

Testimony of Officer David Waddell

BY MR. GREG DAVIS:

14 Q. Would you please tell us your full
15 name.

16 A. David Wayne Waddell.

17 Q. And, Mr. Waddell, how are you
18 employed, at this time?

19 A. I'm a police officer for the City of
20 Plano.

21 Q. All right. And where exactly is
22 Plano?

23 A. It's just north of Dallas.

24 Q. How long have you been with the Plano
25 Police Department?

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1 A. About five months.

2 Q. Before coming to work for Plano, how
3 were you employed?

4 A. For the City of Rowlett, as a police
5 officer.

6 Q. All right. How old are you?

7 A. 32.

8 Q. Have you got a family?

9 A. Yes, I do.

10 Q. Okay. Kids?

11 A. Yes, I do.

12 Q. What are their ages?

13 A. Seven and one.

14 Q. Now, how long had you been a Rowlett
15 Police Officer?

16 A. Four and a half years.

17 Q. And before that had you been a police
18 officer at some other city there in Dallas County?

19 A. Yes.

20 Q. And what city would that have been?

21 A. Glenn Heights.

22 Q. Okay. How long were you with Glenn
23 Heights?

24 A. Nine months.

25 Q. And prior to Glenn Heights, had you
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1 been in law enforcement in any capacity?

2 A. I was a reserve police officer.

3 Q. Where?

4 A. For the City of Heath.

5 Q. And is Heath in Rockwall County?
6 A. Yes, it is.
7 Q. Just -- basically, it is just east of
8 Dallas County. Right?
9 A. Yes.
10 Q. Now, when you were with the Rowlett
11 Police Department, what was your rank?
12 A. I was a patrol officer.
13 Q. And what were your duties?
14 A. I was assigned to a beat, to answer
15 calls every day.
16 Q. Officer, I want to direct your
17 attention back to June the 5th, of 1996. Do you recall
18 whether or not you were on duty that day?
19 A. I was.
20 Q. And, what were your hours to work?
21 A. 9:30 to 6:00 a.m.
22 Q. Okay. So it would be 9:30 p.m. to
23 6:00 a.m.; is that right?
24 A. Yes, sir.
25 Q. Were you in uniform that night?
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1 A. Yes, I was.
2 Q. Were you in a marked patrol car?
3 A. Yes, I was.
4 Q. Were you working by yourself or with
5 another officer?
6 A. By myself.
7 Q. I want to now move forward to June the
8 6th at approximately 2:30 a.m. Were you still on patrol?
9 A. Yes, sir.
10 Q. Do you recall where you were at about
11 2:30 in the morning?
12 A. I was in the parking lot of Victory
13 Baptist Church.
14 Q. Victory Baptist Church?
15 A. Yes, sir.
16 Q. Is that in Rowlett?
17 A. Yes, it is.
18 Q. Where is that located in Rowlett?
19 A. It's right about in the middle of the
20 city off of Highway 66, beside the lake.
21 Q. Okay.
22
23 MR. GREG DAVIS: Your Honor, may I
24 please approach?
25 THE COURT: You may.

1
2 BY MR. GREG DAVIS:
3 Q. Officer Waddell, just looking here at
4 this map of Rowlett, can you just point out where the
5 Victory Baptist Church would have been?
6 A. About right here.
7 Q. Okay. Do I have my finger there where
8 that would have been?
9 A. Yes, sir.
10 Q. All right. It's just, I guess, sort
11 of on that eastern portion, kind of the peninsula portion
12 of Rowlett; is that right?
13 A. Yes, sir.
14 Q. Okay. And is it -- is that unusual
15 for you to sit in the parking lot up there?
16 A. No, sir.
17 Q. Okay. Do you recall whether or not
18 you were doing anything specific when you were up there?
19 A. No, sir.
20 Q. Did anything unusual catch your
21 attention as you were sitting in your squad car at 2:30
22 in the morning out there at the Baptist church?
23 A. I heard the fire tones go off.
24 Q. What do you mean, "fire tones"?
25 A. Well, whenever a dispatcher sends the
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1 fire department somewhere, they set off the tones on the
2 police radio, as well as the fire channel.
3 Q. Okay. Your radio in your car, does it
4 have the ability to monitor that radio channel also?
5 A. Yes, it does.
6 Q. All right. And, following the
7 emergency tones, what's the next thing that you heard
8 come over your radio?
9 A. I switched over to the fire channel
10 and heard them dispatch the fire department to 5801 Eagle
11 on a stabbing.
12 Q. On a stabbing?
13 A. Yes, sir.
14 Q. And, did you do anything in response
15 to hearing that over your radio?
16 A. I headed that way.
17 Q. Okay. Headed toward 5801 Eagle Drive?
18 A. Yes, sir.
19 Q. Do you recall whether or not you

20 switched on your emergency lights?

21 A. I did.

22 Q. Now, Officer Waddell, do you know how

23 far it is from the Victory Baptist Church where you were
24 to 5801 Eagle Drive?

25 A. 1.9 miles.

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1 Q. And do you know how long it took you

2 that morning to get from your location to 5801 Eagle
3 Drive?

4 A. Two to three minutes.

5 Q. Now, on the way to that location,

6 Officer, did you see any vehicles speeding away from the
7 neighborhood where 5801 Eagle Drive is located?

8 A. No, sir.

9 Q. Did you see anyone out that morning on

10 foot as you were going toward 5801 Eagle Drive?

11 A. No, sir.

12 Q. Did you see anything at all unusual or

13 suspicious as you went toward that location, sir?

14 A. No, sir.

15 Q. Did you finally arrive at 5801 Eagle

16 Drive?

17 A. Yes, I did.

18 Q. Were you the first police officer on

19 the scene?

20 A. Yes, sir.

21 Q. As you entered the neighborhood there,

22 did you see any vehicles on the roadway?

23 A. No.

24 Q. Did you see any persons on foot in the

25 neighborhood as you approached the house?

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1 A. Just Darin Routier.

2 Q. All right. And when you say "Darin

3 Routier," do you know him now to be Darin Routier?

4 A. Yes, I do.

5 Q. Had you ever seen him before that

6 morning?

7 A. No, sir.

8 Q. Let me back up for a moment. 5801

9 Eagle Drive. Is that a location in the County of Dallas?

10 A. Yes, it is.

11 Q. And the State of Texas?

12 A. Yes.

13 Q. Do you recall where you parked your

14 car that morning?

15 A. I parked on the north side of the
16 house.

17 Q. Okay. And do you recognize this
18 aerial photograph as 5801 Eagle Drive?

19 A. Yes, sir.

20 Q. And north is toward the top side of
21 this photograph; is that correct?

22 A. Yes, it is.

23 Q. Okay.

24

25 MR. GREG DAVIS: And can the witness
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1 please step down?

2 THE COURT: Yeah. Please step down,
3 Officer. Watch your step.

4

5 (Whereupon, the witness
6 stepped down from the
7 witness stand, and
8 approached the jury rail
9 and the proceedings were
10 resumed as follows:)

11

12 BY MR. GREG DAVIS:

13 Q. And if would, Officer, if you will
14 step to the side so that all the jurors can see where
15 you're pointing.

16 Can you just point for us where you
17 parked your vehicle that morning?

18 A. Right here on this curve.

19

20 MR. DOUGLAS MULDER: Judge, could we
21 see it?

22 THE COURT: By all means, come on
23 around. By all means, come on around.

24 MR. GREG DAVIS: We will move it
25 around here a little bit further over here.

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1

2 BY MR. GREG DAVIS:

3 Q. I'll tell you what, let's roll it out
4 a little bit further out here.

5 Would you again point for us where you
6 parked your squad car that morning.

7 A. Right here along this curve.

8 Q. All right. And as you came up here to
9 this location, Officer, is that when you saw the
10 individual that you now know to be Darin Routier?

11 A. Yes, sir.

12 Q. Can you please point where he was when
13 you first saw him?

14 A. He was coming out of the front door,
15 across the yard.

16 Q. All right. Do you recall how he was
17 dressed that morning?

18 A. He was wearing blue jeans, no shirt,
19 no shoes.

20 Q. Okay. Do you remember whether or not
21 he was saying anything as he came out?

22 A. He was saying something, but at that
23 time I didn't know what it was.

24 Q. All right. Did you have your gun
25 drawn as you came up to that location?

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1 A. Yes, I did.

2 Q. All right. And, why did you have your
3 gun drawn?

4 A. I didn't know if he was a suspect,
5 or -- I didn't know who he was.

6 Q. All right. You know you had a
7 stabbing call; right?

8 A. Right.

9 Q. What did you do then as you came up
10 here and you saw this individual running out of the
11 house?

12 A. I hollered at him to stop, and then I
13 walked over and met him, in front of the fountain there.

14 Q. Okay. What happened when you met him
15 over there?

16 A. He told me that his kids had been
17 stabbed, and that they were dying.

18 Q. What did you do then?

19 A. After he told me that, he started
20 going back into the house, and I followed him inside the
21 house.

22 Q. All right. Now, Officer, had you had
23 any experience in dealing with crimes involving violence
24 before?

25 A. Yes.

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1 Q. Okay. What kind of offenses had you
2 been involved with prior to June the 6th, 1996?

3 A. I worked on a homicide about two
4 months before this one.

5 Q. And, you had been a police officer how
6 long with Rowlett?

7 A. About four and a half years.

8 Q. Okay. I guess you had answered a lot
9 of other calls during that time period?

10 A. Yes, sir.

11 Q. Had you received any other specialized
12 training as a member of the Rowlett Police Department?

13 A. Yes, I had.

14 Q. And, what kind of training had you
15 received?

16 A. In April of 1993 I went to a 24-hour
17 Crime Scene School. I was also on the special response
18 team for the Police Department.

19 Q. What is the special response team?

20 A. It's a team that we -- we served a lot
21 of high-risk search warrants and arrest warrants.

22 Q. Okay. Did you receive any specialized
23 training to become a member of the specialized response
24 team?

25 A. We trained 16 hours a month, and we
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1 went to a 60 hour school in Austin, a SWAT school.

2 Q. Okay. So, as I understood it, you
3 said Darin Routier entered the residence; is that right?

4 A. Yes, sir.

5 Q. And you followed him into the
6 residence?

7 A. Yes.

8

9 (Whereupon, the following

10 mentioned item was

11 marked for

12 identification only

13 as State's Exb. 10,

14 after which time the

15 proceedings were

16 resumed on the record

17 in open court, as

18 follows:)

19

20 BY MR. GREG DAVIS:

21 Q. Mr. Waddell, let me show you what has

22 been marked as State's Exhibit No. 10. Do you recognize

23 this to be a layout of the floorplan of 5801 Eagle Drive?

24 A. Yes.

25 Q. Does it accurately reflect the rooms

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1 as they appeared there in June of 1996?

2 A. Yes.

3

4 MR. GREG DAVIS: Your Honor, at this

5 time we will offer State's Exhibit No. 10.

6 MR. DOUGLAS MULDER: No objection.

7 THE COURT: State's Exhibit No. 10 is

8 admitted.

9

10 (Whereupon, the item

11 heretofore mentioned

12 Was received in evidence

13 As State's Exhibit No. 10

14 For all purposes,

15 After which time, the

16 Proceedings were resumed

17 As follows:)

18

19 BY MR. GREG DAVIS:

20 Q. If you could, Officer, if we could

21 just go through the general layout there of the house.

22 Is this the front door that I'm pointing to right here?

23 A. Yes.

24 Q. As you come in, we've got labeled the

25 living room, is that the more formal area?

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1 A. Yes.

2 Q. And we have a family room. Correct?

3 A. Yes, sir.

4 Q. Okay. The entryway?

5 A. Yes, sir.

6 Q. This is a two-story home, is it not?

7 A. Yes, it is.

8 Q. All right. Is this the stairway that

9 leads up to the second floor?

10 A. Yes, it is.

11 Q. Okay. The kitchen, utility room,

12 breakfast nook and dining room. Correct?

13 A. Yes, sir.

14 Q. And the garage in this residence, is

15 it attached to the house itself?

16 A. Yes.

17 Q. And, is it toward the rear of that
18 house?

19 A. Yes, it is.

20 Q. If you will, please tell the members
21 of the jury, where you came, once you came into the front
22 door of that residence, where did you first go to?

23 A. I could see a person standing here. I
24 could see the defendant right here. I walked up this
25 little hallway and stopped right here for a second.

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1 Q. Okay. Did you notice anything unusual
2 here in the entryway?

3 A. I noticed some blood on the floor.

4 Q. All right. What did you do in
5 response to that?

6 A. I saw the blood. I attempted not to
7 step in it and disturb any of it.

8 Q. All right. You said that you saw
9 someone back here. Did you actually go through the
10 entryway then?

11 A. Yes.

12 Q. And where did you go to then?

13 A. I went straight to the defendant, who
14 was standing right here.

15 Q. All right. If you could, let me give
16 you a red pen. And, Officer, I would like for you, if
17 you would, to just place an "X" where you saw the
18 defendant. And, let me just ask you first, do you see
19 the defendant in the courtroom this morning?

20 A. Yes.

21 Q. Could you please point her out?

22 A. She is right over here.

23 Q. Okay. She's the female sitting at the
24 counsel table over here in the gray jacket; is that
25 correct?

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1 A. Yes, sir.

2

3 MR. GREG DAVIS: Your Honor, may the
4 record please reflect this witness is identifying the
5 defendant in open court.

6 THE COURT: Yes, sir.

7

8 BY MR. GREG DAVIS:

9 Q. Sir, if you would, please take this

10 red pen and just place an "X" at the position where you

11 first saw the defendant when you came in the residence.
12 A. (Witness complies).
13 Q. All right. And if you would, if
14 you'll just write above that "defendant."
15 And, if you would, when you came in
16 here, did you see any other persons inside that room when
17 you came into the family room?
18 A. I noticed a small child laying on the
19 ground right here.
20 Q. All right. Would you put another "X"
21 and label that as "small child," please, where you saw
22 him.
23 A. Okay.
24 Q. Did you see anybody else when you came
25 in there?
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1 A. Darin Routier had gone across the
2 living room, and there was another child on the floor on
3 the other side.
4 Q. And if you could, if you'll put an
5 "X," and then put -- label that as "second child,"
6 please.
7 A. Okay.
8 Q. All right. And as I understand then,
9 when you came in -- let me first ask you: Did I
10 understand you to say that Darin Routier had gone over
11 here to the second child?
12 A. Yes.
13 Q. Had you asked him to do that?
14 A. At that point I had not.
15 Q. All right. When you saw the defendant
16 here standing, please describe for us what she was doing
17 at that time.
18 A. She was holding a towel over her neck
19 with one hand and talking on the telephone with the
20 other.
21 Q. All right. Was that a cordless
22 telephone, or is that a telephone that was connected to
23 an outlet?
24 A. It was a cordless phone.
25 Q. Can you describe how she was dressed
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1 that morning?
2 A. A light colored T-shirt.
3 Q. Okay. Anything else?
4 A. Nothing else.

5 Q. Was she wearing any shoes that you
6 could see?
7 A. No, sir.
8 Q. Okay. Was she barefoot?
9 A. Yes.
10 Q. How would you describe her demeanor
11 when you first saw her? What was she doing, or what was
12 her demeanor?
13 A. She appeared to be upset and
14 hysterical.
15 Q. And when you say "upset or
16 hysterical," what do you mean by that?
17 A. She was screaming and yelling.
18 Q. All right. Was she doing that to you
19 or someone else, or to anyone in particular?
20 A. I thought she was talking on the
21 telephone still.
22 Q. All right. Tell us what's the next
23 thing that you recall happening when you came in here and
24 saw her.
25 A. I could see this child's feet right
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1 here, and I walked around his feet. I approached the
2 defendant and I asked her who had done it, and where were
3 they at. She couldn't give me a description of who had
4 done it, but she told me that whoever it was was still in
5 the garage.
6 Q. All right. And, did you know at the
7 time that the garage was back here?
8 A. No.
9 Q. Okay. Did she indicate in any way
10 where the garage was?
11 A. She pointed to it and told me, "that
12 direction."
13 Q. Okay. So, did she point over toward
14 this portion of the house then?
15 A. Yes.
16 Q. Okay. What did you do then, or what's
17 the next thing that happened at that point?
18 A. I instructed Darin Routier to try to
19 help the second child over there with some type of first
20 aid. I told him to apply pressure to some of the wounds
21 to try to stop the bleeding.
22 Q. And the second child, being this child
23 over in this portion of the room?
24 A. Yes.
25 Q. All right. Did Darin follow your

1 instructions?

2 A. Yes.

3 Q. All right. What did you see him do?

4 A. I saw him on his hands and knees

5 beside the child. I couldn't tell exactly what he was
6 doing. It looked to me like he was trying to give him
7 CPR or putting pressure on his wounds.

8 Q. Okay. Did he say anything to you when
9 he went over here and started to do whatever he was
10 doing?

11 A. He told me that it was no use, that he
12 was blowing air through his chest.

13 Q. Okay. What about this child over
14 here. Let's go back to this child. Do you recall how
15 this smaller child was dressed that morning?

16 A. He had on long pants and a shirt.

17 Q. All right. Let me ask you: Was there
18 anything on his back, such as a towel, a rag, anything
19 else, besides the clothing that he was wearing, Officer?

20 A. No.

21 Q. After Darin Routier tells you that
22 he's blowing into this child's mouth here, or his chest,
23 what's the next thing that you recall happening?

24 A. I told the defendant to get some
25 towels and put on the first child's back to try to stop
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1 his bleeding.

2 Q. Now when you said that to her -- first
3 of all, let me back up. At the time that Darin Routier
4 is over here, doing whatever he's doing with this second
5 child, where is the defendant?

6 A. She's in the same position.

7 Q. She's still over here across the room?

8 A. Yes, sir.

9 Q. Where are you?

10 A. I'm right beside her.

11 Q. Okay. So you've moved over here to
12 this area; is that correct?

13 A. Yes, sir.

14 Q. Is there a counter top or bar here
15 that separates the family room and the kitchen room?

16 A. Yes.

17 Q. And, can you actually see through the
18 family room into the kitchen room?

19 A. Yes.

20 Q. Let me ask you, Officer, at the time
21 that Darin Routier was making whatever efforts he was
22 with the second child, did any blood get on you?

23 A. No.

24 Q. Okay. Did you see any blood fly
25 across this room over here on to this defendant?

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1 A. No, sir.

2 Q. All right. Let's move forward here
3 again. When you told the defendant to go over here and
4 find something and apply pressure to this child, what, if
5 anything, did she do?

