had. I advised him not to let  
3 anybody into the house unless he heard something from me.

4 Q. Okay. Now, at anytime while Officer  
5 Waddell, Officer Wade and Officer Ferrie were on the  
6 front door, did you ever authorize them to let anyone in  
7 that house before you came into the house a little bit  
8 after 6:00 a.m.?

9 A. No, sir.

10 Q. When you went into the house there,  
11 Officer, a little after 6:00 a.m., did anyone go into the  
12 house with you?

13 A. Yes, sir. On my initial entry into  
14 the house the Routiers had a dog, a small dog, and we  
15 were concerned about it and wanted to get it out of the  
16 house. It was upstairs, along the upstairs railing, and  
17 it was barking. I entered the house, Officer David  
18 Mayne, a crime scene officer, entered the house, and a  
19 neighbor -- I believe her name was Karen Neal -- entered  
20 the house.

21 Myself and Mrs. Neal went up the  
22 stairs and she picked up the dog and brought it out. She  
23 exited the house.

24 Q. All right. Let me ask you first:  
25 Concerning the bottom portion of the house, the first  
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1 floor, what area of the first floor did Ms. Neal go to  
2 while she was with you?  
3 A. From the front door directly up the  
4 stairway.  
5 Q. All right. So she went through the  
6 entry; is that right?  
7 A. Yes, sir.  
8 Q. To the stairs?  
9 A. Yes, sir.  
10 Q. All right. Now, once she got up to  
11 the second floor, where did she go to?  
12 A. She was able to talk to the dog. The  
13 dog knew her, and she picked it up right there on the  
14 landing.  
15 Q. All right. Did she ever go into  
16 either the playroom, the master bedroom, the boy's  
17 bathroom or the boy's bedroom?  
18 A. No, sir.  
19 Q. Okay. Was she always in your sight  
20 while she was upstairs?  
21 A. Yes, sir, she was.  
22 Q. And, once she got the dog on the  
23 landing, where did she go to?  
24 A. We both walked back downstairs and she  
25 exited the front door the same way she came.  
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1 Q. All right. Now when she came down the  
2 stairs, what portion of the first floor did she go to?  
3 A. Just directly from the landing of the  
4 stairs to the front door.  
5 Q. Was Mrs. Neal always in your sight  
6 while she was going down the stairs and while she was  
7 exiting from the stairs out the front door?  
8 A. Yes, sir, she was.  
9 Q. Do you know approximately how long  
10 Mrs. Neal was inside that house retrieving the dog?  
11 A. Approximately 30 seconds to a minute.  
12 Q. What kind of dog was this, if you  
13 know?  
14 A. It was a small dog.  
15 Q. Okay. Do you remember how he was  
16 acting?  
17 A. He was barking.  
18 Q. Okay. Now, when Ms. Neal exited the  
19 house, did you and Officer Mayne leave with her or did  
20 you remain in the house?  
21 A. We remained right inside the doorway.  
22 At that time Officer -- I'm sorry, Sergeant Nabors and

23 Lieutenant Cron entered the house.  
24 Q. David Nabors, is he a sergeant with  
25 the Rowlett Police Department?  
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1 A. Yes, sir, he is.  
2 Q. And you referred to a Lieutenant Cron,  
3 is he a retired lieutenant with the Dallas Sheriff's  
4 Office?  
5 A. Yes, sir, he is.  
6 Q. Okay. And does he consult with  
7 Rowlett from time to time?  
8 A. Yes, sir.  
9 Q. And did you accompany Sergeant Nabors,  
10 Lieutenant Cron -- and was David Mayne also with you?  
11 A. Yes.  
12 Q. And David Mayne is who?  
13 A. He's a crime scene officer also.  
14 Q. And did you and these other gentlemen  
15 go through the house again then?  
16 A. Yes, sir, we did.  
17 Q. And did you go through all the bottom  
18 floors?  
19 A. Yes, sir, we --  
20 Q. Did you go --  
21 A. I'm sorry. I walked through and  
22 pointed out different things to them that I had seen when  
23 I was in the house, both upstairs and downstairs.  
24 Q. Okay. And you went upstairs also  
25 then?  
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1 A. Yes, sir.  
2 Q. Did you have a chance to go in the  
3 backyard?  
4 A. Yes, sir.  
5 Q. All right. And, was Lieutenant Cron  
6 and David Nabors and David Mayne also with you when you  
7 went back there?  
8 A. Yes, sir.  
9 Q. Do you have any, just an estimate of  
10 the amount of time that the four of y'all spent in the  
11 house making that initial walk-through?  
12 A. Approximately 10 to 20 minutes.  
13 Q. Okay. Now, at that time you were a  
14 sergeant. Were you associated with the physical evidence  
15 section at Rowlett?  
16 A. No, sir, I wasn't.

17 Q. Were you in the patrol division then?

18 A. Yes, sir.

19 Q. Sergeant Nabors and David Mayne, they

20 were assigned physical evidence; is that correct?

21 A. Yes, sir.

22 Q. Once y'all had made that initial

23 walk-through did you kind of hand the baton off to them

24 concerning the crime scene?

25 A. Yes, sir, I did.

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1 Q. Lieutenant, do you have any idea about

2 how long you remained at the scene that day?

3 A. I was there until approximately 11:30.

4 Q. 11:30 in the morning?

5 A. Yes, sir.

6 Q. And at that time did you then go back

7 to the station?

8 A. Yes, sir, I did.

9 Q. And did you prepare a report once you

10 got back to the station?

11 A. Yes, sir, I did.

12 Q. Okay.

13 A. It was approximately 10:30 to 11:30

14 that I left.

15 Q. Now, while you had been at the

16 residence, had you made any notes?

17 A. Yes, sir, I had.

18 Q. And what notes had you made while you

19 were out there before going back?

20 A. The notes I took were when I was

21 talking to the defendant and she gave me the physical

22 description of the suspect.

23 Q. Okay. Dark ball cap. Correct?

24 A. Yes, sir. White male, dark colored

25 ball cap, black shirt and blue jeans.

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1 Q. Okay. Let me just ask you, you were

2 out there from about 2:30 until about 11:30; is that

3 right?

4 A. Yes, sir.

5 Q. Were you keeping track of the time

6 line, of exactly when you would start doing something and

7 when you would stop doing something?

8 A. No, sir.

9 Q. Were you wearing a watch that night?

10 A. Yes, sir, I was.

11 Q. Okay. But you weren't timing  
12 yourself?  
13 A. No, sir.  
14 Q. Okay. The times that you and I have  
15 talked about, would you consider them to be exact times,  
16 or are they estimates, or approximations?  
17 A. They're approximations.  
18 Q. Okay.  
19  
20 MR. GREG DAVIS: May I approach a  
21 moment, your Honor?  
22 THE COURT: You may.  
23  
24 BY MR. GREG DAVIS:  
25 Q. Lieutenant Walling, prior to your  
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1 testifying today, did I ask you to tell me whether or not  
2 the sheets I'm holding before you represent the report  
3 that you prepared in this case, as well as a copy, it  
4 looks like a faxed copy of your whip-out sheet?

5 A. Yes, sir.

6 Q. Okay. Are they, in fact, your notes?

7 A. Yes, sir, they are.

8

9 MR. GREG DAVIS: Your Honor, at this  
10 time, I am going to tender to Mr. Mulder a copy of the  
11 whip-out sheet and the report prepared by Lieutenant  
12 Walling, and I'll pass the witness for cross-examination.

