

1 excused.

2 If you'll call your next.

3 MR. REED: State calls Investigator
4 French.

5 THE COURT: French. All right. Step
6 on up here, please.

7 *(The witness was sworn.)*

8 THE COURT: You may proceed.

9 MR. REED: Thank you, Your Honor.

10 **JONATHAN FRENCH,**

11 having been first duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 **BY MR. REED:**

14 Q. Good morning, Investigator French.

15 A. Good morning. How are you?

16 Q. Can you please introduce yourself to the
17 jury?

18 A. Yes. My name is Jonathan French.

19 Q. How are you employed?

20 A. I'm employed with the City of Houston,
21 Houston Police Department.

22 Q. How long have you been with the Houston
23 Police Department?

24 A. I was hired in November of 2000.

25 Q. When you were hired or before you were

1 hired, did you have to go through any training or did
2 you have prior police experience?

3 A. Yes. I went to the Houston Police Academy
4 approximately six months long and then went through a
5 probationary period once I began service with patrol.

6 Q. So patrol, that was in 2000. How long did
7 that last?

8 A. Up until 2009.

9 Q. So you've been on patrol or you were on
10 patrol for about nine years?

11 A. That's correct.

12 Q. What happened 2009?

13 A. 2009, I transferred over to the Homicide
14 Division.

15 Q. Did you have to have any additional
16 training to become a homicide investigator or
17 homicide officer?

18 A. Once you join the Homicide Division,
19 there's actually quite a bit of training that you do.
20 Probably, altogether, it's about 250 hours of various
21 investigative type courses.

22 Q. Is there a continuous training that you
23 have to go through?

24 A. There is. Every year we have at least 40
25 hours of in-service that every officer

1 department-wide takes as well as additional
2 homicide-related courses I take.

3 Q. Can you give us, I guess, kind of a brief
4 explanation of what those homicide-related courses
5 are? What kinds of things are involved in those
6 courses?

7 A. Crime scene investigation, interviewing
8 witnesses, interviewing suspects, the medical
9 examiner. They actually hold a conference once a
10 year that I've been to twice where they show a lot of
11 photographs, a lot of techniques that they use. Kind
12 of an introduction to the medical examiner's staff as
13 well.

14 Q. Now, let's go back just briefly to patrol.
15 What kind of calls or things did you investigate as a
16 patrol officer?

17 A. Anything you can think of. I patrolled
18 five years in Greenspoint on night shift. After that
19 I did about four and a half years in Acres Homes
20 neighborhood on evening shift. Any call as you can
21 imagine, I would show up to, anything from a stolen
22 wallet to a homicide.

23 Q. So you'd show up to homicides every once in
24 awhile?

25 A. Correct.

1 Q. What other kind of calls?

2 A. Lot of family disturbances, lot of thefts.
3 We also worked accidents. Working in the North
4 Shepherd area, all that nice Shepherd curve there on
5 I-45, I used to be up there working accidents out
6 there.

7 Q. So the real life experience, what kinds of
8 thing were you able to learn outside the classroom,
9 going to all those thefts and going to all those
10 family disturbances?

11 A. You learn how to deal with people. That's
12 the biggest issue. Because if you can't get along
13 with people, you're going there to -- a lot of these
14 things are disturbances. If you escalate problems
15 between two strangers that you've never met, you got
16 to be able to talk to people and be reasonable with
17 them. You can't go in there and be a hothead. It's
18 not going to work. It will get you hurt on this job.

19 Q. Okay. Did you also pick up investigative
20 techniques?

21 A. Yes, I did.

22 Q. Those little small nuances, things to look
23 for, that kind of thing?

24 A. Sure.

25 Q. Okay. Now, what's your current shift as a

1 Homicide investigator?

2 A. I'm currently assigned to day shift,
3 7:00 a.m. to 3:00 p.m. unless we're on a call-out
4 rotation, which we do every three months.