6 A. She stayed in the same place she was
7 and told me that the suspect was still in the garage.

8 Q. All right. And, what did you do in
9 response to that?

10 A. I went into the kitchen and tried to
11 look into the garage.

12 Q. All right. Well, let me back you up
13 here. This child is obviously injured. Correct?

14 A. Yes.

15 Q. You've asked her to go over and assist
16 him. Correct?

17 A. Yes.

18 Q. She doesn't do that; is that right?

19 A. That's right.

20 Q. Okay. Why didn't you then drop
21 down -- you're trained in CPR?

22 A. Yes.

23 Q. Why didn't you then go down here and
24 start applying the pressure that this child needed at
25 that point yourself?

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1 A. Because the suspect was still in the
2 house, as far as I knew.

3 Q. Okay. Are there certain procedures
4 that you've been trained to follow when you go out to a
5 scene such as this?

6 A. Yes, sir.

7 Q. Are there certain priorities?

8 A. Yes, sir.

9 Q. Okay. Could you tell the members of
10 the jury, what are the priorities? What are the things
11 that you're supposed to do when you confront a scene like
12 this?

13 A. First of all, we try to find out if

14 the suspect is still in the house or not, if they are
15 still at the location. Secondly, would be to get medical
16 attention where needed. And then the third thing, would
17 be to preserve the crime scene.

18 Q. Okay. And Officer Waddell, at the
19 time that you asked the defendant to care for this child,
20 had you located a suspect?

21 A. No.

22 Q. Had you gotten the information from
23 the defendant concerning the suspect?

24 A. Not at that time.

25 Q. All right. Did you believe one to
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1 still be in the house?

2 A. Yes, I did.

3 Q. Okay. And where did you believe him
4 to be?

5 A. She told me he was in the garage, and
6 I assumed that's where he was.

7 Q. All right. And I believe you said
8 that you, in fact, started to go to the garage; is that
9 correct?

10 A. Yes.

11 Q. All right. And if you could, just
12 with this pen, not writing, but if you would, just
13 indicate for the members of the jury, you know, where you
14 went to, as you first went toward that garage area.

15 A. I was over here by her, I came around
16 the bar. And I walked into the kitchen, to about right
17 here, enough to where I could look through the utility
18 room. There's a door here. I was trying to look through
19 the door into the garage.

20 Q. You know, when you're doing that, are
21 there any lights on inside the house?

22 A. Yes.

23 Q. Okay. What light is on in this family
24 room, if you recall?

25 A. I remember the TV being on.
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1 Q. Okay. This black object here, is that
2 a big-screen television that's in there?

3 A. Yes, sir.

4 Q. Was that television on when you first
5 entered that family room?

6 A. Yes.

7 Q. How about in the kitchen area, what

8 lighting is there available for you there?

9 A. There was an overhead light on when I
10 went in there.

11 Q. How about the utility room back here?

12 Was there a light on in there?

13 A. I don't recall if that light was on or

14 not.

15 Q. So, as I understand, you then went

16 about halfway into the kitchen here?

17 A. Right.

18 Q. Did you go any further?

19 A. No. No.

20 Q. When you were at this position,

21 Officer, did you see anyone back there?

22 A. No, sir.

23 Q. Did you hear anyone back there?

24 A. No.

25 Q. Why didn't you go any further than

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1 halfway through this kitchen at that point, Officer

2 Waddell?

3 A. I couldn't see into the garage, and I

4 wasn't positive that that's where the suspect was. I

5 knew he was still in the house at the time, is what we

6 thought, and I didn't want to leave all of them back in

7 the living room with the suspect loose in the house

8 somewhere.

9 Q. Do you know how long you were gone

10 from the time that you left here, to go back here to the

11 kitchen to the time that you came back? About how much

12 time has elapsed at that point?

13 A. Maybe 30, or 40 seconds.

14 Q. And, when you come back, is the

15 smaller child still in the same position here?

16 A. Yes.

17 Q. How about the second child, is he

18 still in the same position over here?

19 A. Yes.

20 Q. How about the defendant? Where is the

21 defendant when you come back from the kitchen area?

22 A. In the same position.

23 Q. Basically the same position as we have

24 marked here with the "X"?

25 A. Yes, sir.

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1 Q. She's not over here with the small
2 child?

3 A. No.

4 Q. What's she doing?

5 A. She was still yelling. I don't know
6 if she was still on the telephone or not, but she was
7 still yelling to get help.

8 Q. Okay. How about Darin? Do you recall
9 where he was when you came back from the kitchen?

10 A. I think he was still over at the
11 second child.

12 Q. Was there anything at all to indicate
13 to you that the defendant had moved from her original
14 position, in the time period that you had gone to the
15 kitchen and come back? Anything at all to indicate that?

16 A. No.

17 Q. You come back into this area again.

18 Now what do you do?

19 A. I asked her again for a description of
20 the suspect. And, she told me she didn't know if it was
21 a white or a black guy, but that he was wearing a black
22 shirt, dark pants and a ball cap.

23 Q. Again, a black ball cap and a dark
24 shirt?

25 A. Yes, sir.

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1 Q. Didn't know whether he was white or
2 black?

3 A. Right.

4 Q. Okay. Did she give you any other
5 information at that time about this person, or what may
6 have happened?

7 A. She told me what had happened.

8 Q. Okay. Just tell the members of the
9 jury what the defendant told you had happened right
10 there.

11 A. She told me that she had got into a
12 fight with somebody that broke into her house. She
13 fought with the suspect. She told me she fought with him
14 at the end of the bar here, and that he ran across the
15 kitchen.

16 Q. All right. Did she describe what kind
17 of fight had occurred here in this area?

18 A. She just said that she had fought with
19 him.

20 Q. All right. Are you sure it was this
21 area that she was indicating to?

22 A. Yes, sir.

23 Q. How was she indicating that area
24 between the family room and the kitchen as being the
25 place of the struggle?

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1 A. As she was telling me, she was walking
2 in this direction, and then she pointed right to that
3 area.

4 Q. All right. If you could, Officer,
5 please take the red pen again, just put an "X" at the
6 place where she says the struggle occurred, and just
7 label that as "struggle."

8 A. Okay.

9 Q. All right. Now, if we can, if we can
10 pick this up from the point where she is now giving the
11 description, she has told you what's happened, she's now
12 pointed out the place where this struggle occurred.

13 What's the next thing that you recall happening?

14 A. We both -- we walked back over to this
15 area here, and I could see that this child here was
16 laying on the floor on his stomach, on his left side of
17 his face and he was looking up at both of us making some
18 noises, like he was trying to breathe.

19 Q. All right. If you could -- if we
20 could position him, in general, can you describe how this
21 child was laying, you know, where his feet were, and
22 where his head was?

23 A. His feet were right here and his head
24 was on this end.

25 Q. Okay. So you've got his head here,
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1 basically, and his feet are closer to the hallway; is
2 that correct?

3 A. Yes.

4 Q. He's on his stomach?

5 A. Yes, sir.

6 Q. And you say that he had his head
7 turned where he's looking up at you. Does he have his
8 head turned in this fashion then?

9 A. Yes, sir.

10 Q. And when he does that, can you just
11 point with the pointer where you and the defendant are at
12 this point.

13 A. Right in this area here.

14 Q. Are you able to see his face?

15 A. Yes.

16 Q. Are you able to see what he's doing?

17 A. Yes.
18 Q. Okay. And the defendant is right next
19 to you; is that right?
20 A. Yes, sir.
21 Q. This child here, this small child,
22 could you see whether or not his eyes were open at that
23 point?
24 A. They were open.
25 Q. And, was he looking in your direction?
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1 A. Yes.
2 Q. Was he making any sort of noise?
3 A. Yes, he was.
4 Q. And what sort of noise was he making?
5 A. Like a gasping-type noise.
6 Q. Okay. So, this child -- this child
7 was not dead at this point, was he?
8 A. No.
9 Q. What did you do then?
10 A. I instructed her to get some towels
11 and put them on his back to try to stop the bleeding.
12 Q. And, what did she do?
13 A. Nothing. She kept telling me that
14 when she chased the suspect across the kitchen, that he
15 had dropped the knife by the utility -- somewhere over
16 here in this area, and that she had picked up the knife
17 and brought it back and set it on the counter. And she
18 told me that she thought she had messed up the
19 fingerprints.
20 Q. Well, at the time, Officer Waddell,
21 that you asked her again to care for this child over
22 here, this child with his eyes open? Did you feel that
23 she was capable of rendering assistance to this child?
24 A. Yes, sir.
25 Q. Okay. Why do you think that she was
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1 capable of assisting this child?
2 A. Well, she appeared to know everything
3 that was going on inside the house. She was real alert
4 and able to tell me what had happened. I thought if she
5 was worried about fingerprints on a knife, she could
6 certainly take care of her kids.
7 Q. Okay. She didn't go over there?
8 A. No.
9 Q. And, again, let me just ask you again,
10 this second time when you requested that she assist this

11 child, and she didn't, why didn't you, yourself, now go
12 over here and do that?

13 A. At that point, I didn't know where the
14 suspect was. I thought he was still in the house. I
15 positioned myself between - - between them and the rest
16 of the house. This was the only way to get into this
17 room. I positioned myself right here, until I could get
18 another backup officer to help me clear the house.

19 Q. Okay. What happens if you go over
20 here and start tending to him and you have a suspect come
21 in the room?

22 A. Then he stabs me too.

23 Q. Okay. You positioned yourself in this
24 area; is that correct?

25 A. Yes, sir.

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1 Q. Okay. What's the next thing that
2 happened?

3 A. I waited there until Sergeant Walling
4 arrived, which was -- it wasn't too long after that.

5 Q. What was the purpose of waiting for a
6 second officer before you did anything else?

7 A. It's procedure to wait on another
8 officer. And this was certainly a life-threatening
9 situation, and I didn't want to walk out in the garage,
10 not knowing what was in there by myself.

11 Q. Okay. You said the second officer's
12 name is Matt Walling; is that correct?

13 A. Yes, sir.

14 Q. Also a member of the Rowlett Police
15 Department?

16 A. Yes, sir.

17 Q. At the time was he a sergeant?

18 A. Yes, he was.

19 Q. Is he one of the shift supervisors?

20 A. Yes.

21 Q. And did he, in fact, enter the
22 residence and meet up with you then?

23 A. Yes, he did.

24 Q. And when, I think at the time he was a
25 sergeant. Correct?

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1 A. Yes.

2 Q. Now he's a lieutenant?

3 A. Yes, sir.

4 Q. When Lieutenant Walling came in, can

5 you tell the members of the jury what you and Lieutenant
6 Walling did then?

7 A. He came in and met me right where I
8 was standing. I briefed him on what happened, and that
9 the suspect was probably still in the house somewhere,
10 most likely in the garage. And then we walked through
11 the kitchen and went into the garage to check and see if
12 anybody was in there.

13 Q. This rectangular object here in the
14 kitchen area, what is that?

15 A. That's a small island in the kitchen.

16 Q. All right. And, do you recall how you
17 and Lieutenant Walling actually went from this area back
18 through the utility room?

19 A. Yes, sir. We came this way around the
20 island and around this way.

21 Q. All right. And just so we can orient,
22 these green rectangles, are those rugs?

23 A. Yes.

24 Q. All right. This circular object, what
25 is that circular object there in the kitchen?

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1 A. I believe it was a wine rack.

2 Q. So, you then went past the wine rack,
3 and then you went to the right of the island; is that
4 right?

5 A. Yes.

6 Q. Could you see anything on the floor of
7 the kitchen as you went that direction?

8 A. There was blood on the floor and a
9 broken wine glass. I remember seeing the wine glass and
10 the blood.

11 Q. Okay. What did you do in response to
12 that?

13 A. I stepped over it.

14 Q. Okay. Did you, in fact, get back to
15 the utility room?

16 A. Yes.

17 Q. Is there a door that separates the
18 kitchen and the utility room?

19 A. Yes.

20 Q. That morning, do you recall whether or
21 not the door was open or not?

22 A. It was open.

23 Q. Did both you and Lieutenant Walling go
24 into the utility room then?

25 A. Yes.

1 Q. Is there a door here that separates

2 the utility room from the garage?

3 A. Yes.

4 Q. All right. That morning when you went

5 into the utility room, was that door opened or was it

6 closed?

7 A. This door here was closed.

8 Q. All right. And that would be the door

9 that separates the house from the garage. Correct?

10 A. Yes, sir.

11 Q. Could you see any sort of damage to

12 that door, wood broken off, chips, anything to indicate

13 that there had been a forced entry made on that door?

14 A. No, sir.

15 Q. What's the next thing that happened

16 when you and Lieutenant Walling went back to the utility

17 room?

18 A. Lieutenant Walling opened the door,

19 and then it was dark inside, so he scanned across this

20 way with his flashlight. And, he stepped in and went to

21 the left and I went in the doorway and looked to the

22 right.

23 Q. Okay. Do you know how far into the

24 garage Lieutenant Walling went?

25 A. I'm not for sure exactly how far it

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1 was. It wasn't real far.

2 Q. You say that he scanned with his

3 flashlight. Were the lights on in this garage here?

4 A. No.

5 Q. Okay. Did you have your flashlight

6 out also?

7 A. Yes, I did.

8 Q. Okay. And, he scanned toward the

9 left; is that right?

10 A. Right.

11 Q. Did you actually step into the garage

12 yourself?

13 A. I was right in the doorway.

14 Q. All right. And, you scanned toward

15 the right portion of the garage; is that correct?

16 A. Yes, sir.

17 Q. Did you see anyone when you went out

18 there into the garage?

19 A. No.

20 Q. Did you hear anyone out in the garage?

21 A. No.

22 Q. Did Lieutenant Walling stay in the

23 garage, or did he come back in?

24 A. He came right back in.

25 Q. And, when y'all -- when both of you

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1 are now in the utility room, what's the next thing that
2 happens?

3 A. Lieutenant Walling told me that he saw

4 the cut screen on the window.

5 Q. All right. If you could, just to kind

6 of orient the jury. We've got some areas up here. Does

7 this garage have several windows on this wall of the

8 garage?

9 A. Yes.

10 Q. And this area here, just the white

11 area, is that basically -- that's the backyard, is it

12 not?

13 A. Yes, sir.

14 Q. Okay. Would you label that as

15 backyard.

16 A. Yes, sir.

17 Q. And the windows then would look out

18 into backyard from the garage; is that right?

19 A. Yes.

20 Q. All right. And he told you that he

21 saw a screen that had been cut on one of these windows?

22 A. Yes, sir.

23 Q. All right. Did you step out to look

24 at it at that time?

25 A. No.

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1 Q. Okay. What did you do?

2 A. I turned around and went back to the

3 kitchen where they were.

4 Q. And if you could, with a pointer, just

5 indicate the route that you took when you went back into

6 the utility room, through the kitchen, back to the family

7 room, what route did you take, a different route, or the

8 same route?

9 A. It was the same route right through

10 here, around the island and back right over to this area.

11 Q. Okay. How about Lieutenant Walling,

12 did he follow you back into the family room?

13 A. No.

14 Q. Okay. Did you see where he went?
15 A. I didn't see where he went, no, sir.
16 Q. Okay. Did he tell you that he was
17 going to go some place else though?
18 A. Yes, sir.
19 Q. Okay. Where did he say he was going
20 to go to?
21 A. He told me he was going to go around
22 to the backyard.
23 Q. All right. Why didn't you go to the
24 backyard with him?
25 A. I was going back over here, because
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1 the house still wasn't secured at that time. I went back
2 over here with them. I believe there was another officer
3 coming to meet Lieutenant Walling.
4 Q. Okay. Well, at the time that y'all
5 are coming back, had you had an opportunity to make a
6 full search of this formal living room?
7 A. No, sir.
8 Q. How about the breakfast -- in this
9 area? Did you have a chance to make a complete search of
10 it also?
11 A. No, sir.
12 Q. How about the formal dining room, have
13 you had a chance to make a full search of it also?
14 A. No.
15 Q. Bathroom in here?
16 A. No, sir.
17 Q. Had anybody at that point gone to any
18 of the upstairs rooms to check them out?
19 A. No, sir.
20 Q. So, you come back in here, and
21 Lieutenant Walling leaves the house to go to the
22 backyard; is that right?
23 A. Right.
24 Q. As you come back in here, Officer, is
25 there anybody still in this family room?
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1 A. Yes, sir.
2 Q. Okay. Could you just tell us who is
3 still in the family room when you come back?
4 A. The defendant's still in the family
5 room.
6 Q. And where is she?
7 A. Still right -- she's over in this area

8 right here.

9 Q. Do you remember what she's doing when
10 you come back?

11 A. I don't remember exactly what she was
12 doing, just standing there.

13 Q. Did you look over to see whether or
14 not a rag or towel or anything had been placed on the
15 back of this smaller child?

16 A. Yes, sir.

17 Q. And what was the result?

18 A. There was none.

19 Q. So the defendant is still over in this
20 area near the kitchen bar. Do you remember whether or
21 not her husband, Darin, was still in the room at that
22 time.

23 A. I think he was. I'm not for sure. He
24 came -- he was in there shortly after I got back in
25 there.

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1 Q. Okay. The second child still in the
2 same position?

3 A. Yes.

4 Q. At any point, did any other persons
5 come into this family room?

6 A. Yes.

7 Q. Okay. Who else came into the family
8 room?

9 A. The paramedics.

10 Q. From the Rowlett Fire Department?

11 A. Yes, sir.

12 Q. Can you just describe briefly, how
13 they came in and where they went to?

14 A. When they came in I was standing right
15 here beside the defendant. At that time her husband was
16 in there, Darin. I told both of them to come back over
17 here and sit down up against the sliding glass doors, and
18 kind of stay out of the way.

19 Q. Okay. Is there a sliding glass door
20 that's on this portion of the room that leads from the
21 family room back out into the garage?

22 A. It leads into the backyard.

23 Q. Yeah, into the backyard. Okay. From
24 the family room into the backyard. Also some windows
25 across this portion of the room; is that right?