13 THE COURT: All right.

14 MR. DOUGLAS MULDER: Judge, I'm going  
15 to need a minute to read this.

16 THE COURT: That will be fine.

17

18 (Whereupon, a short

19 Discussion was held

20 Off the record, after

21 Which time the

22 Proceedings were resumed

23 As follows:

24 THE COURT: All right. Ladies and  
25 gentlemen, in view of the weather situation outside,  
Sandra M. Halsey, CSR, Official Court Reporter

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1 we're going to terminate the proceedings for today. And  
2 we'll resume tomorrow morning at 9:00 o'clock if we can  
3 get in. And do your best. And, if you can't, please  
4 telephone, to let us know. If you're still struggling,

5 let us know that too, we'll wait. That will be fine.  
6 Same instructions as always. No  
7 investigation on your own. Don't talk about the case  
8 among yourselves yet. We will see you tomorrow morning.  
9 If all members of the audience will  
10 remain seated, please, until the jury has left.  
11 Ms. Reynolds -- what jurors need a  
12 room?  
13 You are all set? Okay.  
14  
15 (Whereupon, the  
16 Proceedings were  
17 Recessed for the day,  
18 To be resumed the  
19 Following day, in  
20 Open court, as follows:  
21  
22 THE COURT: All right. As soon as the  
23 jury leaves we're going to clear the courtroom. We have  
24 to do some clearing in here. You will be allowed to come  
25 back in, look at the exhibits, if you so desire.  
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1 Just everybody sit tight for a minute.  
2 We will put you in the hallway and do the clearing we  
3 have to do and then we will be coming back out for you,  
4 please.  
5 I guess you will have to leave about  
6 6:00 o'clock or something that.  
7 All right. The jury has left the  
8 building, so the members of the audience may leave, and  
9 then, when the defendant is removed from the courtroom,  
10 those of you who wish to view the exhibits may return and  
11 Mrs. Halsey will stay and let you see those.  
12 Thank you. Have a nice evening  
13 everyone, and be careful on those roads.  
14  
15 (Whereupon, the  
16 proceedings were  
17 recessed for the day,  
18 to be resumed the  
19 following day,  
20 Wednesday,  
21 January 8, 1997  
22 at 9:00 o'clock,  
23 in open court, as  
24 follows:)  
25



Sandra M. Halsey, CSR, Official Court Reporter  
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1 CERTIFICATION PAGE

2 THE STATE OF TEXAS )

3 THE COUNTY OF DALLAS )

4 I, Sandra M. Halsey, Official Court Reporter of  
5 Criminal District Court Number 3, of Dallas County,  
6 Texas, do hereby certify that I reported in Stenograph  
7 notes the foregoing proceedings, and that they have been  
8 edited by me, or under my direction and the foregoing  
9 transcript contains a full, true, complete and accurate  
10 transcript of the proceedings held in this matter, to the  
11 best of my knowledge.

12 I further certify that this transcript of the  
13 proceedings truly and correctly reflects the exhibits, if  
14 any, offered by the respective parties.

15 SUBSCRIBED AND SWORN TO, this \_\_\_\_\_ day of  
16 \_\_\_\_\_, 1997.

17 \_\_\_\_\_

18 Sandra M. Day Halsey, CSR

19 Official Court Reporter

20 Criminal District Court No. 3

21 Dallas County, Texas

22 Phone, (214) 653-5923

23

24 Cert. No. 308

25 Exp 12-31-98

Sandra M. Halsey, CSR, Official Court Reporter  
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1 STATE OF TEXAS )

2 COUNTY OF DALLAS)

3

4 JUDGES CERTIFICATE

5

6

7

8 The above and foregoing transcript, as certified  
9 by the Official Court Reporter, having been presented to  
10 me, has been examined and is approved as a true and  
11 correct transcript of the proceedings had in the  
12 foregoing styled cause, and aforementioned cause number  
13 of this case.

14

15

16

17

18 \_\_\_\_\_

19 MARK TOLLE, JUDGE

20 Criminal District Court Number 3  
21 Dallas County, Texas

19 THE COURT: All right. We're back on  
20 the record in the Darlie Routier matter.  
21 Are both sides ready to bring the jury  
22 back and resume?

23 MR. GREG DAVIS: Yes, sir, the State  
24 is ready.

25 MR. DOUGLAS MULDER: Yes, sir, we are  
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1 ready.

2 THE COURT: All right, bring the jury  
3 in, please.

4

5 (Whereupon, the jury  
6 Was returned to the  
7 Courtroom, and the  
8 Proceedings were  
9 Resumed on the record,  
10 In open court, in the  
11 Presence and hearing  
12 Of the defendant,  
13 As follows:)

14

15 THE COURT: Let the record reflect all  
16 parties in the trial are present and the jury is seated.  
17 And Mr. Mulder, I believe you will do  
18 cross-examination?

19 MR. DOUGLAS MULDER: Yes, sir. Thank  
20 you.

21 THE COURT: All right.

22

23

24

25

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1 Whereupon,

2

3 LT. MATT WALLING,

4

5 Resumed the stand as a witness, for the State of Texas,  
6 having been previously duly sworn by the Court, to speak  
7 the truth, the whole truth, and nothing but the truth,  
8 was examined and testified further in open court, as  
9 follows:

10

11

12 CROSS EXAMINATION

13

14 BY MR. DOUGLAS MULDER:

15 Q. Lieutenant Walling, you understand, of

16 course, that you're still under oath?

17 A. Yes, sir.

18 Q. And, you were, I believe way back on

19 Monday placed under the Rule of Evidence?

20 A. Yes, sir.

21 Q. You've heard that when the prosecutor

22 asked that all the witnesses be placed under the Rule of

23 Evidence?

24 A. Yes, sir.

25 Q. Of course, you haven't, I take it

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1 then, talked with the other witnesses about your

2 testimony and no witness has discussed his testimony with

3 you?

4 A. No, sir.

5 Q. That's the purpose of the Rule, isn't

6 it?

7 A. Yes, sir, it is.

8 Q. So the witnesses don't get together

9 and all cook up a story. Correct?

10 A. Yes, sir.

11 Q. And, of course y'all didn't need to do

12 that, because you have had a, -- you kind of had a dress

13 rehearsal, didn't you? Weren't you involved in the dress

14 rehearsal?

15 A. With the district attorneys?

16 Q. Yes, sir.

17 A. Yes, sir. We had gotten together

18 before.

19 Q. You got together in the courtroom?

20 A. Yes, sir.

21 Q. And everybody kind of sat around and

22 listened to the other witnesses as they went through

23 their part of the testimony?

24 A. Yes, sir.

25 Q. Okay. It's looks better, I guess, for

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1 the conductor, if everybody's on the same sheet of music,

2 doesn't it?

3 A. Yes, sir, I guess it does.

4 Q. But, I mean, it helps you if you're  
5 able to, for example -- and I'm not suggesting that you  
6 would change your testimony, but, I mean, it helps to  
7 refresh your memory and it looks better if everybody's  
8 consistent, doesn't it? It makes sense.

9 A. Well, it does refresh your memory,  
10 yes, sir.

11 Q. And, of course, it looks better if  
12 everybody's consistent, doesn't it?

13 A. Well, sir --

14 Q. Don't you think?

15 A. Well --

16 Q. You don't know?

17 A. Well, I'm talking -- as long as you  
18 tell the truth it doesn't really matter. That's not what  
19 we're here for is to make things look better.

20 Q. Well, let's talk about -- and when you  
21 say "as long as you tell the truth" of course you mean  
22 the whole truth, don't you?

23 A. Yes, sir.

24 Q. And nothing but the truth?

25 A. Yes, sir.

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1 Q. And you've been under oath before in  
2 this matter and testified, have you not?

3 A. Yes, sir, I have.

4 Q. And at that time you took an oath to  
5 tell the truth, the whole truth, and nothing but the  
6 truth, didn't you?

7 A. Yes, sir.

8 Q. Okay. Let me -- Mr. Walling --  
9 Sergeant Walling -- Lieutenant Walling, on the evening  
10 of, or the early morning hours of June the 6th, of 1996,  
11 you told us that you were on Highway 66 and got this  
12 dispatch; is that right?

13 A. Yes, sir.

14 Q. I believe your response time was  
15 something like two or three minutes. Is that fair to  
16 say?

17 A. Approximately three minutes.

18 Q. Okay. At any rate, you were some, as  
19 I recall, some 3.1 miles away at that time. Right?

20 A. Approximately, yes, sir.

21 Q. You were on Highway 66, which is a  
22 main artery through Rowlett; is it not?

23 A. Yes, sir, it is.

24 Q. I have my finger on 66. It's this red  
25 thing?

1 A. Yes, sir.

2

3 MR. DOUGLAS D. MULDER: Can you-all

4 see that?

5 THE JURORS: Yes.

6

7 BY MR. DOUGLAS MULDER:

8 Q. Now another artery that is close to

9 Rowlett is Interstate 30, isn't it?

10 A. Yes, sir, it is.

11 Q. Runs from Dallas, basically, to

12 Texarkana, doesn't it?

13 A. Yes, sir.

14 Q. It runs almost parallel, does it not?

15 A. Yes, sir, it does.

16 Q. Big divided highway?

17 A. Through Rowlett it runs parallel.

18 Q. All right. And that's Interstate 30?

19 A. Yes, sir.

20 Q. Of course, you were coming from the

21 opposite direction, but somebody at 2:31 or 2:32, at or

22 about the time that you got your dispatch, somebody could

23 have gone down Dalrock Road to Interstate 30 and by the

24 time you got to Eagle been well on their way to Dallas,

25 if they made a right turn and --

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1 A. Yes, sir, that's correct.

2 Q. And through Rockwall if they made a

3 left turn?

4 A. Yes, sir, that's correct.

5 Q. And that's a big divided -- is it four

6 lanes on each side, or in some places it is, I guess?

7 A. Are you talking about Dalrock?

8 Q. No, we're talking about -- Dalrock is

9 a main artery as well, is it not?

10 A. Yes, sir.

11 Q. Okay. And on the interstate, of

12 course, is a divided highway with several lanes on each

13 side?

14 A. Yes, sir.

15 Q. All right. Now, your response time is

16 about three minutes. Right?

17 A. Yes, sir, approximately.

18 Q. Okay. And you heard in the -- matter

19 of fact, you were down here Sunday, were you not? In

20 this very courtroom?

21 A. Yes, sir.

22 Q. And you listened to the 911 tape, and

23 you realized from that that your patrolman, Officer

24 Waddell, had been at the residence during the 911 call;

25 is that right?

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1 A. Yes, sir.

2 Q. Matter of fact, the officer, when

3 she's told to let the officer in, that's you, isn't it?

4 A. I'm assuming it is, but I don't

5 believe the dispatcher knew that the officer, Officer

6 Waddell was in the house at the time.

7 Q. Well, at any rate you arrived there

8 shortly after that 911 call, didn't you?

9 A. Yes, sir.

10 Q. And as I understood your testimony

11 yesterday, you rendezvoused with Waddell to have him

12 bring you up to date on what he knew at that point; is

13 that right?

14 A. Yes, sir.

15 Q. And then without talking to Darlie or

16 her husband, who were also present, weren't they?

17 A. Yes, sir.

18 Q. As I understood your testimony

19 yesterday, you and Waddell went and went directly to the

20 garage; is that right?

21 A. After we talked?

22 Q. Yes, sir.

23 A. Yes, sir.

24 Q. All right. And I believe that you

25 said that your route to the garage --

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1 A. Sir, what are those first two words on

2 that line?

3 Q. Right here?

4 A. Yes, sir.

5 Q. It says "met with."

6 A Okay.

7 Q. That's just a W, slash.

8 A. Okay.

9 Q. Met with Waddell and went directly to

10 the garage?

11 A. Yes, sir.

12 Q. And I think you said at that time you

13 stepped into the garage, didn't remember whether the

14 lights were on or not, had a flashlight with you, saw the  
15 window open with the screen cut; is that right?

16 A. Yes, sir.

17 Q. And satisfied yourself that there was

18 no one there in the garage from your vantage point, which

19 was just inside -- as I understood your testimony, y'all

20 were just inside the garage, like you were right there

21 and Waddell was covering your back, still standing in the

22 utility room?

23 A. I believe that he was a step or two in

24 the garage. I'm not sure exactly where he was. I

25 stepped in a couple of feet. There was, --I believe it

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1 was either a refrigerator, or a freezer or something. If

2 you're standing in the doorway looking into the garage to

3 the left, to the left of me, and I had to go around it,

4 to look around it to see all the way to the wall.

5 Q. Well, at any rate, you satisfied

6 yourself that there was no one in the garage, and then

7 you exited the garage and came out, as I understood your

8 testimony, into the dining room?

9 A. Yes, sir.

10 Q. You had gone in through the kitchen

11 past the wine rack and on this side of the island; is

12 that right?

13 A. Yes, sir, it is.

14 Q. And I think you told the jury

15 yesterday at that time you didn't see an overturned

16 vacuum cleaner in this area?

17 A. I don't recall seeing it at that time.

18 Q. And we can take that as a definite

19 then that you did not see an overturned vacuum cleaner in

20 this area at that time?

21 A. I don't recall seeing it at that time.

22 I remember seeing one there, but I don't remember whether

23 or not if I noticed it the first time through or when I

24 went through later with the crime scene.

25 Q. Okay. Would you quarrel with me --

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1 you've been over your testimony, have you not? Your

2 previous testimony?

3 A. Yes, sir.

4 Q. Okay. You know that you testified

5 back then that you did not see it when you initially went

6 through the kitchen. Is there anything that's going to

7 change that?

8 A. No, sir.

9 Q. Okay. Fair enough for me to write on  
10 here that Lieutenant Walling, or Sergeant Walling, at the  
11 time, Walling did not see vacuum cleaner when first went  
12 through kitchen. Is that fair?

13 A. Sir, I don't recall seeing it at that  
14 time.

15 Q. All right. Walling does not recall  
16 seeing vacuum cleaner when first went through kitchen.  
17 Fair enough?

18 A. Yes, sir. I don't remember if I  
19 actually saw it at that time or when I was in the house  
20 later. I don't remember when I first saw it.

21 Q. Well, just so that we don't -- your  
22 memory would have been better in August than it is today,  
23 would it not? If it was that much closer?

24 A. Well, on some things.

25 Q. Okay. Well, I mean, we can go back  
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1 and I can, if you prefer -- let me hand you what has been  
2 marked for identification record purposes as Defendant's  
3 Exhibit No. 15. And I'll ask you to just page through  
4 that briefly in the privacy of the witness box and tell  
5 me whether or not that is your --

6 A. Yes, sir, it is.

7 Q. -- prior sworn testimony?

8 A. Yes, sir, it is.

9 Q. All right. Were you asked -- if you  
10 would turn to page 179, line 10. Were you asked: Was  
11 the vacuum cleaner there in the kitchen when you went  
12 through that first time, and did you answer, "No, sir, I  
13 don't remember at that going-through"?