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1 A. Yes, sir.
2 Q. And then we've indicated some
3 furniture. There's two couches; is that correct?
4 A. Yes, sir.
5 Q. They've got a coffee table?
6 A. Yes.
7 Q. And a chair over in this location.
8 Right?
9 A. Yes, sir.
10 Q. And is the fireplace over in this
11 portion of the room?
12 A. Yes.
13 Q. We've got a rectangular space here.
14 What is that over there? Do you recall?
15 A. I don't recall what it was.
16 Q. You indicated that you had them come
17 over to this area of the family room close to the sliding
18 glass door; is that right?
19 A. Yes, sir.
20 Q. Did they go over there?
21 A. Yes, sir.
22 Q. Okay. How many paramedics came in?
23 A. Two initially.
24 Q. All right. And where did they go to?
25 A. The first paramedic went to this
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1 child, and the second one came right over here to this
2 child.
3 Q. Okay. Over here. On this diagram,
4 we've indicated this couch to be up closer to the window.
5 In fact, is there a little bit more space between this
6 couch and the windows back here?
7
8 MR. DOUGLAS MULDER: Object to
9 leading.
10 THE COURT: Overruled. Go ahead.
11 THE WITNESS: Yes, sir, there is.
12
13 BY MR. GREG DAVIS:
14 Q. Okay. And again, with the pointer, if
15 you will, just indicate how the paramedic traveled to
16 reach the second child if you recall.
17 A. He came around this way. I don't know
18 which route he took. I know he walked past me and around
19 this way.
20 Q. Do you know the name of the paramedic
21 that went over here to care for this second child?
22 A. I think his first name is Brian. I'm

23 not sure.

24 Q. Do you recall the name of the

25 paramedic that went to the smaller child?

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1 A. No.

2 Q. What's the next thing that you saw

3 happen?

4 A. Well, this paramedic moved over here

5 to pick this child up and took him outside.

6 Q. Now, during the time period that the

7 paramedic is working on this first child over here, is

8 the defendant still over here?

9 A. Yes.

10 Q. While the first child is still in the

11 house, did you ever hear the defendant ask anyone in that

12 room about the condition of this first child?

13 A. No.

14 Q. Did you ever hear her say anything at

15 all, concerning this first child that's laying over here?

16 A. No.

17 Q. While the paramedic was working on

18 this second child over here, did you ever hear the

19 defendant make any inquiries about the condition of this

20 second child?

21 A. No.

22 Q. Did you ever ask her -- did you ever

23 hear her say anything regarding this second child that

24 was being worked on by this paramedic?

25 A. No.

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1 Q. When the paramedic took this child

2 out, how did he take him out of the house? What route

3 did he take?

4 A. He picked him up and just carried him

5 straight out the front door.

6 Q. All right. And, Officer Waddell, as

7 this first child was being taken out, did you hear the

8 defendant make any inquiry about where her child was

9 being taken to?

10 A. No.

11 Q. Did you hear her say anything at all,

12 concerning this first child, as the paramedic is taking

13 him out the front door?

14 A. No.

15 Q. Did she make any attempt whatsoever to

16 follow the paramedic out, as he took this first child out

17 of the house?

18 A. No.

19 Q. What's the next thing that happened

20 after the first child was taken out of the house then?

21 A. Well, this paramedic came around and

22 told me that there was nothing he could do for that child

23 over there. At that time, Lieutenant Walling came back

24 inside the house and we went and checked upstairs.

25 Q. Okay. Did you go up these stairs

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1 here?

2 A. Yes, sir.

3 Q. Okay. Are there a number of rooms

4 upstairs in this house?

5 A. Yes, sir.

6 Q. Do you recall the rooms that y'all

7 went into that morning?

8 A. I believe there were four rooms, at

9 least four rooms.

10 Q. Did you check each of the rooms?

11 A. Yes.

12 Q. Did you find any other victims

13 upstairs?

14 A. No.

15 Q. Did you find any other persons

16 upstairs?

17 A. Yes.

18 Q. Okay. And, who did you find upstairs?

19 A. An 8-month old baby.

20 Q. And do you recall where you found him?

21 A. In a baby bed in the master bedroom.

22 Q. All right. Now, when you went

23 upstairs, Officer, had -- did you know that a baby was

24 upstairs?

25 A. No.

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1 Q. Had the defendant said anything to

2 you, or anyone else in your presence, about a baby being

3 upstairs before you and Lieutenant Walling went up there

4 to find him?

5 A. No.

6 Q. How was the baby when you went up

7 there?

8 A. He was fine, standing up in the bed

9 just looking over the rail.

10 Q. Appear to be in good shape?

11 A. Yes, sir.
12 Q. Okay. Appear to be in any sort of
13 danger?
14 A. No.
15 Q. When you and Lieutenant Walling got to
16 that baby, had you checked all the other rooms upstairs
17 yet?
18 A. No, sir.
19 Q. Did you take the baby with you then?
20 A. No.
21 Q. Okay. Why didn't you take the baby
22 out of the bassinet and take him with you?
23 A. We still hadn't located the suspect
24 and didn't know if he was in one of the upstairs rooms.
25 Q. All right. So, did you, in fact, then
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1 complete your check of the upstairs rooms?
2 A. Yes.
3 Q. Did you find anything unusual upstairs
4 then besides the baby being in the bassinet?
5 A. No.
6 Q. Okay. What did you and Lieutenant
7 Walling do after you finished upstairs?
8 A. We went back downstairs and Lieutenant
9 Walling went outside.
10 Q. He went outside. Where did you go to?
11 A. I went to the entrance way right in
12 this hallway here.
13 Q. All right. Let me just ask you
14 whether or not you saw anyone, as you're coming down the
15 stairs, just tell the members of the jury whether or not
16 you saw anyone as you were coming down the stairs that
17 morning.
18 A. Yes, I did.
19 Q. And who was that?
20 A. It was one of the neighbors.
21 Q. Okay. Where did you see her?
22 A. She was in the entryway here, right in
23 this area.
24 Q. Okay. If you would, if you would just
25 put an "X" where you saw the person. Just label it as
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1 "neighbor." Was it a male or female?
2 A. It was a female.
3 Q. Okay. Was she running? Was she
4 moving? What was she doing?

5 A. She was just standing there.

6 Q. And did you go down and have a
7 conversation with her?

8 A. Yes.

9 Q. Did she say anything to you about why
10 she was in the house?

11 A. No. At one point Darin Routier told
12 me that there was a nurse that lived across the street.

13 And, I told him that if she was a nurse, that she could
14 come over, that we did need some help.

15 Q. All right. At that time, had the
16 paramedics got there yet?

17 A. At the time I found her?

18 Q. No. At the time that you had that
19 conversation with Darin?

20 A. Oh, no, sir. No.

21 Q. At the time that you saw -- saw this
22 woman in the entryway, the paramedics were already there
23 though. Right?

24 A. Right.

25 Q. Did you have a conversation with her?

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1 A. Yes.

2 Q. And what was the conversation that you
3 had with this woman?

4 A. I told her that the paramedics had
5 already taken care of the -- one child was already out in
6 the ambulance. And the defendant was sitting on the
7 front porch, and they were attending to her wounds.

8 Q. Okay. So, did this woman remain in
9 the house, did she go anywhere else in the house with
10 you, or what did she do?

11 A. No. I instructed her that we didn't
12 need her at that time, and that she needed to leave the
13 house.

14 Q. Did she leave the house?

15 A. Yes.

16 Q. Okay. About how long did that
17 conversation take before she left the house, if you
18 recall?

19 A. Less than a minute.

20 Q. Did you actually see her leave the
21 house then?

22 A. Yes.

23 Q. Okay. And, did I understand you to
24 say that the defendant was already out on the front
25 porch?

1 A. Yes.
2 Q. At the time that the neighbor left the
3 house, Officer Waddell, then besides yourself and
4 Lieutenant Walling, who else was still inside that house?
5 A. I believe there were a couple more
6 paramedics inside.
7 Q. Okay. And, the first child had
8 already been taken out. Correct?
9 A. Yes.
10 Q. How about the second child, had he
11 been taken out yet?
12 A. No.
13 Q. So, he's in there with a couple of
14 paramedics perhaps?
15 A. Right.
16 Q. You're in there still?
17 A. I'm still in the house.
18 Q. All right. And did you say that
19 Lieutenant Walling stayed in the house, or did he leave
20 and go outside?
21 A. He went outside.
22 Q. What did you do then? Once this
23 neighbor left, what did you do?
24 A. I went to the front door and waited
25 for the paramedics to come out, and they told me that
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1 there was nothing they could do for the second child.
2 And they told me they were going to get their stuff. And
3 I noticed one of them was carrying the baby downstairs
4 and they were all going outside.
5 Q. Okay. What was the purpose of you
6 then staying at this front door?
7 A. To secure the crime scene.
8 Q. Can you give us an approximate time
9 when the paramedics left? And you were posted here at
10 the front door, just an approximation, if you recall?
11 A. About 2:40 or 2:45.
12 Q. Are you looking at your watch during
13 that period of time?
14 A. No.
15 Q. So that would just be an
16 approximation?
17 A. Yes, sir.
18 Q. And, once you were posted here at this
19 door, how long did you remain here at the front door?

20 A. Until probably a little after 3:00
21 a.m.
22 Q. Officer Waddell, did anyone enter that
23 house after you -- between the 2:00 or 2:45 that you were
24 posted at this front door, until you left the door
25 sometime after 3:00 a.m. Did anyone at all enter that
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1 residence, sir?
2 A. No.
3 Q. When you were at this door, could you
4 still see Lieutenant Walling?
5 A. Yes.
6 Q. Could you see what he was doing?
7 A. Yes.
8 Q. And what did you see Lieutenant
9 Walling doing?
10 A. He was stringing up crime scene tape
11 across the street.
12 Q. And, is that the yellow tape that
13 y'all used?
14 A. Yes, sir.
15 Q. Did you actually watch him do that?
16 A. Yes, sir.
17 Q. Officer Waddell, if you would just
18 step right here for a moment.
19
20 (Whereupon, the witness
21 stepped down from the
22 witness stand, and
23 approached the jury rail
24 and the proceedings were
25 resumed as follows:)
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1
2 (Whereupon, the following
3 mentioned items were
4 marked for
5 identification only
6 as State's Exhibit 11,
7 11-A, B, C, D, E & F,
8 after which time the
9 proceedings were
10 resumed on the record
11 in open court, as
12 follows:)
13

14

15 BY MR. GREG DAVIS:

16 Q. I believe you've -- you've previously
17 looked at photographs marked State's Exhibits 11, 11-A,
18 11-B, 11-C, D, E and F, have you not?

19 A. Yes, sir.

20 Q. First of all, State's Exhibit No. 11,
21 is that an accurate portrayal of the floorplan of the
22 family room as it appeared on June the 6th of 1996?

23 A. Yes, it is.

24 Q. Does it accurately locate the two boys
25 that you saw that evening?

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1 A. Yes.

2 Q. State's Exhibits 11-A, 11-B, 11-C,
3 11-D, 11-E and 11-F. Do they truly and accurately depict
4 the family room of 5801 Eagle Drive as it appeared on
5 June the 6th, 1996?

6

7 MR. DOUGLAS MULDER: Judge, we would
8 like the record to reflect, that he's showing the
9 photograph to the jury while he's apparently attempting
10 to identify it.

11 MR. GREG DAVIS: Well, I would like
12 for the record to reflect, that I have just two hands.
13 I'm making my best efforts not to have the jury see the
14 photographs.

15 THE COURT: Gentlemen. Gentlemen, I
16 will make the rulings. Overruled. Continue.

17 MR. GREG DAVIS: Thank you.

18

19 BY MR. GREG DAVIS:

20 Q. Do they truly and accurately depict
21 the family room as it appeared that morning?

22 A. Yes, sir.

23

24 MR. GREG DAVIS: Your Honor, at this
25 time we'll offer State's Exhibits 11, 11-A, 11-B, 11-C,
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1 11-D, 11-E, and 11-F.

2 THE COURT: Any objection?

3 MR. DOUGLAS MULDER: We'd like to see
4 it, Judge. We weren't in the jury box and weren't able
5 to see them.

6 MR. GREG DAVIS: These -- all exhibits
7 have previously been inspected by the defense prior to

8 trial, your Honor.
9 THE COURT: The Court is aware of
10 that.
11 MR. DOUGLAS MULDER: I don't know the
12 numbers on them.
13 THE COURT: Well, take a look.
14 MR. DOUGLAS MULDER: We have no
15 objection.
16 THE COURT: State's Exhibits 11-A, B,
17 C, D, E and F are admitted.
18
19 (Whereupon, the items
20 heretofore mentioned
21 were received in evidence
22 as State's Exhibit No. 11, 11-A
23 through 11-F for all purposes,
24 after which time, the
25 proceedings were resumed
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1 as follows:)
2
3 BY MR. GREG DAVIS:
4 Q. All right. Officer Waddell, is
5 State's Exhibit 11, is that a floorplan of this family
6 room again?
7 A. Yes.
8 Q. And we've got two pictures. The first
9 picture up here, toward the top portion of that
10 floorplan, is that the second child?
11 A. Yes.
12 Q. The other child, would that be the
13 smaller child that you have referred to?
14 A. Yes.
15 Q. Can you tell the members of the jury
16 what we see here in State's Exhibit 11-A?
17 A. That's the entrance into the family
18 room. That would be looking from this hallway here.
19 Q. And what's this object I'm pointing to
20 here at the top right-hand portion of the photograph?
21 A. The telephone that she was talking on.
22 Q. The red area on the carpet, what is
23 that?
24 A. Blood.
25 Q. Okay. Do you see another object, a
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1 rectangular object close to the phone. What is that?
2 A. I believe that's the plastic runner
3 that was over the carpet.
4 Q. Now, if we could, if we could -- can
5 everyone see that?
6 If we could, could we look at State's
7 Exhibit 11-B. And just take us through that photograph,
8 if you would, and show the members of the jury what we
9 see in that photograph.
10 A. Okay. This is --
11 Q. What are we looking at? What
12 direction are we looking?
13 A. This is the family room. You'd be
14 looking from the entrance -- the entrance to the family
15 room is over here. This is where the second child was.
16 The first one would have been over here in this area
17 somewhere.
18 Q. All right. Do we see the couches in
19 that photograph?
20 A. Yes, sir.
21 Q. Do we see the telephone again?
22 A. I don't see it, no.
23 Q. Okay. If you would, if you'll look at
24 the right portion of that photograph.
25 A. Oh, over here?
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1 Q. Yes, sir.
2 A. Yes, sir, that's the telephone.
3 Q. All right. And what is the object
4 next to that telephone on the floor, if you know?
5 A. A rag.
6 Q. Okay. Do you recall that morning,
7 what type of rag that the defendant had around her neck
8 when you saw her?
9 A. It was green, it was a greenish
10 colored rag.
11 Q. The color of the rag in the
12 photograph, can you tell the color there?
13 A. Green.
14 Q. All right. Toward the right portion
15 of the -- let me just step around here so I can ask you a
16 question here. This white area here, what is that?
17 A. That's the end of the counter.
18 Q. To the right. Would that be the
19 kitchen then?
20 A. Yes, sir.
21 Q. Okay. There's an object up here,
22 Officer, a white object. What is that?

23 A. I would have to look, I can't see from
24 here.
25 Q. Okay.
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1 A. That's the knife.
2 Q. Okay. Did you see that knife that
3 morning?
4 A. Yes, I did.
5 Q. Was it in that same position when you
6 first saw it?
7 A. Yes, sir.
8 Q. If you -- now, if we'll look at
9 State's Exhibits 11-C, 11-D, 11-E and 11-F. Who do those
10 photographs show?
11 A. That's the second child.
12 Q. That would be located over here in
13 this portion of the room; is that right?
14 A. Yes, sir.
15 Q. When you first saw the child that
16 morning, was he covered with this object?
17 A. No.
18 Q. Do you know how that got on him?
19 A. I believe one of the paramedics put it
20 over him.
21 Q. Okay. When you first saw the child,
22 do you recall whether or not, was he laying down?
23 A. Yes, he was.
24 Q. Was he on his back or was he on his
25 stomach?
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1 A. On his back.
2 Q. Okay. Would it be more in the
3 position that we see here in State's Exhibit No. 11-D and
4 11-E then, as far as being on his back?
5 A. Yes, sir.
6 Q. Looking at State's Exhibit 11-F, can
7 you tell whether or not the child's eyes are open in this
8 photograph or not?
9 A. Yes. They look open to me.
10 Q. These other objects, there appears to
11 be a pillow over there near him; is that correct?
12 A. Yes.
13 Q. Do we also see that same pillow up
14 here in this photograph 11-B?
15 A. Yes, sir.
16 Q. Do you know what these items are over

17 here we see in State's Exhibit 11-C. Do you know what
18 those items were up here towards the top portion of the
19 photograph?

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

21 Q. Did you ever examine them yourself?

22 A. No, sir.

23 Q. Look through those in any way?

24 A. No, sir.

25 Q. Okay. Thank you. You may retake your
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1 seat.

2

3 (Whereupon, the witness

4 Resumed the witness

5 Stand, and the

6 Proceedings were resumed

7 On the record, as

8 Follows:)

9

10 BY MR. GREG DAVIS:

11 Q. Officer Waddell, let me pick it up

12 again, where you're at the front door. You stayed there

13 until sometime after 3:00 p.m. (sic). When did you leave

14 the front door?

15 A. When Officer Wade relieved me from the
16 front door.

17 Q. Okay. What's his full name, if you
18 know?

19 A. Steve Wade.

20 Q. All right. And do you recall about
21 what time he got to the front door?

22 A. It was right around 3:00 a.m.

23 Q. And he was there to relieve you; is
24 that correct?

25 A. Yes, sir.

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1 Q. Did you then leave the front door?

2 A. Yes, sir.

3 Q. All right. Did you go with anyone, or
4 did you leave by yourself?

5 A. I left the front door by myself, but I
6 met someone else.

7 Q. All right. Who did you meet?

8 A. A Garland K-9 officer.

9 Q. Do you remember what his name was?

10 A. Griffith, or Griffin.

11 Q. Okay. Did he have a dog with him?

12 A. Yes.

13 Q. And did you stay at the residence with

14 the officer and his dog, or did you go some place?

15 A. We went somewhere.

16 Q. And, as best you recall, can you tell

17 the members of the jury, where you went with Officer

18 Griffith and the dog?

19 A. We walked around the neighborhood. We

20 walked up and down the alleys, across front yards. We

21 went two, about two or three streets behind 5801 Eagle.

22 Q. How long did you go with Officer

23 Griffith through the neighborhood?

24 A. We were out there for about 50

25 minutes.

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1 Q. During the time that you were with the

2 officer and his dog, did you ever locate any suspects?

3 A. No.

4 Q. Did you arrest anybody?

5 A. No, sir.

6 Q. Find anything that you took back to

7 the residence?

8 A. No, sir.

9 Q. Did you actually go back to 5801 Eagle

10 Drive?

11 A. Yes, sir.

12 Q. And, when you got back, were you

13 instructed to do anything?