14 A. Yes, sir, I don't recall. That's what  
15 I'm telling you now that I don't recall.

16 Q. You don't remember it when you went  
17 through it at that time. Is that fair to say?

18 A. Yes, sir.

19 Q. All right. Now, you went back in and  
20 made a thorough search of the residence, did you not?

21 A. Yes, sir.

22 Q. Okay. But that was after you had gone  
23 out to the backyard; is that not right?

24 A. Yes, sir.

25 Q. Now, once you --  
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1 A. Of the upstairs part. Downstairs, I  
2 searched on my way out to the backyard.  
3 Q. Okay. You went through the dining  
4 room and living room?  
5 A. Yes, sir.  
6 Q. Satisfied that there wasn't anybody  
7 there?  
8 A. Yes, sir.  
9 Q. And then you searched the outside; is  
10 that right?  
11 A. Yes, sir.  
12 Q. And so after -- would it be fair to  
13 say that after you had searched the first floor you then  
14 searched the backyard?  
15 A. Yes, sir.  
16 Q. Okay. All right. And you have told  
17 us how you got into the backyard by opening the gate.  
18 And I think you showed us how you even had to push a  
19 little bit with your foot on the gate to open it up. But  
20 you were able to open it up, weren't you?  
21 A. Yes, sir.  
22 Q. I mean, you didn't have any trouble --  
23 that wasn't a difficult maneuver, was it?  
24 A. Well, it was pretty hard to get it  
25 open.  
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1 Q. But you managed, didn't you?  
2 A. Yes, sir.  
3 Q. And you're talking about a matter of  
4 seconds that it took you to --  
5 A. Yes, sir.  
6 Q. All right. You told us yesterday,  
7 that you didn't know whether the lights in the backyard  
8 were on or off at that time, didn't you?  
9 A. No, sir.  
10 Q. Were the lights off?  
11 A. The lights in the backyard?  
12 Q. Uh-huh. (Nodding head affirmatively).  
13 A. Yes, sir, they were off.  
14 Q. Okay. And when you walked from the  
15 gate of the backyard over to the window that you had seen  
16 from where you were in the garage, the lights did not  
17 come on, did they?  
18 A. Well, I didn't go there first.  
19 Q. Okay.  
20 A. In fact, I walked first to the spa,  
21 and past the spa and around the corner, I looked over at  
22 the window as I was going through.

23 Q. Did the lights ever go on?

24 A. Yes, sir.

25 Q. While you were in the backyard?

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1 A. Yes, sir.

2 Q. Okay.

3 A. The flood lights mounted on the spot

4 did.

5 Q. All right. Those are motion

6 detectors, are they not?

7 A. Yes, sir.

8 Q. Okay. Do you know where you were when

9 you set the motion detector light off?

10 A. I was approximately around the door of

11 the spa.

12 Q. The door of the spa?

13 A. Yes, sir.

14 Q. Okay. The spa is toward the back of

15 the lot, is it not?

16 A. Yes, sir, it is.

17 Q. And on this State's Exhibit 8-A, this

18 would represent the spa, I assume?

19 A. Yes, sir.

20 Q. And you were back in here when you set

21 the -- when the light turned on?

22 A. I would have to see a front view of

23 the spa to see where the door was.

24 Q. Well --

25 A. I really don't remember. Right along

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1 in the center of the building, yes, sir.

2 Q. And it would follow, would it not,

3 that the door would be somewhere at the end of this

4 cement sidewalk?

5 A. Yes, sir.

6 Q. It didn't set the light off when you

7 came in through the gate, did you?

8 A. No, sir.

9 Q. Okay. Later on some experiments were

10 done. Were you there when those were done?

11 A. Yes, sir.

12 Q. And you were able to -- or the police

13 officer conducting it, was able to run in this area to

14 the window back and forth and not set off the alarm --

15 set off the lights, was he not?

16 A. The only thing that I did when the

17 light came on, I stayed out of -- or at the entrance to  
18 the yard. When the lights came on, I timed it to see how  
19 long they were on.

20 Q. Okay. Were you there when the  
21 experiment was conducted?

22 A. Yes, sir, I was.

23 Q. Okay. Well, you know then that he was  
24 able to walk from the window, and run from the window --  
25 both run and walk from the window to the gate without  
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1 setting off the light?

2 A. I'm not sure what path that he took.

3 Q. Okay. But you were there when that  
4 experiment was conducted?

5 A. Yes, sir, I was. I timed it.

6 Q. Did you make any notes of that, or did  
7 you just relay the timing to somebody?

8 A. I just relayed it to somebody.

9 Q. Matter of fact, the only note that you  
10 made out there was -- you carry a little whip-out book,  
11 don't you?

12 A. Yes, sir, I do.

13 Q. Could we see that?

14 A. Yes, sir.

15 Q. Okay. You had a book similar to that,  
16 did you?

17 A. No, sir, I had this book.

18 Q. You had that particular book?

19 A. Yes, sir.

20 Q. Okay. Did you -- but you didn't note  
21 the time; is that correct?

22 A. Concerning the yard?

23 Q. Yes, sir.

24 A. No, sir, I didn't. Now, I didn't have  
25 this book, or I don't know if I had this book or not when  
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1 you're talking about the experiment with the light. I  
2 had this book the night that I was dispatched to 5801  
3 Eagle Drive.

4 Q. Oh, okay. But you went out there  
5 later on, with respect to the experiment with the light?

6 A. Yes, sir.

7 Q. That happened a day or two later?

8 A. Something like that.

9 Q. Several days later, whatever?

10 A. Yes, sir.

11 Q. You didn't make any notes at that  
12 time, you just relayed your information to someone there  
13 who was taking notes?

14 A. Yes, sir.

15 Q. All right. Now, when you went to the  
16 backyard to search and secure the backyard area, the  
17 paramedics had gone in through the front door and were  
18 endeavoring to give aid to the children and to Ms.  
19 Routier, weren't they?

20 A. No, sir. When I exited the house to  
21 begin the search -- to go around to the backyard, the  
22 paramedics, -- we both arrived at the same time. I  
23 followed the ambulance in. When I exited the house to go  
24 around to the backyard, I told the paramedics that the  
25 scene was secure downstairs so that they could go in.

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1 Q. Okay. I thought that's what I said.  
2 But, when you left them and went to search the backyard,  
3 they went in, didn't they?

4 A. Yes, sir.

5 Q. Okay. And administered whatever aid  
6 they could administer?

7 A. Yes, sir.

8 Q. Now, you don't instruct them, with  
9 respect to the crime scene, do you? In other words, you  
10 don't tell them, "don't touch anything, don't do this or  
11 that and the next thing."

12 They're in there -- their purpose is  
13 totally different from yours, is it not?

14 A. Yes, sir, it is.

15 Q. Okay. And --

16 A. At points, during -- if they're in for  
17 an extended period or something, and I'm in there, I have  
18 in the past made comments to tell them to be careful  
19 about certain things, but that night, no, sir.

20 Q. Okay. So they went in, they were at  
21 leave to do whatever they deemed necessary?

22 A. Yes, sir.

23 Q. They could move things, they could  
24 touch things, they could do whatever was necessary?

25 A. Whatever.

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1 Q. And I would assume, and you were  
2 there, so I will just ask you. But I would assume they  
3 would get blood on their hands, would they not?

4 A. Yes, sir, I would think so.

5 Q. I mean, it would be hard not to,  
6 wouldn't it?

7 A. Yes, sir.

8 Q. You saw Darin Routier that night, he  
9 had blood on his hands, didn't he?

10 A. No, sir, he didn't -- well, when I  
11 checked his hands at that time he didn't have blood on  
12 his hands.

13 Q. Did he have blood on his hands later  
14 on?

15 A. No, sir, I never saw him with blood on  
16 his hands.

17 Q. You never did? Are you sure about  
18 that?

19 A. Yes, sir.

20 Q. Okay.

21 A. I know he had blood on his shirt.

22 Let's see, give me just a second.

23 Q. I'm going to give you your report and  
24 let you refresh your memory.

25 A. Okay.

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1 Q. Did you refresh your memory before you  
2 came in here yesterday?

3 A. With my reports, no, sir.

4 Q. Well, again, I don't know, but I would  
5 think that the purpose of making a report is so that  
6 later on you can look at your report and refresh your  
7 memory from that report so that your testimony is as  
8 accurate as it can be.

9 A. Yes, sir, that's correct.

10 Q. As you sit here right now, you're  
11 telling the jury, I don't know whether it's important or  
12 not, but you're telling the jury that Darin Routier did  
13 not have blood on his hands and palms when you looked at  
14 them?

15 A. Well, I'm not sure.

16 Q. Well, now you're saying you're not  
17 sure.

18 A. Well, I need to refer to my report.

19

20 MR. DOUGLAS MULDER: Would you mark  
21 this, please.

22

23

24 (Whereupon, the following  
25 mentioned item was

1 marked for  
2 identification only  
3 as Defendant's Exhibit 16,  
4 after which time the  
5 proceedings were  
6 resumed on the record  
7 in open court, as  
8 follows:)

9

10

11 BY MR. DOUGLAS MULDER:

12 Q. Let me hand you what's been marked for  
13 identification and record purposes as Defendant's Exhibit  
14 No. 16. I'll direct your attention to this.

15 A. Yes, sir.

16 Q. Did he have blood on his hands?

17 A. Yes, sir, and on his shirt.

18 Q. Okay. I don't know that that's even  
19 important, but, I mean, nobody has a perfect memory, do  
20 they?

21 A. Well, I don't.

22 Q. All right. Now, I'm going to write  
23 down here so we don't forget it again that Darin Routier  
24 had blood on his hands and palms?

25 A. Yes, sir. And on his shirt.

1 Q. All right. Now, after you searched  
2 the backyard and determined that the backyard was secure,  
3 you and Waddell then searched the upstairs; is that  
4 right?

5 A. Yes, sir.

6 Q. And at that time the paramedics were,  
7 and the firemen and all of those folks were beginning to  
8 arrive, were they not?

9 A. Well, there was the one ambulance unit  
10 that I followed in. And another one had been dispatched  
11 at that particular time. I'm not sure if the second  
12 ambulance was there yet or not. And I believe an engine  
13 was dispatched. And, as we were going upstairs, I'm not  
14 sure if that one had arrived or not.

15 Q. Could you tell me again, I was at a  
16 vantage point where I couldn't see, but did you say that  
17 you parked over in this area?

18 A. No, sir.

19 Q. You didn't park here, did you?

20 A. No, sir.  
21 Q. Okay. Your partner was parked -- see  
22 this vehicle where it looks like the mowing may have  
23 overlapped?  
24 A. Yes, sir.  
25 Q. Do you see that stripe down there?  
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1 A. Yes, sir.  
2 Q. Your partner, or Waddell, was parked  
3 in this vicinity, was he not?  
4 A. No, sir. He was on -- I believe he  
5 was on the same side of the street that I was.  
6 Q. Okay. Would you step down off the  
7 witness stand, and with this marker -- I don't want to  
8 mark up their exhibits, but if you'll mark on the  
9 overlay. If you'll just mark where Waddell was parked.  
10 Of course, part of your training is to  
11 observe these sort of things, isn't it? Waddell was  
12 parked there?  
13 A. Right along in there.  
14 Q. If you will put a -- all right.  
15 A. Yes, sir.  
16 Q. Will you show the jury where you were  
17 parked.  
18 A. Yes, sir.  
19 Q. Okay. Anybody who thinks the second  
20 squad car was parked over here is just mistaken, are they  
21 not?  
22  
23 MR. GREG DAVIS: I'm going to object  
24 to that, it's comparison of testimony.  
25 THE COURT: Sustained.  
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1  
2 BY MR. DOUGLAS MULDER:  
3 Q. At any rate, are you certain about  
4 this where you were parked?  
5 A. Yes, sir, I am.  
6 Q. And you're certain about where Waddell  
7 was parked?  
8 A. Yes, sir.  
9 Q. All right. And you're sure you  
10 weren't parked over here?  
11 A. Yes, sir.  
12 Q. And you're sure Waddell wasn't parked  
13 here?

14 A. Yes, sir.

15 Q. Okay. If you will just take the

16 witness stand again. Thank you.

17

18 (Whereupon, the witness

19 resumed the witness

20 stand, and the

21 proceedings were resumed

22 On the record, as

23 follows:)

24

25

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1 BY MR. DOUGLAS MULDER:

2 Q. Do you have any idea, Lieutenant

3 Walling, how many paramedics and police officers were in

4 and out of that residence?

5 A. I can tell you how many police

6 officers were.

7 Q. Okay.

8 A. And that's -- at what point?

9 Q. Well, I guess before you put up the

10 tape and attempted to keep the scene -- attempted to

11 limit the contamination of the scene?

12 A. Well, before 6:00, or around,

13 approximately 6:00 o'clock in the morning, myself and

14 Officer David Waddell were the only two police officers

15 that entered the residence.

16 Q. Of course, while you were checking the

17 backyard, your main concern was to secure the backyard

18 and not to count the paramedics going in and out of the

19 house, isn't it?

20 A. Yes, sir.

21 Q. And, suffice it to say, you don't know

22 how many paramedics were in and out of that house when

23 you weren't there, do you?

24 A. No, sir.

25 Q. And, you don't know what they did, do

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1 you?

2 A. No, sir.

3 Q. You don't know what conversations

4 Darlie and her husband may have had with those

5 paramedics, do you?

6 A. No, sir.

7 Q. All right. And if you're seeking



8 medical information, it makes sense to talk to the  
9 paramedics, as opposed to talking to the police officers,  
10 doesn't it? If you're seeking medical information?

11 A. If who is?

12 Q. Anyone.

13 A. Yes, sir.

14 Q. Okay. Doesn't matter -- I mean, me or  
15 the jury or anybody.

16 A. I mean, if that's your choice, I would  
17 ask a paramedic, yes, sir.

18 Q. Sure. Okay. You had -- did you --  
19 was it your idea to set up a canvas?

20 A. I mean -- well, yes, that was one of  
21 the things that we were going to do. I didn't instruct  
22 the canvas to be done, it was another sergeant that  
23 instructed that the canvas be done.

24 Q. Okay. Who was the sergeant that gave  
25 that instruction?

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1 A. Well, it might also have been, I  
2 believe it was either Sergeant Ward or Lieutenant Grant.  
3 We all three were conversing, and about the time when we  
4 were going start that. And it was Sergeant Ward that  
5 delegated the officers to start the neighborhood canvas.

6 Q. Okay. And that would be in an effort  
7 to learn what any of the people in the neighborhood may  
8 have seen that was suspicious?

9 A. Yes, sir.

10 Q. Is that correct?

11 A. Yes, sir.

12 Q. Did they talk to -- as far as you  
13 know, did they talk to all of the neighbors in the  
14 immediate area, that is, in this area?

15 A. I don't know exactly who they did talk  
16 to.

17 Q. Okay. Have you had a chance to review  
18 those, the results of the canvas?

19 A. No, sir.

20 Q. Let me ask you this: Did you go to  
21 the cemetery --

22 A. Well --

23 Q. -- when the Routier children were  
24 buried?

25 A. No, sir, I didn't.

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1 Q. Do you know who did?  
2 A. No, sir.  
3 Q. Okay. Y'all had people out there,  
4 though, didn't you?  
5 A. That went to the funeral?  
6 Q. Yes.  
7 A. I know some people went to the  
8 funeral.  
9 Q. Do you know if they videotaped the  
10 funeral?  
11 A. I don't think -- I don't know.  
12 Q. You don't know whether Rowlett P.D.  
13 videotaped people coming and going from the funeral?  
14 A. I don't know if they did or not.  
15 Q. If they did, they didn't discuss it  
16 with you?  
17 A. No, sir.  
18 Q. Who would know that?  
19 A. Probably the lead investigator in the  
20 case, Jimmy Patterson.  
21 Q. Jimmy Patterson would? Okay. Who  
22 else would know that?  
23 A. I don't know --  
24 Q. Who was his lieutenant?  
25 A. His lieutenant was Lieutenant Grant  
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1 Jack.  
2 Q. Okay. I guess the lieutenant would  
3 know, wouldn't he?  
4 A. Yes, sir, I'm sure he would.  
5 Q. That's something that you would clear  
6 with your lieutenant if you were somebody in Jimmy  
7 Patterson's position, isn't it?  
8 A. To go to the funeral?  
9 Q. And to videotape the people coming and  
10 going from the funeral?  
11 A. If they had decided to do that, I'm  
12 sure it was discussed.  
13 Q. Okay. Have you seen Patterson today?  
14 A. No, sir.  
15 Q. You don't know whether he's here in  
16 town or not?  
17 A. Yes, sir, I do know he's here in town.  
18 Q. He's here in town but you just haven't  
19 seen him today?  
20 A. Yes, sir.  
21 Q. When did he get in, do you know?  
22 A. I believe they got in Monday night.