14 A. Yes.

15 Q. And, what did you do in response to

16 your instructions?

17 A. I followed my instructions and I went

18 to the back of the house.

19 Q. All right. And is there an alley that

20 runs behind that house?

21 A. Yes, sir.

22 Q. What did you do once you got back

23 there?

24 A. I was assigned to stay in the alley

25 and stop anybody who came down the alley and identify

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1 them, and ask them if they had heard anything that was

2 out of the ordinary for that night.

3 Q. That morning, do you recall how long

4 that you stayed in the alley?

5 A. Probably till about 7:00 or 8:00 in
6 the morning.
7 Q. How many cars did you stop while you
8 were in that alley?
9 A. One.
10 Q. About what time did you stop the
11 vehicle?
12 A. It was right before the sun came up.
13 Q. And, how many people were inside the
14 car?
15 A. One.
16 Q. Can you describe the person that was
17 inside the car?
18 A. It was a white female.
19 Q. And, did you determine where she was
20 going?
21 A. Yes, sir.
22 Q. And where was that?
23 A. She said she was going to work.
24 Q. Did you detain her back there or did
25 you let her go to work?
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1 A. I let her go to work.
2 Q. Anybody else -- did you come in
3 contact with anybody else back there in that alley before
4 you left it?
5 A. No, sir, other than the police
6 officers, no.
7 Q. How long did you remain there at the
8 location that morning?
9 A. I was there till about 7:00 or 8:00 in
10 the morning.
11 Q. About 7:00 or 8:00 in the morning?
12 A. Yes, sir.
13 Q. And, once you left, where did you go
14 to?
15 A. I went back to the police station.
16 Q. And when you got back to the police
17 station, what did you do?
18 A. I started writing a report.
19 Q. Is that standard procedure?
20 A. Yes.
21 Q. All right. And, what's the purpose of
22 you sitting down and making a report at that time?
23 A. To document facts so that I can
24 remember what happened, and to supply the investigators
25 with information to start an investigation.

1 Q. When you make a report, do you attempt
2 to put down every single thing that you heard or said or
3 saw?
4 A. Well, I try to.
5 Q. As best as you can?
6 A. Yes, sir.
7 Q. Do you recall about what time that you
8 left the station that morning, when you finished your
9 report?
10 A. Maybe around 10:00 or 11:00 a.m.
11 Q. By that time you -- by the time you
12 finished your report, how long had you been on duty?
13 A. Thirteen, 14 hours.
14 Q. Did you go home after that?
15 A. Yes.
16 Q. Were you scheduled to work the next
17 morning -- I mean, that next evening?
18 A. Yes.
19 Q. All right. So, you're scheduled to
20 work. You worked the evening of the 5th. Correct?
21 A. Right.
22 Q. We're now into about 10:00 or 11:00 in
23 the morning on the 6th, and you were scheduled to work
24 the evening of the 6th; is that right?
25 A. Yes.
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1 Q. What time did you go on duty that
2 night?
3 A. 9:30.
4 Q. And, did you actually go out on patrol
5 again?
6 A. Yes.
7 Q. Again by yourself?
8 A. Yes.
9 Q. Was there ever a time when you came
10 back to the police station, before completing your patrol
11 duties?
12 A. Yes.
13 Q. And about what time was that?
14 A. About 1:00 a.m.
15 Q. What was the purpose of you going
16 back, why did you do that?
17 A. I had remembered some more information
18 that I thought was important, and I thought I would do a
19 supplement.

20 Q. Okay. Do a supplemental report?
21 A. Yes, sir.
22 Q. And did you, in fact, go back to the
23 police station and do that?
24 A. Yes, I did.
25 Q. Is it unusual to do a supplemental
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1 report?
2 A. No.
3 Q. Do you have a form that the Rowlett
4 Police Department uses that, in fact, says "supplemental
5 offense report"?
6 A. Yes, sir.
7 Q. And, did you then complete a
8 supplemental report that morning?
9 A. Yes, I did.
10

11 MR. GREG DAVIS: Okay. May I approach
12 the witness, your Honor?
13 THE COURT: You may.

14
15 BY MR. GREG DAVIS:
16 Q. Officer Waddell, I'm going to just ask
17 you, just for identification purposes, have I showed you
18 these pieces of paper, I believe there are actually six
19 pieces of paper prior to your testimony; is that correct?
20 A. Yes, sir.
21 Q. Just to verify that these are, in
22 fact, the reports that you prepared, both the offense
23 report and the supplemental offense report in this case;
24 is that right?
25 A. Yes, sir.
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1
2 MR. GREG DAVIS: Your Honor, at this
3 time we will tender the reports to Mr. Mulder, and we
4 will pass the witness for cross-examination.
5 THE COURT: All right. Ladies and
6 gentlemen, let's take a 10 minute break, please. Thank
7 you. Be back about 10:20.
8
9 (Whereupon, a short
10 Recess was taken,
11 After which time,
12 The proceedings were
13 Resumed on the record,

14 In the presence and
15 Hearing of the defendant
16 And the jury, as follows:)
17
18 THE COURT: All right. We are ready
19 to bring the jury in.
20
21 (Whereupon, the jury
22 Was returned to the
23 Courtroom, and the
24 Proceedings were
25 Resumed on the record,
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1 In open court, in the
2 Presence and hearing
3 Of the defendant,
4 As follows:)
5
6 THE COURT: All right. Be seated,
7 please. Let the record reflect that all parties in the
8 trial are present and the jury is seated.
9 Who will do the cross-examination?
10 MR. DOUGLAS MULDER: I will.
11 THE COURT: All right. Mr. Mulder.
12 Thank you. Go ahead.
13
14
15 CROSS EXAMINATION
16
17 BY MR. DOUGLAS MULDER:
18 Q. Officer Waddell, just a thing or two.
19 I believe you said that prior to this occasion, you had
20 participated in one homicide; is that right?
21 A. Yes, sir.
22 Q. All right. And that's in your four
23 and a half years, or four years and some change as a
24 police officer?
25 A. Yes, sir.
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1 Q. All right. Now, you told us that you
2 were in the church parking lot?
3 A. Yes, sir.
4 Q. And that was on Highway 66?
5 A. Yes, sir.
6 Q. A mile and nine-tenths from this
7 location; is that right?

8 A. Yes, sir.
9 Q. Okay. And what was your unit number
10 at that time?
11 A. 82.
12 Q. 82. And Sergeant Walling then would
13 have been 84 is that fair to say?
14 A. No, sir.
15 Q. Who was 84?
16 A. I believe that was Officer Moore. I'm
17 not for sure.
18 Q. All right. Was -- Sergeant Walling
19 was your sergeant at that time, was he not?
20 A. Yes, sir.
21 Q. All right. And he was on duty at that
22 time?
23 A. Yes.
24 Q. And, was -- responded to the same call
25 that you did, did he not?
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1 A. Yes.
2 Q. Okay. And, do you know where he was
3 at the time that he responded?
4 A. No.
5 Q. Okay. Could you tell us, tell the
6 jury, please, sir, where the 5000 block of Highway 66 is.
7 A. The 5000 block, I believe it's at
8 Liberty Grove and Highway 66, which was across the lake
9 from where I was.
10 Q. All right. Approximately how far
11 would that be in miles, if you know?
12 A. From the 5000 block to the house?
13 Q. Well, you said the church was on
14 Highway 66?
15 A. Yes, sir.
16 Q. Can you see 66 on this exhibit?
17 A. Yes.
18 Q. It's the red road right here, isn't
19 it?
20 A. Yes, sir.
21 Q. And where were you, could you tell us
22 just approximately?
23 A. Right in here on that -- just on that
24 side of the lake.
25 Q. Okay. And, about -- what is your best
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1 estimate as to how long you were there at the residence,
2 the Routier's residence before your sergeant got there?

3 A. Maybe five or six minutes.

4 Q. Okay. You -- just so that you and I

5 are on the same wave length here, you have testified
6 under oath, in a hearing prior to today, have you not?

7 A. Yes, sir.

8 Q. Okay. And is it not fair to say that

9 at that hearing you estimated the time as little as two
10 minutes?

11 A. Not that I recall, no.

12 Q. Okay. And would you like to have me

13 show that to you so that -- would that refresh your
14 memory, do you think?

15 A. Yes, sir.

16 Q. Now, if my memory serves me, I believe

17 you testified two, three or four minutes, but never five
18 or six; is that right?

19 A. I don't have -- I don't know what it
20 was. I would have to see it.

21 Q. Did you review that for your testimony
22 here today?

23 A. No, sir.

24 Q. You did not?

25 A. No, sir.

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1 Q. Why is that?

2 A. I just didn't read it.

3 Q. Your purpose in being here is to
4 testify as accurately as you can, isn't it?

5 A. Yes, sir.

6 Q. Okay. And be as truthful as you can?

7 A. Yes, sir.

8 Q. Okay. Do you recall being asked:

9 "You were there first. Walling
10 arrived in about three or four minutes; is that correct?"

11 To which you answered, "I guess. I'm
12 not sure how long it took him. I assumed it was two,
13 three or four minutes."

14 Does that sound about right?

15 A. Yes, sir.

16 Q. I don't want to split hairs with you,
17 but I want to -- but I have got to -- I have this for a
18 purpose. Okay?

19 A. Yes, sir.

20 Q. Do you recall how long it took you to
21 respond?

22 A. Two to three minutes.

23 Q. Okay. And, you were some 1.9 miles
24 away; is that right?

25 A. Yes, sir.

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1 Q. Okay. And, of course, you drove
2 quickly, I assume, in response to that emergency, did you
3 not?

4 A. Yes, sir.

5 Q. And I believe you said that you used
6 your emergency lights -- your emergency lights, did you
7 not?

8 A. Yes, sir.

9 Q. Okay. I wrote down -- you were asked
10 by the prosecutor how long you were there, and you
11 answered that, and you told him that you were posted, I
12 assume by Sergeant Walling, at the door to secure the
13 premises. Do you recall that?

14 A. Yes, sir.

15 Q. All right. And do you recall -- I
16 wrote it down when you -- the time that you said. You
17 said it was at 2:40 to 2:45 that you were posted?

18 A. That was an estimate, yes, sir.

19 Q. Yes, sir. Do you recall whether the
20 ambulance got there before Sergeant Walling got there or
21 after Sergeant Walling got there or at the same time that
22 Sergeant Walling got there?

23 A. I think it was the same time.

24 Q. Okay. So Walling arrived at the same
25 time as the ambulance?

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1 A. Yes, sir.

2 Q. Okay. And, Waddell's response time
3 was two to three minutes. Right?

4 A. Yes, sir.

5 Q. Okay. You have listened to the 911
6 tape in preparation for your testimony, have you not?

7 A. I have.

8 Q. Okay. And have you listened to it
9 more than once?

10 A. No.

11 Q. Just listened to it one time?

12 A. I believe just one time.

13 Q. Okay. And you've talked to the
14 prosecutors -- nothing wrong with that, but you've talked
15 to the prosecutors on a number of occasions, have you
16 not?

17 A. Yes, I have.

18 Q. Do you have any estimate as to how

19 many times you've gone over your testimony with them?

20 A. Maybe two.

21 Q. Maybe two times?

22 A. Two or three.

23 Q. Did you ever participate in a mock

24 trial with them?

25 A. We had a meeting, yes.

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1 Q. Okay. You call that a meeting?

2 A. Yes, sir.

3 Q. Where you got up on the witness stand

4 and everybody told their story?

5 A. Yes, sir.

6 Q. You did that?

7 A. Yes.

8 Q. How long ago was that?

9 A. Maybe three weeks ago, I'm not really

10 for sure.

11 Q. Okay. Did they critique you after

12 that? I mean, tell you how you did, and tell you where

13 you can improve, and things of that nature?

14 A. They told me I did all right.

15 Q. Okay. Nothing wrong with that.

16 At that time did you hear the 911

17 tape?

18 A. No.

19 Q. Okay. Did you hear other officers

20 testify?

21 A. I heard some, yes.

22 Q. Okay. So, you did your part in it,

23 and you did it in a -- did you do it in a courtroom or

24 up in the DA's office, or where did you do it?

25 A. It was up in the courtroom.

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1 Q. In a courtroom?

2 A. Yes, sir.

3 Q. Okay. It wasn't in the District

4 Attorney's office?

5 A. No.

6 Q. Okay. But you got on the witness

7 stand just like you are there?

8 A. Yes.

9 Q. And went through the same thing that

10 you've gone through for the folks here?

11 A. Yes.
12 Q. Kind of a dress rehearsal, I guess?
13 A. Yes.
14 Q. Okay. And, now, when you -- did you
15 talk to the prosecutor last night?
16 A. No.
17 Q. Did you talk to him this morning?
18 A. Yes, I did.
19 Q. Did you go over these photographs with
20 him this morning?
21 A. No.
22 Q. You didn't?
23 A. No.
24 Q. When did you go over these photographs
25 with the prosecutor?
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1 A. The last time I met with him, which I
2 don't remember what time that was, but it was within the
3 last week.
4 Q. All right. Waddell, I'll call this,
5 "secured residence at 2:40 to 2:45". Right?
6 A. That's probably pretty close.
7 Q. All right. And, part of your business
8 is knowing what time it is, and what time things are
9 going on; isn't that right?
10 A. At certain times it is. But it's not
11 my business to look at my watch all the time, no.
12 Q. But you wear a watch. That's one of
13 your requirements, isn't it?
14 A. No, sir, it's not a requirement.
15 Q. Then they say "Don't wear a watch"?
16 A. They don't tell me I have to wear a
17 watch.
18 Q. Okay. Do you know a police officer
19 that doesn't wear a watch?
20 A. I don't wear mine sometimes.
21 Q. Okay. Were you wearing it that night?
22 A. Yes.
23 Q. Okay. So, we can assume that these
24 times are reasonably accurate; is that right?
25 A. I didn't look at my watch to get these
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1 times, no.
2 Q. Okay. I guess when you got there to
3 the scene, Officer Waddell, it was something -- like, I
4 mean something like you had never seen before, and you

5 were understandably overcome by it, I would guess.
6 A. I wouldn't say I was overcome by it,
7 but it's not something that I had seen before though.
8 Q. All right. And, you've just seen one
9 single homicide prior to that, I guess?
10 A. Well, I've seen more, I've worked one.
11 Q. Okay. You walk in, and you --
12 incidentally, on the 911 tape, do you hear your voice?
13 A. I didn't hear it.
14 Q. Did you see where your -- did you see
15 a transcript of the 911 tape?
16 A. I saw portions of one, yes.
17 Q. Why is it you just saw portions?
18 A. I just saw portions of it.
19 Q. Any reason that you just saw a part of
20 it, as opposed to the whole thing?
21 A. No.
22 Q. Was the whole 911 tape available to
23 you?
24 A. I don't know how long the 911 tape is.
25 I listened to portions of it. I don't know if there was
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1 more to it or not.
2 Q. What were -- where were you when you
3 listened to portions of it?
4 A. In here.
5 Q. In where?
6 A. In this room.
7 Q. In this room?
8 A. Yes, sir.
9 Q. When was that?
10 A. Sunday.
11 Q. Okay. So you had a dress rehearsal up
12 in Dallas and another one down here?
13 A. No, sir.
14 Q. But you came in here and listened to
15 the 911 tape?
16 A. Yes, sir.
17 Q. Okay. Was -- who else was present at
18 that time?
19 A. Myself and Sergeant Walling and a
20 couple more police officers, and people with the Dallas
21 County DA's office.
22 Q. Okay. Who were the other police
23 officers who were there?
24 A. Sergeant Ward, Sergeant Walling, Steve
25 Ferrie, Steve Wade, and there's probably a couple more I

1 don't remember.

2 Q. Everybody that you were sworn in with
3 the other day, were they all here?

4 A. I believe so, yeah.

5 Q. Okay. And did you discuss your
6 testimony at that time?

7 A. We went over it, yes.

8 Q. Well, I mean, that's the whole purpose
9 in getting together, to kind of go over everybody's
10 testimony.

11 A. Yes.

12 Q. So you understood what Walling was
13 going to say, and Walling understood what you were going
14 to say, and Ward understood what Walling and Waddell were
15 going to say, and everybody just --

16 A. No, sir, that was not the reason.

17 Q. But that was all done in -- you were
18 present when --

19 A. I was in the same room, yes.

20 Q. Yes.

21 A. The reason for me to do it, was to go
22 over my testimony.

23 Q. You -- all right. Now, just so I'm
24 clear, you had gone over with it a number of times up in
25 Dallas, had you not?

1 A. A couple.

2 Q. Well, and you had a hearing where you
3 were under oath just like you are now. You appreciate
4 that, don't you?

5 A. Yes, sir.

6 Q. Okay. And then you had the dress
7 rehearsal up in Dallas. Right?

8 A. Yes, sir.

9 Q. And then you met down here. And did
10 you go over the entire 911 tape?

11 A. I don't know if I went over the whole
12 tape or not. We went over part of it. I don't know --

13 Q. Do you know about how long it was on?

14 A. No, sir.

15 Q. All right. Is it fair to say that
16 this -- and I'm going to get into this in a minute --
17 but, is it fair to say that the conversations that you
18 told us about in this room here with Darlie Routier, all
19 of those conversations occurred prior to Sergeant

20 Walling's arrival?

21 A. Yes.

22 Q. No question about that, is there?

23 A. Well, as far as I can recall

24 everything that me and her talked about was before he got

25 there.

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1 Q. Okay. No question about that, at

2 least where we stand right now, is that fair?

3 A. Yes, sir.

4 Q. Okay. Is that right, "all

5 conversations with Darlie prior to Walling's arrival"?

6 A. Yes, sir.

7 Q. Okay.

8

9 MR. DOUGLAS MULDER: When the time

10 comes, I'll offer that into evidence, Judge.

11 THE COURT: I understand.

12 Can all of the members of the jury see

13 that?

14 THE JUROR: Not really.

15 THE COURT: I don't think the last two

16 can see it.

17 MR. DOUGLAS MULDER: Well, I don't

18 think that there is anything important at the time on

19 that right now.

20

21 BY MR. DOUGLAS MULDER:

22 Q. Now, Officer Waddell, you said that

23 you're trained -- and you had a gun that night, didn't

24 you?

25 A. Yes, I did.

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1 Q. And you're trained as a member of the

2 SWAT team; is that right?

3 A. It's a special operation response

4 team.

5 Q. Okay. And you said they serve search

6 warrants and things of that nature?