23 Q. All right. You have -- maybe I took  
24 it back from you -- I showed you Defendant's Exhibit No.  
25 16. It contained a Xeroxed page from a whip-out book?  
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1 A. Yes, sir.  
2 Q. Is that the only note that you took  
3 while you were out there at the scene?  
4 A. Yes, sir, it is.  
5 Q. That's the only thing that you wrote  
6 down?  
7 A. Yes, sir.  
8 Q. And do you remember what that said?  
9 A. Yes, sir. It said, "white male, dark  
10 colored ball cap, black T-shirt."  
11 Q. Well, let me just give it to you so we  
12 don't have to -- I don't want to split hairs with you,  
13 but exactly what you wrote down there.  
14 A. Okay. W slash M for white male, dark  
15 ball cap, blue jeans and BLK shirt.  
16 Q. Would that be black shirt?  
17 A. Yes, sir.  
18 Q. Did you know whether that was a  
19 T-shirt, or just a black shirt or a long sleeved shirt or  
20 just a black shirt?  
21 A. It was just a black shirt.  
22 Q. That's all you knew at that time?  
23 A. Yes, sir.  
24 Q. Okay. Now, you had -- and I think you  
25 testified yesterday that you had a conversation with  
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1 the -- with Darlie; is that correct?  
2 A. Yes, sir, I did.  
3 Q. Okay. And that was not in the family  
4 room or in the kitchen or in the house, was it?  
5 A. No, sir. Well, no, sir, it was on the  
6 front porch.  
7 Q. All right. It was on the front porch.  
8 And at that time she was being attended to by the  
9 paramedics; is that correct?  
10 A. Yes, sir.  
11 Q. And they were getting ready to  
12 transport her to a hospital, were they not?  
13 A. Yes, sir, they were.  
14 Q. Okay. She had a severe gash to her  
15 neck, did she not?  
16 A. She had a wound to her neck, yes, sir.

17 Q. And did you see any other wounds on  
18 her?  
19 A. No, sir, I didn't.  
20 Q. Okay. Anything to prevent you from  
21 seeing her arms?  
22 A. No, sir.  
23 Q. Okay. But you're telling the jury  
24 that you saw no injury to either of her arms?  
25 A. Well, I don't recall if there was. I  
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1 I know she received some other injuries, but I don't recall  
2 where they were.  
3 Q. Okay. But I think you said that she  
4 was extremely bloody.  
5 A. Yes, sir, extremely.  
6 Q. And was she hysterical?  
7 A. No, sir.  
8 Q. Was she upset?  
9 A. Yes, sir.  
10 Q. Understandably so?  
11 A. Yes, sir.  
12 Q. Okay. Your conversation -- you were  
13 asked, Lieutenant, under oath, how long your conversation  
14 with her took. Do you remember that?  
15 A. Remember what I was asked?  
16  
17  
18 (Whereupon, the following  
19 mentioned item was  
20 marked for  
21 identification only  
22 as Defense Exhibit No. 15,  
23 after which time the  
24 proceedings were  
25 resumed on the record  
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1 in open court, as  
2 follows:)  
3  
4 BY MR. DOUGLAS MULDER:  
5 Q. Let me, again, I'll favor you with  
6 Defendant's Exhibit No. 15. I don't want the advantage  
7 on you. And direct your attention to page 179.  
8 A. Yes, sir.  
9 Q. Let me take this and get it out of  
10 your way. Do you have 179?

11 A. Yes, sir, I do.  
12 Q. 180?  
13 A. Yes, sir.  
14 Q. And 181?  
15 A. Yes, sir.  
16 Q. Okay. Do you see at the bottom, line  
17 24 of page 180, when you were under oath, and you were  
18 asked approximately how long you talked with Mrs. Routier  
19 on that occasion, line 24 on page 180?  
20 A. Oh, page 180, I'm sorry. Yes, sir.  
21 Q. All right. No one suggested an answer  
22 to you, did they?  
23 A. No, sir.  
24 Q. But you were asked how long on this  
25 occasion you talked to her; is that right?  
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1 A. Yes, sir.  
2 Q. And what was your response then and  
3 what is your response now?  
4 A. My actual conversation lasted less  
5 than 30 seconds.  
6 Q. Less than 30 seconds. That's less  
7 than a half a minute.  
8 A. Yes, sir.  
9 Q. Could have been 15 seconds, could have  
10 been 20 seconds?  
11 A. It was less than 30 seconds. It was  
12 enough time to ask her as far as description goes.  
13 Q. You had to get your whip-out book out  
14 and write it down, I assume?  
15 A. Yeah, I had it, yes, sir.  
16 Q. Okay. You were asked, Lieutenant, the  
17 substance of that conversation, were you not?  
18 A. Well --  
19 Q. Line 10 on 180?  
20 A. Yes, sir.  
21 Q. You said you had a conversation with  
22 her. You said it lasted less than 30 seconds and you  
23 were asked the substance of that conversation; is that  
24 correct?  
25 A. Yes, sir.  
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1 Q. Okay. And what was your answer under  
2 oath at that time?  
3 A. I had asked her for a description of  
4 the suspect.

5 Q. Okay. And did she give you one?

6 A. Yes, sir.

7 Q. Okay. And do you recall what that  
8 was?

9 A. White male, possibly wearing dark  
10 colored ball cap, black shirt and blue jeans.

11 Q. Okay. If my watch is right our  
12 exchange there took a little over, approximately 25  
13 seconds. Was that about the length of your conversation  
14 with her?

15 A. No, sir. I also asked her what  
16 happened.

17 Q. Um-hum. (Nodding head affirmatively).

18 A. And --

19 Q. I understand that's what you said  
20 yesterday. But when you were asked -- was there  
21 something you didn't understand about the question back  
22 in August? You were asked the substance of the  
23 conversation, were you not?

24 A. Yes, sir, I was.

25 Q. And that means, in plain old ordinary  
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1 English words, that means, "What did you talk about?"

2 A. Yes, sir.

3 Q. In this less than 30 second  
4 conversation, and you said, "I asked her for a  
5 description;" is that right?

6 A. Yes, sir.

7 Q. And you didn't say any of this other  
8 stuff back then, did you?

9 A. As far as asking her about what  
10 happened?

11 Q. Yes, sir.

12 A. No, sir.

13 Q. You just forgot that back then?

14 A. Yes, sir.

15 Q. Okay.

16 A. That's when I was being asked -- I  
17 thought I was being asked about --

18 Q. I'll accept forgot. I'm not here

19 to --

20

21 MR. GREG DAVIS: I'm sorry. Please,  
22 again, I've got to ask we end these sidebar comments by  
23 Mr. Mulder.

24 MR. DOUGLAS MULDER: I was talking to  
25 the witness.

1 MR. GREG DAVIS: Can I have a ruling,  
2 please?

3 THE COURT: Gentlemen, sustained. And  
4 I'm telling both attorneys, no more sidebar. We're not  
5 going to put up with that. Let's ask the questions, get  
6 the answer, and no comments.  
7 Your next question, please.

8

9 BY MR. DOUGLAS MULDER:

10 Q. The only substance was the  
11 description, dark colored ball cap, black shirt and blue  
12 jeans, and forgot other. Right? Is that fair?

13 A. About when they asked me the last  
14 time?

15 Q. Yeah, when you were asked in August  
16 under oath --

17 A. Yes, sir.

18 Q. About this less than 30 second  
19 conversation.

20 A. Yes, sir.

21 Q. Okay.

22 A. Actually, sir, I didn't forget the  
23 other, how the question was phrased, I didn't think that  
24 that's what -- at the time when I was thinking, you know,  
25 I didn't think that that's what -- that I was going into

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1 the rest of that.

2 Q. Oh. When they asked you the substance  
3 of the conversation, do you understand -- you understood  
4 at that time that meant what did you talk about, didn't  
5 you?

6 A. Well, I think I just misunderstood.

7 Q. Oh, now your explanation is that you  
8 misunderstood?

9 A. Yes, sir.

10 Q. Did you misunderstand when you wrote  
11 your report initially? Was there something you  
12 misunderstood?

13 A. No, sir. Did I misunderstand what?

14 Q. Well, you initially made a report  
15 about this incident, didn't you?

16 A. Yes, sir, I did.

17 Q. Okay. And in the report you initially  
18 made you were there for sometime, weren't you, at the  
19 scene?

20 A. Yes, sir.

21 Q. Okay. And, I mean, if I had you list

22 what you did, step-by-step, you probably did some 15 or

23 20 steps while you were there, did you not, different

24 procedures and things?

25 A. I would say 70 to 200 different steps

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1 or more.

2 Q. Okay. All right. So it would be easy

3 to confuse somebody, I guess, as to what was step number

4 79 and what was step number 92?

5 A. Yes, sir. I couldn't recall

6 specifically the order that I did a lot of the things in.

7 Q. Okay. But I would think that

8 everybody would remember the first thing they did when

9 they got there, wouldn't you?

10 A. Yes, sir.

11 Q. Okay. But you didn't, did you?

12 A. Yes, sir.

13 Q. Oh, you did?

14 A. Yes, sir.

15 Q. Okay. Didn't you tell the other folks

16 out there that the first thing you did was go to the

17 front door and get the information from Officer Waddell,

18 and then immediately exit and go to the back and check

19 the backyard?

20 A. No, sir.

21 Q. You didn't do that, did you?

22 A. No, sir. We --

23 Q. And that you saw, once you were in the

24 backyard, that's when you saw that the screen to the

25 window was cut?

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1 A. No, sir.

2 Q. Okay. Let me hand you what's been

3 marked for identification and record purposes as

4 Defendant's Exhibit No. 15.

5 A. Yes, sir.

6 Q. What's the verdict?

7 A. Well, as far as --

8 Q. Did you not -- why don't you go ahead

9 and read the second -- I marked it for you, so you can

10 find it a little easier.

11 A. Okay.

12 Q. Lieutenant, isn't it a fact that your

13 first story was that you went to the door and talked to



14 Waddell?  
15 A. No, sir.  
16 Q. Briefly?  
17 A. No, sir.  
18 Q. Exited immediately, went out in back  
19 and it was from back here that you first noticed the  
20 garage?  
21 A. Yes, sir. I left out a step of  
22 checking the garage in that initial report.  
23 Q. Left out the first step, didn't you?  
24 A. Well, the first step was talking to  
25 Officer Waddell.  
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1 Q. Okay. Well, but instead of going back  
2 through the kitchen into the garage and noticing the cut  
3 mark -- do you want to read your report again?  
4 A. I'll keep it up here if you want me --  
5 if you're going to be referring to it.  
6 Q. Well, I don't need to refer to it.  
7 A. Okay.  
8 Q. I mean, would you feel more  
9 comfortable if you had it up there with you?  
10 A. Well, if you ask me questions that I  
11 am going to have to quote from it. I don't have it  
12 memorized.  
13 Q. Well, the bottom line, the first story  
14 was that you came to the entry, made an -- once you found  
15 out what had happened, you made an immediate exit, went  
16 around to the backyard, and it was from this point that  
17 you noticed the window, wasn't it?  
18 A. No, sir, that's not what it says.  
19 Q. It's not?  
20 A. No, sir.  
21 Q. Okay.  
22 A. It says: "I went to the front door,"  
23 and by that I was referring to that's how I got in the  
24 house. Then it says, "I went around and checked -- after  
25 conferring with Waddell, I went around and checked the  
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1 backyard." I did leave out the step of going through and  
2 checking the garage on that initial report. It was made  
3 at around 11:30 AM that morning, and I had been up just  
4 about a little over 24 hours that day. So, I forgot.  
5 Q. I forgot. All right.  
6 A. I left that step out.  
7 Q. Yeah, you did. And, in fact, your

8 initial report you don't say anything about going inside,  
9 you don't say anything about going back to the garage or  
10 anything here, do you?

11 A. No, sir, I don't think there is.

12 Q. Matter of fact, in your initial

13 report, you say that you noticed the cut screen from the  
14 backyard, don't you?

15 A. Well, I don't say I noticed it for the  
16 first time there.

17 Q. Well, "once inside the yard I observed

18 a window on the south side of the garage open and that  
19 the nylon screen had cut open -- had been cut open and  
20 two large slashes."

21 A. Uh-huh. (witness nodding head  
22 affirmatively.)

23 Q. Well, you're saying it here, are you  
24 not?

25 A. I'm saying that I observed it from the  
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1 garage and went back around and located which window it  
2 was from the backyard.

3

4 MR. DOUGLAS MULDER: Okay. I'm going  
5 to offer into evidence what has been marked and  
6 identified as Defendant's Exhibit No. 14.

7 MR. GREG DAVIS: No objection.

8 THE COURT: Defense Exhibit 14 is  
9 admitted.

10

11 (Whereupon, the item

12 Heretofore mentioned

13 Were received in evidence

14 As Defense Exhibit No. 14

15 For all purposes,

16 After which time, the

17 Proceedings were resumed

18 As follows:)

19

20 BY MR. DOUGLAS MULDER:

21 Q. Suffice it to say, Lieutenant, there

22 was a lot going on in a hurry out there, wasn't there?

23 A. Yes, sir, there was.

24 Q. And even a trained police officer

25 under fire can make some mistakes, can't he?

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1 A. Yes, sir.  
2 Q. And none of our memories are perfect,  
3 are they?  
4 A. Mine's not.  
5 Q. Okay.  
6  
7 MR. DOUGLAS MULDER: I believe that's  
8 all I have.  
9 THE COURT: Mr. Davis.  
10  
11  
12 REDIRECT EXAMINATION  
13  
14 BY MR. GREG DAVIS:  
15 Q. Lieutenant Walling, let me ask you:  
16 You had mentioned during your testimony that you were  
17 present during the testing of the security light of the  
18 backyard; is that correct?  
19 A. Yes, sir, it is.  
20 Q. And I believe you testified that your  
21 job that night was to determine how long that security  
22 light --  
23  
24 THE COURT: All right. Gentlemen, no  
25 stage whispers, please.  
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1 Thank you. We'll continue. Let's  
2 calm the stage whispers down.  
3 Mr. Davis. Go ahead.  
4 MR. GREG DAVIS: Yes, sir.  
5  
6 BY MR. GREG DAVIS:  
7 Q. Now, did you, in fact, on the date  
8 that you went out there to the residence, determine how  
9 long that security light would remain on, once it was  
10 activated?  
11 A. Yes, sir.  
12 Q. Could you tell the members of the jury  
13 how long that light will stay on once it's activated out  
14 there at 5801 Eagle Drive?  
15 A. Approximately 18 minutes.  
16 Q. Okay. And it took you approximately  
17 how long from the time you got that call that evening to  
18 the time that you entered the backyard? Was it less than  
19 18 minutes?  
20 A. Yes, sir, a great deal less.  
21 Q. Just a couple of questions about the  
22 interior of the house. The family room, where the

23 children were initially, is that carpeted?