7 A. Yes, sir.

8 Q. Okay. And you've also had other

9 training that you've told us about?

10 A. Yes, sir.

11 Q. And you told us that the three things

12 that a police officer does when he arrives at a situation

13 like that, the first thing he does is secure the scene?

14 A. You need to find out where the suspect
15 is first.
16 Q. Okay. Well, you know, I would
17 think -- and all I know about this is what I see on TV,
18 but what I would think --
19
20 MR. GREG DAVIS: I'm sorry, I'm going
21 to object to the -- I don't know what that is, sidebar.
22 MR. DOUGLAS MULDER: Well, it was a
23 question.
24 THE COURT: Gentlemen. All right.
25 Let's just ask straight questions and not discuss
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1 personal antidotes. Thank you.
2
3 BY MR. DOUGLAS MULDER:
4 Q. Well, I would think that the first
5 thing you would be concerned with would be to find out if
6 the suspect was present; is that right?
7 A. Yes, sir.
8 Q. Did you do that?
9 A. Yes, sir.
10 Q. Okay. That's the very first thing you
11 did when you walked in?
12 A. That's the first thing I asked, yes.
13 Q. All right. And that's the first thing
14 you asked of her?
15 A. Right.
16 Q. Okay. And, you said at the time, that
17 she was on the telephone?
18 A. Yes, sir.
19 Q. All right. Do you know to whom she
20 was speaking at that time?
21 A. Well, I assumed it was the 911
22 dispatchers.
23 Q. Well, now why would you assume that it
24 was the 911 dispatcher?
25 A. Because I knew that she called over
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1 911 to report the stabbing.
2 Q. Okay. Matter of fact, 911 is trained
3 to keep the caller on the phone until the police arrive,
4 aren't they?
5 A. I don't know. I've not been trained
6 to do that.
7 Q. Well, I understand you're not a 911

8 operator, but doesn't that make sense to you, and hasn't
9 that been your experience, that 911 keeps the caller on
10 the phone until the police arrive?

11 A. In most circumstances they do.

12 Q. Well, that's what they're trained to
13 do, aren't they?

14 A. I don't know if they're trained to do
15 that.

16 Q. Okay. All right. And another thing
17 that 911 is trained to do, is to tell the caller not to
18 touch the evidence, aren't they?

19 A. I don't know.

20 Q. Well, don't you, as a police officer,
21 tell people when you go in, "don't touch anything"?

22 A. I've been trained to do that.

23 Q. And why is that?

24 A. Because you need to preserve the crime
25 scene.

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1 Q. And it's because people naturally
2 touch things, don't they?

3 A. Yes, sir.

4 Q. All right. There's nothing difficult
5 about that. It's human nature. Cops do the same thing.

6 You've seen them do it, haven't you? They walk in, they
7 pick up the gun, or they pick up the knife, or they
8 pick up some of the evidence, don't they?

9 A. I've seen it.

10 Q. And that's why you even preserve it --
11 police officers do that, don't they?

12 A. I've seen it done.

13 Q. You've seen them pick it up, and then
14 they put it right back when they realize what they've
15 done?

16 A. I've seen that, yes, sir.

17 Q. That's not unusual, is it?

18 A. I've seen it a couple of times.

19 Q. All right. Now, the first thing you
20 asked her was, "where is the suspect"?

21 A. I tried to get a description of him --

22 Q. Where's the guy that did this? What
23 exactly did you say to her?

24 A. I asked her for a description of him
25 and who had done it.

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1 Q. All right. And she said, -- she
2 pointed and said, "He's in the garage"?
3 A. She said the guy was in the garage.
4 Q. All right. And, what did that mean to
5 you?
6 A. That meant he was in the garage.
7 Q. All right. Well, you had a gun with
8 you, didn't you?
9 A. Yes, I did.
10 Q. And I would think that after you find
11 out who he is and where he is, I would think that the
12 first thing you would do, once you found out where he
13 was -- and this is a relatively short space from here, I
14 suspect to the utility room door. It's no more than from
15 here to that door, is it?
16 A. It's probably pretty close.
17 Q. Okay. So we're not talking about a
18 huge room, are we?
19 A. No.
20 Q. I would think that the first thing
21 that you would do, is draw your gun, if you thought
22 somebody was -- a dangerous person was in the garage and
23 proceed to the garage to secure the area. I mean, you
24 don't want him to come out with a gun.
25 First of all, you didn't know how many
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1 people were in there, did you?
2 A. That's right.
3 Q. You didn't know whether there was one
4 assailant, or two assailants, or three assailants, did
5 you?
6 A. Well, she told me there was one.
7 Q. She told you she saw one?
8 A. Right.
9 Q. Does that always mean that there's
10 just one there?
11 A. No.
12 Q. All right. I would think you'd take
13 your gun out and hot-foot it in here to take a look and
14 make sure there isn't somebody there with a gun who's
15 going to come out and kill you and everybody else.
16 A. My gun was out. I didn't go into the
17 garage then.
18 Q. Why not?
19 A. I didn't need to. I didn't need to go
20 in the garage at the time. The garage door was closed
21 and I didn't know who was in there.
22 Q. Well, I mean, that's why you would go

23 into the garage, to find out who was in there.
24 A. Right. And if I go in there and he
25 kills me, then there's nobody to protect them.
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1 Q. So you thought you could -- you had
2 your gun out, and you were kind of covering the area from
3 back here, some 20 feet away, is that it?

4 A. After I went into the kitchen and
5 looked into the garage -- tried to look into the garage.

6 Q. Well, I mean, if the door -- the door
7 to the garage was closed, or the door to the utility room
8 was closed?

9 A. The utility room door was open, and
10 the door going into the garage was closed.

11 Q. Okay. And, did you walk along here,
12 along this island to get in there?

13 A. Yes.

14 Q. And there was some broken glass along
15 there, wasn't there?

16 A. Yes.

17 Q. Did you step in the glass?

18 A. No.

19 Q. How do you know you didn't step in the
20 glass?

21 A. I saw the glass on the floor and I
22 stepped over it.

23 Q. Okay. There were just a few pieces of
24 broken glass?

25 A. I remember seeing one wine glass that
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1 was broken. That's what I remember seeing.

2 Q. Okay. I mean, the glasses that I've
3 seen that break, don't just break into a couple of
4 pieces. Was there something unusual about this wine
5 glass?

6 A. No.

7 Q. I mean, did it break into many pieces,
8 or just a couple of pieces?

9 A. I remember seeing a broken glass. I
10 don't know how many pieces were on the floor.

11 Q. Okay. And you kind of tiptoed through
12 the --

13 A. No.

14 Q. You just walked straight through it?

15 A. I stepped over it.

16 Q. All right. Okay. And how far did you

17 proceed to where you could look and you could see that
18 the garage door was closed?

19 A. Probably to the end of that island in
20 the kitchen.

21 Q. Okay. Now, when you walked into the
22 room -- well, strike that. After you had looked and you
23 saw that the garage door was closed, you came on back,
24 did you?

25 A. Yes.

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1 Q. That couldn't have taken a great deal
2 of time, I suspect?

3 A. No.

4 Q. Okay. And, did you ever tell Darlie
5 to sit down?

6 A. Yes.

7 Q. Okay. And where was that in the
8 sequence of events, was that early on?

9 A. That was early on.

10 Q. Okay. So you told her -- you asked
11 her where the suspect was and then you told her to sit
12 down?

13 A. Right.

14 Q. All right. Did she sit down?

15 A. She did.

16 Q. Okay. All right. And was it from her
17 sitting down position that you questioned her?

18 A. Yes.

19 Q. Okay. And I take it that you -- Now,
20 speed is important in this type of situation, is it not?

21 A. Yes.

22 Q. So, you come in, and the first thing
23 you say to her is "Where's the suspect? Where's the guy
24 that did this?" Or words to that effect.

25 A. I asked her who had done it.

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1 Q. Okay. And she points to the garage
2 and says that he's in the garage?

3 A. Yes.

4 Q. And, at that time did you tell her,
5 "Well, tend to the kid"?

6 A. Yes.

7 Q. The child here?

8 A. Yes.

9 Q. You did?

10 A. Yes.

11 Q. All right. You had stepped over him
12 on the way in, had you not?
13 A. His feet.
14 Q. You had stepped over him. You hadn't
15 walked around him. You stepped over him, didn't you?
16 A. His feet, yes, sir.
17 Q. Yes, sir. Okay. And so you said,
18 "Tend to the child, and I'll look for the assailant"?
19 A. I told her to tend to the child, yes.
20 Q. Okay. And then you went to this area
21 right here. Right?
22 A. Right.
23 Q. And that couldn't have taken more than
24 that long, could it? I mean, basically.
25 A. It was pretty -- it didn't take very
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1 long.
2 Q. I mean, 5 seconds, 10 seconds outside?
3 A. Could have been.
4 Q. All right. And then you began to
5 question her about what happened?
6 A. I believe so.
7 Q. Did she stay in that seated position?
8 A. No. She stood up before I went into
9 the kitchen. She sat down for a second, then she stood
10 back up.
11 Q. Oh, now she stood right back up after
12 you -- you told her to sit down, and she sat down. And
13 then she sat (sic) right back up?
14 A. Yes.
15 Q. I mean stood right back up?
16 A. Stood right up.
17 Q. Okay. Well, did you -- well, why did
18 you tell her to sit down?
19 A. Because I saw the blood on the front
20 of her T-shirt. I didn't know if it was coming from her
21 or what. I know the more she moves around, the more
22 blood she loses.
23 Q. That's an absolute fact, isn't it?
24 The more you move, the more you will bleed; isn't that
25 right?
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1 A. That's what I thought.
2 Q. And that's why a lot of times they'll
3 tell someone who's been injured, who's been cut or shot,
4 or whatever, to sit down, or lay down, and then it slows

5 down the bleeding, doesn't it?

6 A. Yes.

7 Q. You are trained in first aid, aren't
8 you?

9 A. Yes.

10 Q. Okay. You could have administered
11 help to this child, couldn't you?

12 A. Not under those circumstances.

13 Q. Okay. Just out of curiosity, what

14 would you have done for him, if you had been able to make
15 it to the garage door, and say not just look at it -- but
16 do you know whether this door was locked or not?

17 A. I didn't know at the time.

18 Q. Do you know whether it had a lock on
19 it?

20 A. I believe it did.

21 Q. Anything to prevent you, from going in
22 there, if in fact you're going to take this tact, that
23 you're going to retreat behind the lines until help
24 arrives. Anything to prevent you from locking that door?

25 A. Me, from locking it?

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1 Q. Yeah.

2 A. I don't know. I didn't attempt to do
3 that.

4 Q. Well, I mean, any reason you didn't?

5 I mean, you just didn't think of it.

6 A. Well, no, I didn't want to do that.

7 Q. Oh, you thought of it and didn't want
8 to -- decided not to.

9 A. No, I didn't think of it. That's just
10 not something that went through my mind, to go lock the
11 door.

12 Q. Well, you didn't want to stick your
13 nose out in the garage because you thought somebody with
14 a knife or gun might be there. Right?

15 A. I didn't want to go barging in the
16 garage. Right.

17 Q. Okay. But you didn't think the lock
18 would secure the -- if your point was, I guess, maybe I'm
19 missing the point. But if the idea is to secure the
20 scene, and you don't want to go into the garage until
21 help arrives, why not just lock the garage door?

22 A. I just didn't want to go that far away
23 from them.

24 Q. Oh, you didn't want to leave them.

25 What were you doing for them?

1 A. Well, I didn't know if the guy was in
2 the garage for sure or not. I knew he was still in the
3 house. She thought he was in the garage.
4 Q. Well, you thought you might have to
5 cover the living room, the entry and the dining room and
6 the nook. Is that what you're saying?
7 A. He could have been anywhere.
8 Q. I know. But these places were, I
9 mean, you could just turn around, turn your head and
10 search this area, couldn't you?
11 A. I could see the kitchen, yeah.
12 Q. You could see there wasn't anybody in
13 the kitchen except you, couldn't you?
14 A. Right.
15 Q. But, I mean, like I said, if your
16 point was to secure the garage, or secure yourself from
17 the garage, why not just lock the door and go back and
18 start helping everybody?
19 A. I just didn't do it.
20 Q. Okay. All right. But -- so it's your
21 story, Officer Waddell, that the first thing -- you saw
22 Darlie and asked where the assailant was, and you checked
23 to see if the garage door was closed, and then you went
24 back and began questioning her?
25 A. I didn't go back and question her. I
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1 told her to help her boy.
2 Q. You told her to help her boy, and your
3 story is she didn't?
4 A. Right.
5 Q. And you didn't?
6 A. Right.
7 Q. And, Darin had his hands full with the
8 other child?
9 A. Right.
10 Q. Is that right?
11 A. Yes, sir.
12 Q. Okay. So what did you do then?
13 A. She began to tell me how she got into
14 a fight with him at the end of the bar.
15 Q. Okay. And, is she still on the phone?
16 A. I'm not sure at what point when she
17 put the phone down. I don't know if she was or not.
18 Q. Okay. But is this fair to say that
19 this would have been within 30 seconds of the time that

20 you entered?
21 A. It's probably close.
22 Q. Close?
23 A. Yes.
24 Q. Let's say within 30 seconds of
25 Waddell's entry, he begins to -- do we say question or do
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1 we say -- let's just say obtain information regarding
2 call. Is that fair to say?
3 A. I believe I said that she began to
4 tell me about the assault.
5 Q. Well, doesn't that -- all right.
6 "Darlie began telling of assault."
7 Again, all conversations with Darlie
8 are prior to Walling's arrival?
9 A. Yes, sir.
10 Q. Okay. Waddell doesn't know if Darlie
11 is still on phone. Fair enough?
12 A. Yes, sir.
13 Q. Okay. So, are you taking notes?
14 A. At this time?
15 Q. Um-hum (Counsel nodding head
16 affirmatively.)
17 A. No.
18 Q. Not taking any notes?
19 A. No.
20 Q. Don't you carry a whip-out book?
21 A. Yes.
22 Q. Did you have your -- tell the jury
23 what you -- do you have a whip-out book with you?
24 A. I do.
25 Q. Would you show them what a whip-out
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1 book is?
2 A. A whip-out book is just a little --
3 Q. Can you show them? Take it out of
4 your pocket and show them?
5 A. No.
6 Q. Oh, you don't have it.
7 A. I have a whip-out book, but it's --
8 Q. You left it in the car?
9 A. Well, no, I have it with me.
10 Q. With you right there?
11 A. Yes, sir.
12 Q. Well, just show them.
13 A. Well, it's a small little --

14 Q. Is there some reason you don't want to
15 show them your whip-out book?
16 A. Well, there's nothing in my whip-out
17 book that needs -- it's irrelevant to this case.
18 Q. Well, I'm not going to ask you to read
19 it to them, I just asked -- is there some reason you
20 don't want to show them that it's just a little spiral
21 book, isn't it?
22 A. Well, that's another thing we were
23 taught too also, is just --
24 Q. Never show anybody your whip-out book?
25 A. No. Never show a defense attorney.
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1 Q. Okay. I'll tell you, I won't look, if
2 you'll just show the jury what a whip-out book is.
3 A. A small --
4 Q. No, no, just take yours out and show
5 it to them, Officer Waddell, and I won't look.
6 A. Okay. (Witness complies.)
7 Q. Now, you had that book with you --
8 that wasn't so hard, was it?
9 A. I had a book with me, yes, sir.
10 Q. All right. Not that one?
11 A. Right.
12 Q. Right. But now, you're talking to
13 her, and she's giving you information of the assault.
14 A. Right.
15 Q. And you don't take any notes?
16 A. Not at the time. I've got my gun in
17 one hand. And, I'm trying to talk on the police radio
18 too and call for help.
19 Q. Oh, now you've got a radio in the
20 other hand?
21 A. Off and on. I've got it in a
22 holder --
23 Q. Okay.
24 A. -- and every once in a while I have to
25 pick it up and tell them --
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1 Q. Send reinforcements?
2 A. I called for -- I told them we needed
3 an ambulance, and we needed crime scene personnel, and
4 that I needed some more help out here.
5 Q. All right. Okay. So you made that
6 call. And as a matter of fact, the first notes that you
7 made, were when you got back to the station, weren't

8 they?
9 A. Well --
10 Q. Is that fair to say?
11 A. I believe --
12 Q. That's fair to say, isn't it?
13 A. No, I believe I made some before then.
14 Q. Oh, you believe you did?
15 A. Yes, sir.
16 Q. Is that a kind of a definite, maybe?
17 A. Well, I did make some before then.
18 Q. Oh, you did make some notes. Do you
19 still have those notes?
20 A. I don't have them, no.
21 Q. Okay. Do you know where they are?
22 A. No, sir, I don't.
23 Q. Don't know where they are?
24 A. No, sir.
25 Q. Did you make those notes in one of
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1 these whip-out books?
2 A. Yes.
3 Q. But not that one?
4 A. Not this one.
5 Q. So you've lost the notes?
6 A. No, I just don't know where they
7 are -- I don't have them with me. I believe a copy was
8 given to Sergeant Walling.
9 Q. Okay. So, what we're relying on now,
10 is what you can retrieve, I take it, from the halls of
11 your memory?
12 A. Yes.
13 Q. Okay. And you're telling us now, that
14 within 30 seconds of Waddell's entry, he -- Darlie, began
15 telling of the assault. And, I need to add in here,
16 Waddell looked at garage door, but didn't think to check
17 if it was locked? Was that your --
18 A. I didn't check it, no.
19 Q. You said you didn't think to check?
20 A. Yeah.
21 Q. Okay. Turned out it wasn't locked,
22 was it?
23 A. I'm sorry?
24 Q. It was not locked, was it?
25 A. I don't think it was.
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1 Q. You know it wasn't, don't you?
2 A. I didn't open it. I don't know if it
3 was locked or not.
4 Q. Well, weren't you with Sergeant
5 Walling when he opened it?
6 A. I was behind him, yes.
7 Q. Well, I mean, couldn't you tell
8 whether it was locked or not when he opened it?
9 A. I don't know what type of lock was
10 even on it. If it had a push-button lock, then it
11 opened, and it unlocked when you turned the knob. I
12 don't know what kind it had on it.
13 Q. Okay. Did you see blood on the door
14 to the garage?
15 A. I didn't see any.
16 Q. All right. Are you saying there was
17 no blood?
18 A. No, I'm saying I didn't see any.
19 Q. Okay. A well-trained eye like yours
20 would have seen blood had it been on the door, wouldn't
21 you? Isn't that fair to say?
22 A. Not necessarily.
23 Q. Okay. You're not trained to look for
24 blood?
25 A. At that time I'm looking for a
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1 suspect.
2 Q. All right. Did you see any blood in
3 the utility room?
4 A. I don't recall seeing any.
5 Q. All right. Now, you talked with --
6 you talked with Darlie, and got the information that
7 you've told the prosecutor about; is that right?
8 A. Yes.
9 Q. And didn't enter it into your notes at
10 that time? I'm not fussing with you, I'm just -- is that
11 right?
12
13 MR. GREG DAVIS: I'm sorry, I'm going
14 to object to all these sidebars, about him not fussing,
15 or whatever he's doing.
16 THE COURT: I think he's just
17 commenting.
18 MR. DOUGLAS MULDER: I'm just
19 trying to coax an answer from him. I'm just -- I'm
20 just --
21 THE COURT: I understand.
22 MR. GREG DAVIS: Just ask the

23 questions and let him give the answers.
24 THE COURT: Gentlemen, please, let's
25 stop the bickering back and forth. Just ask the
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1 questions. I think Mr. Mulder was just asking a
2 question. Let's go on.