24 A. Yes, sir.

25 Q. Okay. How about the flooring in the  
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1 kitchen and the utility room. Are they also carpeted or  
2 do they have a different flooring?

3 A. No, sir, it was vinyl flooring.

4 Q. Some sort of linoleum?

5 A. Yes, sir.

6 Q. During the time that you were having  
7 this conversation with the defendant on the porch, did  
8 you have any difficulty understanding what she was trying  
9 to say to you?

10 A. No, sir, I didn't.

11 Q. Did it appear to you that she was  
12 having any problems understanding what information you  
13 wanted from her?

14 A. No, sir.

15 Q. Was there any hesitation on her part  
16 in providing the information that you asked for out there  
17 on the porch?

18 A. Well, no, sir, other than she was  
19 being seen by the paramedics and I was getting in when I  
20 could.

21 Q. Okay. You asked a question and she  
22 gave you the information?

23 A. Yes, sir.

24 Q. The den -- the family room that you  
25 went into initially, Lieutenant Walling, when you went  
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1 back, did you go back into that room sometime after 6:00  
2 AM with the crime scene team?

3 A. Yes, sir.

4 Q. Lieutenant Walling, let me use this  
5 pointer. Looking at State's Exhibit No. 11-B, do you  
6 recognize that to be a photograph of the family room?

7 A. Yes, sir.

8 Q. Okay. There's an object up here  
9 toward the top of the photograph that appears to be  
10 sitting sort of between this sofa here and the big screen  
11 television. Do you see this, sir?

12 A. Yes, sir, I do.

13 Q. What is that?

14 A. It's a large metal cat cage.

15 Q. Okay. Now, when you went in there to  
16 do the walk-through of that residence, was there anything

17 in that cage?

18 A. There was a large cat.

19 Q. Did you have any opportunity that

20 morning to go anywhere over there near this cat cage,

21 sir?

22 A. Yes, sir, I did.

23 Q. Tell the members of the jury what

24 happened when you went over into the area of the room

25 close to this cat cage.

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1 A. When I got within three to four feet

2 from the cage the cat came to life and started bouncing

3 off the walls, the sides of the cage. It scared me.

4 Q. Okay.

5 A. I didn't know there was a cat in there

6 at the time.

7 Q. Okay. When it was bouncing, could you

8 hear it?

9 A. Yes, sir.

10

11 MR. GREG DAVIS: I'll pass the

12 witness, your Honor.

13 MR. DOUGLAS MULDER: I just have one

14 last thing.

15

16

17 RECROSS EXAMINATION

18

19 BY MR. DOUGLAS MULDER:

20 Q. Is it your testimony today under oath

21 that the only notes that you took out there that were in

22 the whip-out book page that I showed you, is it just a

23 coincidence that those notes correspond with what you

24 said under oath, the gist of your conversation was, or

25 the substance of your conversation was in August?

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1 Is that just a coincidence?

2 A. No.

3

4 MR. DOUGLAS MULDER: Do you want me to

5 ask that again?

6 MR. GREG DAVIS: Ask that again,

7 please.

8

9 BY MR. DOUGLAS MULDER:

10 Q. Okay. You were asked the substance of

11 your conversation and you said, "I asked for a  
12 description, and she told me dark colored ball cap, black  
13 shirt and blue jeans, and the conversation lasted less  
14 than 30 seconds."

15 Is it -- my question to you now: Is  
16 it just a coincidence that that corresponds with the  
17 notes that you took in your whip-out book? Is that just  
18 a coincidence?

19 A. Well --

20 Q. I mean, that's your whip-out book.

21 You didn't say anymore at the time when you were asked  
22 the substance of the conversation and your whip-out book  
23 doesn't show anymore than that. Is that just a  
24 coincidence? If it is, I'll write it down. If it's  
25 not --

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1 A. Well, is it a coincidence that -- I'm  
2 not quite sure that I follow you. I mean, is it a  
3 coincidence that I -- at the time that I didn't tell  
4 about my conversation with her about asking her what  
5 happened?

6 Q. Yes. Is that just a coincidence?

7 A. No, I forgot that.

8 Q. Okay. And you forgot to make any  
9 notes of that, too, didn't you?

10 A. About what now?

11 Q. That you asked her anything else. You  
12 didn't make any other notes about that in your whip-out  
13 book?

14 A. No, those are the only notes I made,  
15 yes, sir.

16 Q. In your whip-out book?

17 A. Yes, sir.

18 Q. Okay.

19

20 MR. DOUGLAS MULDER: I believe that's  
21 all.

22

23

24

25

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1 REDIRECT EXAMINATION

2

3 BY MR. GREG DAVIS:

4 Q. Lieutenant Walling, just a couple of

5 things. Do you recall Mr. Mulder asking you about  
6 whether in your initial report that you had noted that  
7 you had gone through the house with Officer Waddell to  
8 check the garage before exiting to go around to the  
9 backyard?

10 A. Yes, sir, I do.

11 Q. Sir, in this case did you prepare a  
12 supplemental report?

13 A. Yes, sir, I did.

14 Q. Is that an unusual procedure?

15 A. No, sir.

16

17 MR. GREG DAVIS: May I approach your  
18 Honor?

19 THE COURT: You may.

20

21 BY MR. GREG DAVIS:

22 Q. Let me show you one of the pages that  
23 was marked for identification purposes only as  
24 Defendant's Exhibit No. 16. If you would, if you will  
25 review the first paragraph of that supplemental report.

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1 A. Okay.

2 Q. First of all, when did you make this  
3 supplemental report. Do you recall?

4 A. Either a day or two later. The date  
5 will be on the second sheet.

6 Q. Okay.

7 A. I believe it was two days later.

8 Q. All right. And let me just ask you  
9 whether or not in this supplemental report that you  
10 prepared -- let me just show you another -- this is  
11 investigator supplemental report. That may refresh your  
12 memory as to the date that you prepared the supplement.

13 A. This is the first one.

14 Q. All right. That's the first one?

15 A. Yes, sir.

16 Q. All right. So sometime after June  
17 6th, you prepared a supplemental report. Correct?

18 A. Yes, sir.

19 Q. Tell the members of the jury whether  
20 or not in your supplemental report whether or not you  
21 noted that you and Officer Waddell checked the garage for  
22 the suspect.

23 A. Yes, sir, I did.

24 Q. Okay. And would you tell the members  
25 of the jury whether or not you noted in your supplemental

1 report that you noticed the tear in the window screen as  
2 you were checking the garage before going outside.

3 A. Yes, sir. That's what this

4 supplemental report says.

5 Q. Isn't that the purpose of the

6 supplemental report?

7 A. Yes, sir, to correct anything that I

8 might have forgot or got out of place.

9 Q. Okay.

10

11 MR. GREG DAVIS: No further questions.

12 MR. DOUGLAS MULDER: I believe that's

13 all we have too. Thank you.

14 THE COURT: You may step down.

15 Your next witness.

16 MR. GREG DAVIS: Yes, sir. At this

17 time we'll call Sergeant Dean Poos.

18 MR. DOUGLAS MULDER: We have no

19 objection to Lieutenant Walling --

20 MR. GREG DAVIS: Waddell also. If you

21 have a problem, we can get him back if you need him.

22 THE COURT: All right.

23 MR. DOUGLAS MULDER: I agree that they

24 may be excused if they need to be back.

25 THE COURT: Excused. Subject to

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1 recall.

2 All right. Have a seat right there,

3 please, sir.

4 All right, Mr. Davis.