3 MR. DOUGLAS MULDER: I asked the
4 question, would you ask him to answer?

5 THE WITNESS: What's your question?

6 THE COURT: Re-ask the question.

7

8 BY MR. DOUGLAS MULDER:

9 Q. I said: At this time you didn't make
10 any notes in your book, at the time then, and you
11 explained that you had your hands full with a radio in
12 one hand, calling for help from time to time, and you had
13 your gun out in the other hand, in case the assailant
14 came from the garage?

15 A. Right.

16 Q. Okay. So you didn't make any notes at
17 that time, did you?

18 A. No.

19 Q. Okay. And, how long did you continue
20 to question her there, for a long time, or a short time
21 or --

22 A. The only questions I asked her was if
23 she had a description of the suspect and who would have
24 done it.

25 Q. And that's all you asked her, fair
Sandra M. Halsey, CSR, Official Court Reporter
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1 enough?

2 A. All that I can remember right now
3 asking her.

4 Q. But we don't know where the book is
5 and we're relying on your memory, aren't we?

6 A. Yes.

7 Q. All right. Matter of fact, she told
8 you she didn't know whether the suspect was white or
9 black, didn't she?

10 A. Yes. At one point she did.

11 Q. Okay. Now, did you talk to her, or
12 question Darin Routier at that time?

13 A. No. I asked him if he knew who would
14 have done something like that.

15 Q. Okay. And how long did you talk to
16 him?

17 A. I just asked him that question from
18 across the room and that was about it.
19 Q. When you put up your -- well, what
20 would you have done for that child at that time?
21 A. The only thing I know to do would have
22 been to apply pressure on his wounds to try to stop the
23 bleeding.
24 Q. Okay. And how would you have done
25 that?
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1 A. With a towel or something.
2 Q. With a towel. And it's your story
3 here today that you asked her to get a rag; is that
4 right?
5 A. Yes.
6 Q. A rag or a towel?
7 A. I think I asked her to get a towel.
8 Q. You think you asked her to get a
9 towel. Okay. And she didn't do it?
10 A. No.
11 Q. Okay. Walling got there about that
12 time?
13 A. Pretty close.
14 Q. Was she standing up or sitting down
15 when Walling arrived?
16 A. I believe she was standing up.
17 Q. Okay. And then you told her to sit
18 down again?
19 A. Yes.
20 Q. Okay. When she stood up, did you tell
21 her to sit back down?
22 A. I believe I did.
23 Q. Okay. So, you -- it's your story -- I
24 want to make sure I get this straight now. It's your
25 story that she was standing here, you told her to sit
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1 down. She was standing in this area, you told her to sit
2 down and she sat down, and you ran up here and back.
3 Right?
4 A. I didn't run up there.
5 Q. Did you --
6 A. I walked up there.
7 Q. Well, all right.
8 A. I walked.
9 Q. Slow or fast or?
10 A. Well, I didn't walk real fast because

11 I was trying to look as I went.
12 Q. Okay. But it was a well-lit area
13 though, wasn't it?
14 A. Right.
15 Q. I mean, you were trying to avoid the
16 glass as you went?
17 A. I saw the glass as I was looking. I
18 didn't know if there was anybody hiding on the other side
19 of the island. I was looking for a suspect anywhere.
20 Q. Okay. And, you didn't see anything --
21 you were asked, I think if you saw -- let me see, were
22 you asked if you saw anything in here that would have
23 impeded your walk between this den area and the sink?
24 Were you asked that?
25 A. Today, I don't think so.
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1 Q. No, at one point.
2 A. At one point I was.
3 Q. And you said there was nothing that
4 would have impeded your walk there?
5 A. No, that's not what I said.
6 Q. Okay. Let me see if I can find out
7 what you said.
8 You were asked if there were any --
9 you've seen the photographs since then, haven't you? In
10 your preparation, you've seen a vacuum cleaner on the
11 floor, haven't you?
12 A. Yes.
13 Q. Now, were you asked were there any
14 large objects lying on the floor, and did you answer, "I
15 didn't see any --" talking about the kitchen?
16 A. Yes.
17 Q. Did you answer that?
18 A. That sounds right, yes.
19 Q. Okay. Nothing you could trip over if
20 you were walking to the sink and you said you didn't see
21 any; is that right?
22 A. Well, I didn't see anything.
23 Q. All right. So, you didn't see any
24 vacuum cleaner at that time. You didn't see any vacuum
25 cleaner at the time you're talking about now, in this
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1 area, did you?
2 A. No.
3 Q. Okay. Now, like you just told the
4 jury, you were concerned with the other side of the

5 island there. This is the island you're talking about?

6 A. Yes, sir.

7 Q. That somebody might have been there.

8 And it could have, perhaps, endangered your life or the
9 lives of the people there. Right?

10 A. Yes, sir.

11 Q. Okay. Is that fair? I tried to write
12 down exactly what you said.

13 A. I can't read all of it.

14 Q. Okay.

15 A. Is that "Did not see"?

16 Q. Um-hum. (Counsel nodding head
17 affirmatively). That's "D" and "N." I'm sorry.

18 A. Yes, sir.

19 Q. Okay. Did you go into the bathroom?

20 A. At one point I did.

21 Q. Okay. What was your purpose in going
22 in there?

23 A. That's when we were checking the
24 house.

25 Q. Okay. And you wanted to check and see
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1 if anybody was in there?

2 A. Yes.

3 Q. Did you examine the bathroom sink?

4 A. I didn't, no.

5 Q. Did you just eyeball it just to see if
6 anybody had run any water in it, or anything like that?

7 A. I just scanned over the bathroom.

8 Q. Did you look at the sink or not?

9 A. I didn't pay any particular attention
10 to the sink, no.

11 Q. Okay. All right. Now, Officer
12 Waddell, was Sergeant Walling there when you had a
13 conversation with Darin about the nurse across the
14 street?

15 A. No.

16 Q. That was before Sergeant Walling had
17 arrived?

18 A. Yes.

19 Q. But Darin was there in the den, or in
20 this room with you and Darlie, when Sergeant Walling
21 arrived, was he?

22 A. I think he was.

23 Q. At any rate, the conversation that you
24 had with Darin, was it in the family room when you asked
25 about help?

- 1 A. I don't recall where we were. I just
- 2 remember him saying that a nurse lived across the street.
- 3 Q. Yeah, but it was chaotic, wasn't it?
- 4 I mean, it is fair to say?
- 5 A. Somewhat.
- 6 Q. Not somewhat. It was chaotic, wasn't
- 7 it?
- 8 A. Well, what do you mean by chaotic?
- 9 Q. Well, I mean, you had a woman who was
- 10 hysterical, wasn't she?
- 11 A. She was upset.
- 12 Q. Was she just mildly upset?
- 13 A. She was screaming and yelling.
- 14 Q. Oh, okay. You had described her as
- 15 hysterical. Do you still stick with that description?
- 16 A. My description of hysterical is I
- 17 believe she was screaming and yelling.
- 18 Q. Okay. So, I mean, things were not
- 19 calm, like in this courtroom?
- 20 A. No.
- 21 Q. All right. And, she's yelling at you,
- 22 to help the child, is she not?
- 23 A. No.
- 24 Q. Okay. Did Darin tell you to help the
- 25 child?

- 1 A. Darin was yelling a lot stuff at me.
- 2 He was yelling for me to get help.
- 3 Q. All right. And were you -- in all
- 4 fairness, were you not overwhelmed by the situation and
- 5 just kind of stood there?
- 6 A. No.
- 7 Q. In all fairness?
- 8 A. No.
- 9 Q. But you did nothing to help that
- 10 child?
- 11 A. No.
- 12 Q. All right. And you -- now, for that
- 13 period of time that you asked those questions of Darlie,
- 14 was Darin attempting to help the child, the child that
- 15 y'all have referred to as the second child?
- 16 A. Yes.
- 17 Q. For that entire time?
- 18 A. Yes.
- 19 Q. And in the meantime he's yelling at

20 you to get help?

21 A. Yes.

22 Q. Did he tell you, "Don't just stand

23 there, get some help"?

24 A. I don't remember him saying that.

25 Q. Well, tell the jury what he was

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1 saying.

2 A. He was yelling at me to get some help

3 and get someone out there.

4 Q. Well, did he yell at you? How loud

5 was he speaking?

6 A. He was yelling at me.

7 Q. He was excited, wasn't he?

8 A. Yes.

9 Q. How was he dressed?

10 A. Blue jeans, no shirt, no shoes.

11 Q. All right. Barefooted, no shirt and a

12 pair of jeans on?

13 A. Right.

14 Q. Well, how many times did he yell at

15 you to get help?

16 A. I don't know. I don't remember.

17 Q. Did he appear to be excited?

18 A. He appeared to be, yes.

19 Q. Now, were you excited?

20 A. I wasn't excited. I don't know what

21 you mean by "was I excited."

22 Q. Well, was your heart beating fast?

23 Were you nervous? Were you scared?

24 A. Yes.

25 Q. Okay. Now, once Officer Walling

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1 arrived, you told him briefly what happened, didn't you?

2 A. Yes.

3 Q. He didn't question Darlie, did he?

4 A. No.

5 Q. And, he didn't question Darin, did he?

6 A. No.

7 Q. Okay. So, Walling just talked to you;

8 is that right?

9 A. When he first came in, yes.

10 Q. Well, you never did see him talk to

11 Darin or Darlie, did you?

12 A. I saw him talk to Darin.

13 Q. All right. How long?

14 A. I don't know. It was out in the front
15 yard.

16 Q. Okay. Could you hear what was being
17 said?

18 A. No.

19 Q. Okay. "Walling came in, talked only
20 to Waddell. Didn't talk to Darlie or Darin. Later
21 talked to Darin in front yard. Waddell couldn't hear."
22 Is that fair?

23 A. Well, are you saying that, or
24 suggesting that Walling didn't talk to the defendant at
25 all? No, he talked to her at one time out there. I
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1 don't know when.

2 Q. All right. When did he -- when
3 Walling came in -- let me make that when Walling first
4 came in. All right?

5 A. All right.

6 Q. And, the only time that he talked to
7 Darlie, to your knowledge, was when?

8 A. I know he talked to her when she was
9 on the front porch.

10 Q. All right. Could you hear what was
11 being said?

12 A. No.

13 Q. "Waddell couldn't hear what was being
14 said." Okay. Fair enough?

15 A. Yes.

16 Q. All right. And that's the only time
17 you saw him talk to Darlie. Right?

18 A. That's the only time I saw him.

19 Q. Okay. Now, Waddell (sic) came in and
20 the two of you -- now by that time you've been there two
21 or three, or at the maximum of four minutes; is that
22 right?

23 A. It could have been five or six. It
24 was a short period of time.

25 Q. Closer back to the time when this
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1 happened, you said it was two or three minutes. Is there
2 any reason that your memory has --

3 A. It took me two to three minutes to get
4 there.

5 Q. I understand that. And then it
6 took -- you were there for a couple or three minutes
7 before Walling got there; is that right?

8 A. There were several minutes. I didn't
9 have a stopwatch to look and see.

10 Q. I understand. Now, while Darlie was
11 on the phone, was she able to stop and contain herself
12 and talk with you?

13 A. She talked to me, yes.

14 Q. Okay. While she was on the phone?

15 A. Yes.

16 Q. Okay. So, we should hear then, and we
17 will hear conversations where she's directing herself to,
18 as you rightly assume, the 911 operator, and talking to
19 you as well?

20 A. Yes.

21 Q. And Darin's talking to you, and you're
22 talking to her, and the dispatcher is talking to
23 somebody; isn't that right?

24 A. Yes.

25 Q. Okay. Are you talking to the
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1 dispatcher as well?

2 A. Over my radio, yes.

3 Q. All right. So, you've got -- you know
4 that she has at least two conversations going. Right?

5 A. Right.

6 Q. And you've got -- and you're talking
7 to the dispatcher on the radio, or dispatcher -- you got
8 the gun in your hand, dispatcher on the radio like this,
9 or like this. (demonstrating) You've got your radio on
10 your left side?

11 A. Yes, sir.

12 Q. Okay. You're talking to the
13 dispatcher, and you're talking to Darlie and you're
14 talking to Darin. Right? The dispatcher -- is that
15 right?

16 A. Yes.

17 Q. Okay. The 911 operator is talking to
18 Darlie, who is also talking to you. Right?

19 A. Right.

20 Q. Did you hear that on the 911 tape?

21 A. I heard some of it, yes.

22 Q. Okay. And does it stand to reason, to
23 you, that if the 911 tape catches her, her -- well, let
24 me back up a minute. You're comfortable with this,
25 aren't you?

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1 A. Yes.
2 Q. And, when you listen to the 911 tape,
3 do you hear Darlie answering your questions?
4 A. Yes.
5 Q. Okay. And do you hear her also
6 respond to the 911 operator?
7 A. I hear her telling me about the knife.
8 Q. Okay. Does she volunteer information
9 about picking up the knife?
10 A. Yes.
11 Q. Okay. Is it in response to anyone's
12 question or direction?
13 A. No.
14 Q. Okay. Let me read something to you.
15 And see if you recall this:
16 Officer Waddell, was it pretty much
17 your assessment after you had been there for a moment or
18 so, that the youngster that Darin was attempting to help
19 was beyond help?
20 A. Yes.
21 Q. And that the other little boy, in all
22 likelihood, was beyond help as well?
23 A. It appeared that way.
24 Q. Okay. You don't know what they had
25 done prior to the time that you got there, do you?
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1 A. No.
2 Q. You don't know whether they had
3 attempted to administer mouth-to-mouth resuscitation or
4 CPR on the kids, do you?
5 A. Not before I got there, no.
6 Q. Okay. As a parent yourself, this
7 would be a traumatic event for a parent, wouldn't it?
8 A. Yes.
9 Q. And people handle tragedy in different
10 fashions, don't they? You know that as a police officer,
11 don't you?
12 A. Yes.
13 Q. Okay. Now, were you there, and did
14 you hear on the phone: "Hold on, baby, hold on, baby,
15 hold on." And the 911 operator saying, "Calm down. Talk
16 to me."
17 "I'm talking to my babies, they're
18 dying."
19 Did you hear anything like that?
20 A. I recall hearing something.
21 Q. "Hold on, honey. Hold on, hold on,
22 hold on."

23 A. She could have said that, yes.
24 Q. Well, she did express some concern
25 then, apparently?
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1 A. Right.
2 Q. Okay. "Stabbed my babies. My babies
3 are dying. They're dead. Oh my God. Oh my God."
4 "Okay. Stay on the phone with me."
5 Did you hear that?
6 A. I heard her say that, yes.
7 Q. Well, did you -- when they played the
8 911 tape for you, did they -- did you hear the 911
9 operator say, "Stay on the phone with me"?
10 A. I don't doubt that she said it. I
11 don't recall hearing it.
12 Q. Well, that's what they're trained to
13 do -- well, you don't know what their training is?
14 A. Right.
15 Q. Okay. "Devin, no, oh my God. Oh my
16 God."
17 Did you hear her say, "I'm scared all
18 right. Y'all look out in the garage. Look out" -- she
19 said "y'all." Were there two of you there?
20 A. No, sir.
21 Q. But she's not saying you. She's
22 saying, "Y'all look out in the garage"?
23 A. Myself and Darin were in the living
24 room.
25 Q. Okay. "Y'all look out in the garage.
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1 Look out in the garage. They left a knife laying on
2 the --"
3 And the 911 operator says, "There's a
4 knife? Don't touch anything."
5 Did you hear that?
6 A. I didn't hear that.
7 Q. And she says, "I've already touched it
8 and picked it up."
9 Well, that sounds like it's in
10 response to the 911 operator, who tells her, "Don't touch
11 anything."
12 And she says, "I already touched the
13 knife. I picked it up."
14 A. I don't know what she told her.
15 Q. I mean, does that make sense to you?
16 A. That she touched it, or does what make

17 sense?

18 Q. Well, we've already agreed that it's

19 human nature for people to touch evidence at the scene,
20 isn't it?

21 A. Right.

22 Q. And that's why the 911 officer --

23 that's why police officers tell them, "Don't touch
24 anything."

25 A. Yes.

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1 Q. Isn't that what you tell people?

2 A. Yes.

3 Q. You even put up plastic banners around
4 there, tape around there, don't you?

5 A. Yes, sir.

6 Q. Yellow tape that says "crime scene"?

7 A. Yes, sir.

8 Q. "Don't enter."

9 A. Yes, sir.

10 Q. Well, but you heard her tell you on
11 here, the knife -- you asked her something about the
12 knife. She says, "The knife was laying over there, I
13 already picked it up."

14 A. I didn't --

15 Q. She tells you that?

16 A. I didn't ask her about the knife.

17 Q. Did you see the knife there?

18 A. I saw the knife.

19 Q. Did you point to the knife there?

20 A. I didn't point to it, I saw it.

21 Q. Are you sure you didn't point to that
22 knife or ask her about that knife?

23 A. I'm sure.

24 Q. But now -- now, did you -- are you

25 telling me that you did or did not hear your voice on the
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1 911 tape?

2 A. I did not hear my voice on the 911
3 tape.

4 Q. You couldn't distinguish your voice on
5 the 911 tape?

6 A. I couldn't, no.

7 Q. Did you try to?

8 A. I tried.

9 Q. And that's why you listened to it?

10 A. Yes.

11 Q. You know, often times, has it been
12 your experience that often times, perhaps, the person
13 talking isn't the best one to recognize their voice?
14 A. Say that again.
15 Q. Well, you know, a lot of times, you
16 know, when you hear yourself on a tape recording you say,
17 "That's not me." Have you done that?
18 A. Yes.
19 Q. And you're just playing it back and
20 you say, "that doesn't sound like me." I mean, a lot of
21 times we don't know what we sound like, do we?
22 A. Yes.
23 Q. And at times we probably aren't the
24 best ones to judge whether or not that's our voice, in
25 fact, are we?
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1 A. Right.
2
3 MR. DOUGLAS MULDER: Judge, do you
4 want to recess at 11:30? I'm not finished here yet, and
5 I don't want to --
6 THE COURT: Well, can I see both sides
7 a minute, please. If Mr. Mosty and Mr. Douglas will come
8 up.
9
10 (Whereupon, a short
11 discussion was held off
12 the record, at the side
13 of the bench, and
14 outside the hearing of
15 the jury, after which
16 time the proceedings
17 were resumed on the
18 record as follows:)
19
20 MR. DOUGLAS MULDER: I want to mark
21 this and offer it into evidence.
22
23 (Whereupon, the
24 exhibits were
25 marked for
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1 identification
2 only, as Defense
3 exhibit Nos.
4 13-A and 13-B.)

5

6 THE COURT: That will be fine.

7 MR. DOUGLAS MULDER: And I'll call

8 this Defense Exhibit No. 13.

9 THE COURT: It's 13-A and B.

10 Any objection?

11 MR. GREG DAVIS: No objection.

12 THE COURT: All right. Defense

13 Exhibit No. 13-A and 13-B are admitted.

14

15 (Whereupon, the items

16 Heretofore mentioned

17 Were received in evidence

18 As Defense Exhibit No. 13-A

19 and 13-B for all purposes,

20 After which time, the

21 Proceedings were resumed

22 As follows:)

23

24 THE COURT: All right. Well, let's

25 just go on till noon and see where we are. Discuss it

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1 among yourselves.

2

3 (Whereupon, a short

4 discussion was held off

5 the record, at the side

6 of the bench, and

7 outside the hearing of

8 the jury, after which

9 time the proceedings

10 were resumed on the

11 record as follows:)

12

13 THE COURT: All right. Ladies and

14 gentlemen, we are going to recess till 1:15 for lunch.

15 If you'll be back then.

16 Please don't discuss your testimony

17 with anybody while you are out there.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. See you then.

20 All right. If all members of the

21 spectators, if you will remain seated, please, while the

22 jury leaves. Thank you.

23

24 (Whereupon, a short

25 Recess was taken,

1 After which time,
2 The proceedings were
3 Resumed on the record,
4 In the presence and
5 Hearing of the defendant
6 And the jury, as follows:
7
8 THE COURT: Are both sides ready to
9 bring the jury back in and resume the trial?
10 MR. GREG DAVIS: The State is ready,
11 Judge.
12 MR. DOUGLAS MULDER: Yes, sir, Judge,
13 I think we are ready now.
14 THE COURT: All right. Bring the jury
15 in, please.
16
17 (Whereupon, the jury
18 was returned to the
19 courtroom, and the
20 proceedings were
21 resumed on the record,
22 in open court, in the
23 presence and hearing
24 of the defendant,
25 as follows:)
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1
2 THE COURT: Good afternoon, ladies and
3 gentlemen. Be seated, please. Let the record reflect
4 that all parties of the trial are present and the jury is
5 seated.
6 All right. Mr. Mulder, you may
7 resume.
8 MR. DOUGLAS MULDER: Yes, sir.
9 THE COURT: And, Mr. Mulder, the
10 jurors have asked that you turn the easel, because the
11 last four can't see it unless it's turned towards them,
12 if you would do so, please.
13 MR. DOUGLAS MULDER: Is that all
14 right?
15 THE JURORS: Yes.
16 MR. DOUGLAS MULDER: All right.
17
18
19 CROSS EXAMINATION (Resumed)

20

21 BY MR. DOUGLAS MULDER:

22 Q. Do you understand, Officer Waddell,

23 that you're still under oath?

24 A. Yes, sir.

25 Q. Incidentally, have you talked with the
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1 prosecutors since we recessed?

2 A. I talked to them, yes.

3 Q. You talked to them?

4 A. Yes, sir.

5 Q. Did you talk to them about the case?

6 A. No.

7 Q. You just talked to them?

8 A. Yes, sir.

9 Q. Did you talk to any of their
10 investigators?

11 A. No, sir.

12 Q. Okay. You just kind of passed the
13 time of day with them?

14 A. Yes, sir.

15 Q. All right. About how long did that
16 take?

17 A. A minute or so.

18 Q. Okay. Now, I believe you said when
19 you and -- I mean, was there any reason for you to talk
20 to them after you testified here?

21 A. No, sir.

22 Q. Did they critique your performance or
23 anything?

24 A. They told me I did good.

25 Q. I thought you didn't talk about case.
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1 A. Well, that wasn't about the case, they
2 just told me -- made a comment.

3 Q. Okay. Well, at any rate, we want you
4 back in the same frame of mind as you were before the
5 recess.

6 Now, when your sergeant got there,
7 when Sergeant Walling got there, y'all went back into the
8 utility room, didn't you?

9 A. Yes, sir.

10 Q. And you were -- did you think the
11 assailant might still be back there?

12 A. I thought he could be, yes.

13 Q. It had only been a couple of minutes.

14 A. Yes.

15 Q. All right. So, you thought that he

16 still might be cornered back there in the garage; is that
17 right?

18 A. I thought he could have been, yes.

19 Q. Okay. So, I guess you had your guns

20 drawn?

21 A. Yes, sir.

22 Q. And the two of you went back through

23 the utility room?

24 A. Yes, sir.

25 Q. Is that right?

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1 A. Yes, sir.

2 Q. Into the garage?

3 A. I didn't go all the way into the

4 garage, no. Sergeant Walling did.

5 Q. You just -- you covered the door to

6 make sure you weren't attacked from back here?

7 A. No, when he opened up the garage door,

8 he went to the left and I looked to the right.

9 Q. You went in here to the right?

10 A. I looked in there from the doorway.

11 Q. Oh, you just looked in?

12 A. I just looked in. Sergeant Walling

13 took one step in, and he looked to the left and saw the

14 window.

15 Q. All right. He saw a window?

16 A. He saw the window with the cut screen.

17 Q. I mean, at that time, of course, you

18 didn't know what he saw?

19 A. Yeah, he told me.

20 Q. Okay. But you didn't see what he saw,

21 I guess?

22 A. I didn't see it, no.

23 Q. All right. Did you stick your head in

24 then and look?

25 A. No.

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1 Q. You never did look?

2 A. Not at that time, I didn't.

3 Q. Okay. So, did he, Sergeant Walling,

4 go on into the garage?

5 A. No.

6 Q. Okay. The garage had a good bit of

7 stuff in it, didn't it?

8 A. Yes, it did.

9 Q. But he was able to -- did he turn on
10 the light?

11 A. No, we used flashlights.

12 Q. You know, most garages that I've
13 seen -- I don't know about this one, but they generally
14 have a light, either on this side, or on this side, and
15 you can turn on a light in the garage. Does that have a
16 light?

17 A. I don't know if it did or not.

18 Q. Okay. So you just shined flashlights
19 in there?

20 A. Yes, sir.

21 Q. All right. Now, you both had a -- I
22 assume you had a bullet-proof vest on, didn't you?

23 A. Yes, sir.

24 Q. Okay. And I assume Sergeant Walling
25 did too?

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1 A. I assume he did too.

2 Q. I mean, they're issued to you. You're
3 supposed to wear them, aren't you?

4 A. It's not mandatory. I know he has one
5 that he usually wears.

6 Q. At any rate, y'all peeked into the
7 garage and then came on back; is that right?

8 A. Yes, sir.

9 Q. Did you come back the same way that
10 you went in through the kitchen?

11 A. I did.

12 Q. How did Sergeant Walling come?

13 A. I didn't see him when he left, but I
14 think he went through the nook into the dining room and
15 back out the front door.

16 Q. He came back out this way?

17 A. Yes, sir.

18 Q. Okay. So, he went in this way and he
19 came out this way?

20 A. Yes, sir.

21 Q. Okay. How did you exit?

22 A. The same way I came in.

23 Q. So, you went in this way and came back
24 out this way. Right? (Indicating on diagram).

25 A. Yes, sir.

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1 Q. And then rendezvoused with him in the
2 entry of the dining room?
3 A. Rendezvoused with who?
4 Q. Met with Sergeant Walling.
5 A. No.
6 Q. No?
7 A. No.
8 Q. Okay. Well, I don't -- Sergeant
9 Walling comes through here?
10 A. Yes, sir.
11 Q. All right. And what did you do then?
12 A. I go back to the family room.
13 Q. You go back to the family room?
14 A. Yes, sir.
15 Q. All right. And, do the paramedics
16 come in?
17 A. Yes, sir.
18 Q. Okay. And when they come into a
19 place, they come in, in a hurry, don't they?
20 A. They didn't run in.
21 Q. Well, were they walking fast?
22 A. Not really, they just walked in.
23 Q. They just walked in nonchalantly?
24 A. Well, from what I -- I saw them walk
25 from the doorway to the family room.
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1 Q. Okay.
2 A. I don't know if they ran to the front
3 door from their ambulance or not.
4 Q. Okay. All right. So, you saw them
5 come in. And, at that time was Darlie still here?
6 A. Yes.
7 Q. Okay. And was Darin, where?
8 A. I think, when the paramedics came in,
9 I told both of them to sit down by the sliding glass
10 door.
11 Q. At that time, I take it, you hadn't
12 told them to go get help from the neighbor?
13 A. I had already told him that. I told
14 him that within the first minute or so of me showing up
15 there.
16 Q. Well, did he go at that time and get
17 help from the neighbor?
18 A. I don't know if he did or not.
19 Q. Well, now, before lunch you told us
20 that he stayed in the area with the child until Walling
21 got there.
22 A. Yes, sir.

23 Q. Has something changed your mind?

24 A. No, sir, it's the same.

25 Q. Okay. So, he didn't leave then?

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1 A. Well, I lost sight of him at one time.

2 Q. Well, I mean, golly, it's a room that

3 was smaller than this one, wasn't it?

4 A. Right.

5 Q. Are you saying he left and went some

6 place?

7 A. Yes.

8 Q. Well, now, you're supposedly guarding

9 the safety, not only of yourself, but these other people.

10 Wasn't that your main purpose in being there?

11 A. That's one of the reasons, yes.

12 Q. Okay. And you're saying you lost

13 track of him, you're telling me he just wandered off?

14 A. I assumed he was going across the

15 street like he told me he was.

16 Q. All right. Well, did he leave or not?

17 A. At one point he did. I don't know at

18 what point that was.

19 Q. Did he ever leave the house?

20 A. I assume that he did.

21 Q. Okay. Did you -- incidentally, did

22 you and -- when you told him, or permitted him to go get

23 help from a neighbor, were y'all standing out here on the

24 porch?

25 A. No, sir.

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1 Q. Were you in -- let's see, in the

2 entry, back in the family room?

3 A. Well, I really don't know exactly

4 where I was. I know once I went inside the family room,

5 the only time I left was to go to the garage with

6 Sergeant Walling, and then to take a peek before he got

7 there.

8 Q. Okay. Well, then we know -- we can

9 deduce, can we not, that if you had this conversation

10 with Darin, you had it, if you didn't leave until Walling

11 got there. And you still didn't leave, except for the

12 utility room, where you poked your head in, then you had

13 the conversation somewhere in this area when you were

14 talking with Darin; is that right?

15 A. I'm telling you, I don't remember

16 where I had the conversation with Darin.

17 Q. Yes, sir, I understand. But when you
18 tell me that once you got into the den area, you didn't
19 leave until Sergeant Walling got there, I assume, if in
20 fact you had the conversation with Darin you say you did,
21 you had it here. Am I missing something?

22 A. Not necessarily.

23 Q. All right. Did you not tell me that
24 once you got into the family room, the kitchen area, that
25 you didn't leave?

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1 A. Right.

2 Q. I mean, did you leave?

3 A. No. The only time I left, was to go
4 into the kitchen by the island, when I peeked in the
5 garage, I came back and left when Sergeant Walling got
6 there.

7 Q. All right. Now, we talked about Darin
8 yelling at you to get help, haven't we?

9 A. Yes, sir.

10 Q. Okay. And you remember that now?

11 A. Yes, sir.

12 Q. All right. Was it after he yelled at
13 you to get help, that you yelled back at him to get help?

14 A. It could have been. I don't remember
15 the exact time that I told him that if a nurse was across
16 the street to go get her.

17 Q. Were you in the family room or the
18 kitchen when you had that conversation, to the best of
19 your knowledge?

20 A. I don't remember.

21 Q. Were you in one room or the other?

22 A. I don't recall.

23 Q. But we can -- can we at least be
24 satisfied that you weren't outside when you had that
25 conversation?

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1 A. I'm pretty sure I wasn't outside.

2 Q. Okay. And was that conversation
3 before Sergeant Walling arrived?

4 A. Yes, sir.

5 Q. Okay. The conversation with Darin,
6 regarding the nurse, was before Sergeant Walling arrived;
7 fair to say?

8 A. I think it was.

9 Q. Okay. Did the nurse come back with
10 Darin?

11 A. I remember the nurse being there. I
12 don't know if she came -- she didn't come back with
13 Darin.

14 Q. Do you know if she came -- did Darin
15 come back into the residence?

16 A. Yes.

17 Q. And how long was he gone, as best you
18 recall?

19 A. Not very long. I don't know minutes
20 or whatever, just a few.

21 Q. Okay. Do you know if Darin left
22 before or after Walling arrived?

23 A. I believe it could have been before.

24 Q. You believe it could have been before?

25 A. Yes, sir.

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1 Q. Do you really know one way or the
2 other?

3 A. I'm not for sure, no.

4 Q. You don't -- there was a lot going on,
5 wasn't there?

6 A. There was a lot going on.

7 Q. Okay. And, of course, you didn't take
8 any notes, did you, at that point?

9 A. No. Not at that minute, no.

10 Q. Okay. Is it fair to say that up to
11 the point that Sergeant Walling arrived, you hadn't taken
12 any notes, had you?

13 A. No.

14 Q. Okay. All right. Well, Sergeant
15 Walling arrived, and the first thing you did, I assume,
16 was brief Sergeant Walling on what to expect, or what the
17 dangers were?

18 A. I told him about the suspect being in
19 the garage, yes.

20 Q. Okay. So, y'all went to the garage.

21 How long did that take?

22 A. Not very long.

23 Q. Are you talking about seconds?

24 A. Probably.

25 Q. Okay. The point was that Walling
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1 wanted to make sure the scene was secure before the
2 paramedics entered. Wasn't that the purpose?

3 A. Yes.

4 Q. And the paramedics are out here in a

5 holding pattern, and the idea is to get them in to render
6 aid just as quick as possible; is that right?

7 A. Yes.

8 Q. So we're talking about a matter of
9 seconds, and that's why once Walling got in, assessed the
10 situation, cleared the garage, he split through the
11 dining room, because it was the quickest way to get to
12 the entry and out to the paramedics, wasn't it?

13 A. I guess it was.

14 Q. Well, it makes sense, doesn't it?

15 A. Yes, sir.

16 Q. Okay. And, just as soon as -- you
17 went back in here, and just as soon as he left, the
18 paramedics came in like that, didn't they, the two of
19 them?

20 A. Very soon after, yes.

21 Q. Okay. We're talking about seconds,
22 aren't we?

23 A. Yes, sir.

24 Q. All right. Did you and Walling then
25 search the outside area?

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1 A. No.

2 Q. Did Walling search the outside area?

3 A. I guess he did, I wasn't with him.

4 Q. Okay. Once the paramedics came in,
5 did you then station yourself at the entry.

6 A. When they first came in, no.

7 Q. Did you help them or assist them?

8 A. I was -- I was in there with the
9 defendant and her husband.

10 Q. Okay. But we've already been through
11 that. We know that you didn't question her anymore, or
12 talk to her anymore after Sergeant Walling arrived. But
13 you were standing in the same room with her?

14 A. Yes, sir.

15 Q. Okay. Did you then leave her and
16 station yourself at the door?

17 A. No, sir.

18 Q. Okay. You had said earlier that you
19 were at the door, as best you recall, at what time?

20 A. I said approximately 2:40 or 2:45.

21 Q. 2:40 to 2:45. Okay. And how long did
22 you station yourself at that door?

23 A. Until a little bit after 3:00 o'clock.

24 Q. Okay. And where did you go then?

25 A. Around to the back.

1 Q. And was that with Officer Craig?

2 A. I'm sorry, when he -- after I left the
3 door, I went with Officer Griffith, the K-9 officer.

4 Q. Okay. And you went around in back and
5 went wherever you went with the K-9 officer?

6 A. Yes, sir.

7 Q. He was from Garland P.D.?

8 A. Yes, sir.

9 Q. Now, at the time that you were
10 stationed at the door, is it your testimony that no one,
11 no civilian entered the premises?

12 A. Yes, sir.

13 Q. All right. You're sure about that?

14 A. Yes, sir.

15 Q. Okay. And certainly, no civilian had
16 entered the premises prior to the time that you stationed
17 yourself at the door, had they?

18 A. The nurse.

19 Q. Well, you know, she just came to the
20 doorway.

21 A. She was in the entryway.

22 Q. Came all the way into the entryway?

23 A. She was in the entryway when I came
24 down from upstairs.

25 Q. All right. So, of course, you don't
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1 know if she had been in -- do you know if she had been in
2 the den area?

3 A. I don't know for a fact, no.

4 Q. Okay. And you don't know what -- when
5 you went upstairs, I assume that was after the paramedics
6 arrived?

7 A. Yes.

8 Q. And it was you and Sergeant Walling
9 that went upstairs?

10 A. Yes.

11 Q. Obviously, you being upstairs, you
12 don't know what questions Darlie asked the paramedics, or
13 what information they gave her, or what the exchange was
14 between Darlie and Darin and the paramedics while you
15 were gone, do you?

16 A. No.

17 Q. No way you could know, is there?

18 A. No.

19 Q. You aren't saying they didn't have an

20 exchange, are you?

21 A. No.

22 Q. Now, did you go into the living room?

23 A. Sergeant Walling went into the living

24 room before he walked out of the house.

25 Q. Okay.

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1 A. The first time.

2 Q. My question was, did you go into the

3 living room?

4 A. No.

5 Q. Okay. Did you go into the dining

6 room?

7 A. No.

8 Q. Okay. You said that you and Sergeant

9 Walling went upstairs and found the infant?

10 A. Yes, sir.

11 Q. And did you make any plans -- make

12 any -- do anything to take care of the infant, or did you

13 just leave the child there?

14 A. I went over and checked the infant to

15 see if it was injured. He -- I don't know whether it was

16 a he or she, was standing up in the bed. They appeared

17 to be fine to me.

18 Q. Okay. So you just left the infant

19 there and went on about your business?

20 A. Yes, sir.

21 Q. Okay. Where -- once you came down

22 from upstairs, is that when you stationed yourself at the

23 entry?

24 A. Yes, sir.

25 Q. Okay. And, by that time it's 2:40, as

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1 best you can tell, to 2:45?

2 A. Approximately.

3 Q. So, is it fair to say that you had

4 been there, by that time, about 10 minutes?

5 A. That is probably close.

6 Q. All right. This happened --

7 everything happened pretty fast, didn't it?

8 A. Yes, sir.

9 Q. And, in that 10 minutes that you were

10 there -- is it fair to say that about 10 minutes had

11 expired when you stationed yourself at that door, at the

12 entry?

13 A. I would say at least 10 minutes.

14 Q. Well, I mean, we said 10 minutes 20
15 seconds ago. Has anything changed your memory?

16 A. No.

17 Q. Okay. Are you comfortable with 10
18 minutes?

19 A. Yes, sir.

20 Q. Okay. And you were there at the front
21 door from 2:40, or 2:45, until 3:00 or shortly
22 thereafter, is that what you said?

23 A. Yes, sir.

24 Q. Okay. And in that time, you did all
25 of the stuff that you've told us about, and you and
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1 Walling managed to conduct a complete search of the
2 interior of the residence, the first floor and the second
3 floor; is that correct?

4 A. Yes, sir.

5 Q. Okay. And assure yourselves that
6 everything was secure?

7 A. Yes, sir.

8 Q. Now, you became, I suspect, reasonably
9 familiar with the, what's called the family room here,
10 the kitchen and the entry room, that's where you were
11 mainly involved; is that right?

12 A. Yes, sir.

13 Q. Okay. And you said, I believe, that
14 you saw the one towel that Darlie had to her neck; is
15 that right?

16 A. Yes, sir.

17 Q. Is that right?

18 A. Yes, sir.

19 Q. And --

20

21 MR. DOUGLAS MULDER: Mark this,
22 please.

23

24 (Whereupon, the
25 exhibit was

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1 marked for
2 Identification
3 only, as Defense
4 Exhibit No. 14.)

5

6

7 BY MR. DOUGLAS MULDER:

8 Q. Let me hand you, Officer Waddell, what
9 has been marked for identification and record purposes as
10 Defendant's Exhibit No. 14, and I'll ask you to look at
11 that. Did you have a transcript to follow Sunday, I
12 believe it was, when you heard the 911 tape?

13 A. Did I have a copy of the transcript?

14 Q. Did you have a copy of -- did the
15 prosecutor furnish you with their rendition of what was
16 said on the tape?

17 A. Yes.

18 Q. Okay. Do you recognize what I've
19 handed you? Does it look familiar?

20 A. It looks familiar, yes.

21 Q. Okay. And do you see yourself in
22 there as the -- identified as PO1?

23 A. Yes, sir.

24 Q. Okay. PO1 would be Police Officer 1,
25 I assume.

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1 A. That's what I would assume.

2 Q. Okay. And you recognize that, I
3 guess, because that's basically what you told the jury
4 you said, at least sometime after you got there. Is that
5 right?

6 A. Yes.

7 Q. That obviously wouldn't be -- those
8 wouldn't be your first words when you got there, would
9 they?

10 A. No.

11 Q. Okay. So, I mean, where it says "PO1
12 look for a rag," you had been there sometime before you
13 said that, had you not?

14 A. I had been there for a little bit
15 before that, yes.

16 Q. Well, I mean, it makes sense, that's
17 not -- that's just not the first thing that you're going
18 to say when you -- it may have been the first thing that
19 was picked up, put it's not the first thing you're going
20 to say, is it?

21 A. No.

22 Q. Okay. Is it fair to say that you had
23 been there, what, at that time for how long? Maybe a
24 minute?

25 A. Could have been.

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1 Q. Could have been a minute or so?

2 A. Yes, sir.

3 Q. Okay. You say a minute. We're

4 talking about 60 seconds?

5 A. That's probably close.

6 Q. Okay.

7

8 MR. DOUGLAS MULDER: Can y'all see

9 that? I'm sorry, did I move this thing around again?

10 Can you see that? All right.

11

12 BY MR. DOUGLAS MULDER:

13 Q. Did you see wet towels around the

14 family room in that entry?

15 A. No.

16 Q. You did not?

17 A. No.

18 Q. Okay. Is it fair to say that --

19 you're not saying there weren't towels around there, are

20 you?

21 A. I didn't see any towels.

22 Q. Okay. But you're not saying there

23 weren't towels there? There's a difference.

24 A. No. Right.

25 Q. Okay. Might have been, didn't see

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1 them?

2 A. Didn't see them.

3 Q. You're saying that if there were

4 towels around there, wet towels around there, they had

5 apparently, the Routiers had done some things before you

6 got there. Would that be fair to say?

7 A. Well, I didn't see any towels.

8 Q. Okay. But they didn't get any

9 towels -- nobody got any wet towels after you got there,

10 did they?

11 A. No, sir.

12 Q. Okay. Do you know about what time,

13 Officer Waddell, Darlie Routier was taken from the scene?

14 A. I don't know.

15 Q. Was she taken from the scene before

16 you were relieved at the -- from your post at the entry?

17 A. I believe she was.

18 Q. So, is it fair to say that she left,

19 as best you recall, sometime before 3:00 o'clock?

20 A. Yes, sir.

21 Q. Okay. Is it fair to say that she left

22 before 3:00 o'clock, or left -- is it around 3:00

23 o'clock, or before -- she left at 3:00 o'clock before you
24 were relieved on the front door?

25 A. Yes, sir, I think so.

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1 Q. Again, you still hadn't had time, at
2 that point, to make any notes, had you?

3 A. No.

4 Q. Okay. Before -- during the couple or
5 three minutes that you were there with the Routiers,
6 before Sergeant Walling arrived and you had the
7 conversation, do you recall how many times you told
8 Darlie to sit down?

9 A. Probably two or three times.

10 Q. Two or three times?

11 A. Um-hum. (Witness nodding head
12 affirmatively).

13 Q. Did you tell her to lay down one time?

14 A. I don't recall. I remember telling
15 her to sit down.

16 Q. Okay. Let me hand you again what's
17 been marked for identification record purposes as
18 Defendant's Exhibit No. 14. Would that be you, PO1
19 again?

20 A. Yes, sir.

21 Q. And it says, "lay down"?

22 A. Yes, sir.

23 Q. Before Sergeant Walling arrived,
24 Waddell told Darlie to lay down and/or sit down two or
25 three times. Is that fair?

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1 A. Yes, sir.

2 Q. Okay.

3

4 MR. DOUGLAS MULDER: Thank you,
5 Officer Waddell.

6

7

8 RE

9

10 BY MR. GREG DAVIS:

11 Q. Officer Waddell, just a couple of
12 questions. When you looked inside the garage while
13 Officer Walling, Sergeant Walling actually looked in
14 there, could you tell whether or not this garage had an
15 overhead door?

16 A. Yes.

17 Q. Okay. And, again, as we're looking at
18 this with the -- would the overhead doors be this
19 direction toward the alley?

20 A. Yes.

21 Q. Right up here toward the top?

22 A. Yes, sir, it is.

23 Q. Could you tell from where you were
24 whether or not that door was closed or not?

25 A. It was closed.

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1 Q. When Mr. Mulder was asking you about
2 anything impeding your way to the sink, do you know
3 whether or not a vacuum cleaner or any other object was
4 laying on that floor?

5 A. I didn't see it, no.

6 Q. Is it possible that it was?

7 A. Well, yes.

8

9 MR. DOUGLAS MULDER: Judge, we're
10 going to object to -- he's suggesting the answer to it.

11 THE COURT: Overruled.

12

13 BY MR. GREG DAVIS:

14 Q. You can go ahead and answer it.

15 A. It's possible that it was there.

16 Q. Let me just ask you, Officer Waddell,
17 as we look here at the kitchen -- as we look here at the
18 kitchen area, this island here, did you ever go over here
19 on this other side of the island closer to the range and
20 to the sink?

21 A. No, sir.

22 Q. Either on the way to the garage or on
23 the way out of the garage, either time?

24 A. No, sir.

25 Q. Okay. The times that Mr. Mulder has
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1 written here on these sheets, let me just ask you: Do
2 you consider these to be exact times or estimates?

3 A. Estimates.

4 Q. Again, were you out there during this
5 situation looking at your watch every two or three
6 minutes to determine exactly what time you started doing
7 something and what time you stopped doing something?

8 A. No.

9 Q. Are you sure that you stayed on the
10 front door until Officer Steve Wade got there to relieve

11 you?

12 A. Yes, sir.

13 Q. Are you sure that no one came or went,
14 once you got on that door until he got there to relieve
15 you?

16 A. Nobody but the fire personnel.

17 Q. All right. And was that to go in or
18 to go out?

19 A. They were going to get their stuff,
20 their equipment and leave.

21 Q. Was there ever a time once you got
22 there, while the defendant was still on the phone to 911,
23 was there ever a time where you took the phone yourself
24 and started talking with the dispatcher?

25 A. No, sir.

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1 Q. Were there times when you'd be
2 speaking with the defendant when you were next to her or
3 close to her?

4 A. Yes, sir.

5 Q. Were there other times when you may
6 have been speaking with her when you're some distance
7 away from her?

8 A. Yes, sir.

9 Q. Did I understand your testimony to be
10 to Mr. Mulder that this defendant, while you were there
11 with her, was able to carry on two conversations at one
12 time, one with you and one with the dispatcher?

13 A. Yes, sir.

14 Q. And, Officer Waddell, when you said
15 "look for a rag," can you tell us who you were talking
16 to?

17 A. The defendant.

18

19 MR. GREG DAVIS: I have no further
20 questions.

21 THE COURT: Mr. Mulder, anything else?

22 MR. DOUGLAS MULDER: Yeah, just a
23 thing or two, Judge. I'll try to be brief.

24 THE COURT: All right. That's quite
25 all right.

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1

2 (Whereupon, the following

3 mentioned item was

4 marked for

5 identification only
6 as Defendant's Exhibit 13-C,
7 after which time the
8 proceedings were
9 resumed on the record
10 in open court, as
11 follows:)

12

13

14 RECROSS EXAMINATION

15

16 BY MR. DOUGLAS MULDER:

17 Q. Would you tell us, Officer Waddell,
18 how many people were in and out of that residence that
19 you know of?

20 A. Myself, Sergeant Walling and there
21 were at least two paramedics. Probably six or seven.
22 I'm not real for sure. There were some paramedics that
23 arrived when I went upstairs also.

24 Q. And if I told you that there were
25 eight paramedics out there, would you quarrel that?

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1 A. No, sir.

2 Q. Okay. You know -- of course, when you
3 were upstairs, you don't know who was in and out of
4 there, do you?

5 A. No.

6 Q. Okay. You know that -- do you know
7 how many police officers were in and out of there?

8 A. Just two.

9 Q. All right. And, when the paramedics
10 come in there, Officer Waddell, it's been your experience
11 as a police officer, that they may move things? They
12 aren't as careful about a crime scene, and preserving the
13 crime scene as a police officer, a trained police officer
14 might be, are they?

15 A. No, sir.

16 Q. Okay. Matter of fact, they move
17 things, don't they?

18 A. Sometimes.

19 Q. Frequently. And if they have to move
20 something to get access to an injured party, they do that
21 and they sacrifice the crime scene for the party, do they
22 not?

23 A. Yes, sir.

24 Q. All right. And, you aren't telling
25 us, or telling the jury, that you said you were conscious

1 of this island here, because you thought someone might be
2 hiding behind it. Didn't you say that?

3 A. The thought crossed my mind, yes.

4 Q. Okay. As you approached this area,
5 you aren't telling this jury that anyone careful enough
6 to not step on the glass would overlook a vacuum cleaner
7 that was turned over in this area, if it was there at
8 that time, are you?

9 A. Can you repeat that?

10 Q. Well, I'm just saying that it would be
11 like overlooking an elephant. If you're careful enough
12 not -- you're conscious enough not to step on any glass,
13 or you say you are, you're not going to overlook an
14 overturned vacuum cleaner, are you? That makes sense,
15 doesn't it?

16 A. No, sir.

17 Q. It doesn't make sense?

18 A. When I saw the glass, I was paying
19 attention to where I was walking. I wasn't walking
20 toward the other side of the island.

21 Q. Remember when I asked you if there was
22 anything that impeded your walk from the den to the
23 kitchen sink, and you said, "No, there was nothing"?

24 A. I said I didn't see anything.

25 Q. Well, doesn't that -- you're telling
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1 the jury you did look toward the sink, aren't you?

2 A. Yes, I looked toward the sink.

3 Q. And didn't see any vacuum cleaner?

4 A. I didn't see it, no.

5 Q. Okay.

6

7 MR. DOUGLAS MULDER: We'll offer into
8 evidence Defendant's Exhibit No. 13-C.

9 MR. GREG DAVIS: No objection.

10 THE COURT: Defense Exhibit No. 13-C
11 is admitted. What is 13-C?

12 MR. DOUGLAS MULDER: That is the --

13 THE COURT: That last one you did up
14 there? Okay.

15 MR. DOUGLAS MULDER: Yes, sir.

16 THE COURT: All right.

17

18 (Whereupon, the item
19 Heretofore mentioned

20 Was received in evidence
21 As Defense Exhibit No. 13-C
22 For all purposes,
23 After which time, the
24 Proceedings were resumed
25 As follows:)
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1
2 THE COURT: All right.
3 MR. DOUGLAS MULDER: Let me add this
4 to it, and I'll reoffer it if that's necessary.
5
6 BY MR. DOUGLAS MULDER:
7 Q. But you said how many people were in
8 the scene that you're aware of? Did you say six or
9 seven?
10 A. Six or seven.
11 Q. Okay.
12
13 MR. DOUGLAS MULDER: I'll reoffer
14 Defendant's Exhibit No. 13-C as amended.
15 MR. GREG DAVIS: No objection.
16 THE COURT: All right. State's (sic)
17 Exhibits 13-A and B have already been admitted, and
18 State's (sic) Exhibit 13-C is admitted.
19 MR. GREG DAVIS: Your Honor, I'm
20 sorry, that's Defendant's Exhibit.
21 THE COURT: I mean, Defendant's
22 Exhibit, excuse me, yes, is admitted.
23
24 (Whereupon, the item
25 Heretofore mentioned
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1 Was received in evidence
2 As Defendant's Exhibit
3 No. 13-C for all purposes,
4 After which time, the
5 Proceedings were resumed
6 As follows:)
7
8 MR. DOUGLAS MULDER: Judge, can we
9 have a minute? Sixty seconds?
10 THE COURT: Sixty seconds, yes, that
11 will be fine.
12
13 BY MR. DOUGLAS MULDER:

14 Q. Did -- when you were here the other
15 day, Sunday, and listened to the tape and discussed your
16 testimony, did you hear the entire 911 tape?

17 A. I don't know if we heard the whole
18 thing or not.

19 Q. Would you recognize it if I were to --
20

21 MR. DOUGLAS MULDER: You don't have
22 any objection to me playing this?

23 MR. GREG DAVIS: Is this the copy that
24 we gave to you?

25 MR. DOUGLAS MULDER: Yes.
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1 MR. GREG DAVIS: I don't have a
2 problem with that.

3 THE COURT: All right. Well, let's
4 get it played. Is that a machine that works?

5 MR. DOUGLAS MULDER: I don't know.
6 We'll find out.

7

8 BY MR. DOUGLAS MULDER:

9 Q. All right. You can tell in the tape
10 when you see this transcript, you can tell when you're --
11 when Darlie is answering questions of yours and answering
12 questions of the 911 operator, isn't that reasonably
13 clear?

14 A. Yes.

15 Q. All right.

16

17 (911 Emergency tape played.)

18

19 BY MR. DOUGLAS MULDER:

20 Q. Now, as best I can understand -- and
21 that's somewhat difficult to understand, isn't it?

22 A. Yes, sir, it is.

23 Q. But you're first identified on that
24 tape about halfway into it, aren't you?

25 A. I guess.

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1 Q. You guess?

2 A. I'm not sure.

3 Q. What are you guessing about?

4 A. I don't know the time limit on that
5 tape. I don't know at what point. I couldn't tell at
6 what point I was there.

7 Q. Okay. You've admitted that you talked

8 to her for about a minute before you're identified on
9 this tape.

10

11 MR. GREG DAVIS: Your Honor, I -- at
12 this time I'd -- the only problem I've got is Mr. Mulder
13 referring to a document not in evidence. I've got no
14 objections to him offering that transcript so he can
15 refer to it.

16 THE COURT: Do you want to offer the
17 transcript, Mr. Mulder?

18 MR. DOUGLAS MULDER: Well, I don't
19 necessarily vouch for everything in this transcript,
20 Judge. And I'll conduct my own deal, if you don't mind.

21 MR. GREG DAVIS: Well, then I'll be
22 objecting to him. If he's not going to offer it, I'm
23 going to object to him referring to it.

24 THE COURT: Sustained.

25 MR. DOUGLAS MULDER: I'll offer my own
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1 evidence. I don't need their suggestions as to when to
2 offer something.

3 THE COURT: We understand that.

4 Please do not refer to that if you're not going to use
5 it. Thank you.

6

7

8 BY MR. DOUGLAS MULDER:

9 Q. Well, we agreed, did we not, that you
10 were there at the residence some 60 seconds before you
11 said "look for a rag," and also told her just seconds
12 later to lay down or sit down two or three times.

13 A. I said that, yes.

14 Q. And it was during that time that you
15 were gleaning your information in questioning her, wasn't
16 it?

17 A. No, sir. I didn't question her, other
18 than ask her who did it and for a description of the
19 suspect.

20 Q. And she was able to talk to you and
21 911 at the same time. That's your story, isn't it?

22 A. Yes, she was.

23

24 MR. DOUGLAS MULDER: I believe that's
25 all. Thank you.

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1 MR. GREG DAVIS: No further questions.
2 THE COURT: All right. You may step
3 down. Your next witness.