5 Q. What was your shift in 2010?

6 A. 2010, I would have been assigned to the
7 night shift.

8 Q. I'm talking specifically September 9th,
9 2010.

10 A. September 9th, 2010, I would have been
11 assigned to the night shift patrol -- I'm sorry --
12 night shift Homicide. And that is 11:00 p.m. to 7:00
13 a.m.

14 Q. Now, did you respond to a call on
15 September 9th, 2010, to a Walmart off Beechnut,
16 Beechnut and Kirkwood?

17 A. I did. I actually -- we have a hold desk
18 in the Homicide Division. In layman's terms, we
19 answer the phones. People constantly call in. They
20 want to check on cases or they want to -- you know,
21 if a scene drops, a patrol officer is going to call
22 Homicide. I was actually working the desk on the
23 night -- that evening when I answered the phone when
24 I received a call about a scene.

25 Q. Did you go out to that scene?

1 A. I did. I actually ended up assigned to
2 that scene because of the number of investigators we
3 had and that was at a Walmart, 11755 Beechnut.

4 Q. Is that in Harris County?

5 A. That is in Harris County in the city of
6 Houston.

7 Q. What did you see when you got there or what
8 did you discover when you got there?

9 A. When I arrived, there were -- I believe two
10 patrol units were out there with a police car. We
11 use yellow crime scene tape to rope off crime scenes.
12 That had already been set up and I noticed a white
13 Toyota Camry that was in the center of that crime
14 scene tape.

15 Q. Now -- I guess, what did you do? What kind
16 of investigative work did you do?

17 A. What we'll do when we're assigned a
18 homicide, generally we'll work with a partner and
19 typically you divide up the work amongst partners.
20 We actually had three investigators that night. My
21 job was to document what I saw in the Walmart parking
22 lot, document the scene. That's considered the scene
23 side of the investigation.

24 Q. What'd you see inside the Camry?

25 A. Inside the Camry, there was black female

1 that was deceased in the driver's seat.

2 Q. Did you know she was deceased prior to
3 arriving or did you just find that information out
4 when you got there?

5 A. I knew before my arrival that she was
6 deceased, based on that phone call that I had
7 received while working at the desk.

8 Q. When you got there, you said two patrol
9 cars. Was HFD there and medics and Crime Scene Unit?

10 A. Crime Scene Unit was there, yes. I think
11 the fire department and ambulance had already cleared
12 the scene before my arrival.

13 Q. But the black female was still present?

14 A. Correct. She was still in the driver's
15 seat of the vehicle.

16 Q. Did you go into the car?

17 A. Yes. I didn't touch anything. What we'll
18 do often when there's a vehicle involved, that
19 vehicle will be removed from the scene and we have
20 what we call the print stall. That's located on Dart
21 Street in downtown Houston where it's thoroughly
22 examined. We don't want to bother with the evidence
23 inside the vehicle. But I did look inside the
24 vehicle at the female.

25 Q. Did you see any contents or any items that

1 were inside the vehicle?

2 A. I did.

3 Q. Did you go through any of those items?

4 A. One thing in particular, when we arrived,
5 she had a purse and that purse, I believe, was on the
6 hood of the vehicle. That had been removed by the
7 Houston Fire Department prior to us arriving. I did
8 go through the contents of her purse.

9 MR. REED: Judge, may I approach?

10 THE COURT: You may.

11 Q. (BY MR. REED) Investigator French, I'm
12 showing you what's previously been marked State's 36
13 through 44. Can you take a minute to look through
14 those photos.

15 A. (Witness complies.)

16 Q. Do you recognize these photos?

17 A. I do recognize those.

18 Q. Were they taken in your presence?

19 A. Yes, they were.

20 Q. What are they photos of?

21 A. The first photo I looked at, photograph of
22 the complainant's purse, which, again, was found on
23 top of her car. And then photos of the victim, the
24 complainant, and her wounds.

25 MR. REED: Judge, State offers State's

1 Exhibits 36 through 44 and tenders to defense counsel
2 for inspection.

3 MR. ROBERT LOPER: May we approach,
4 Judge?

5 THE COURT: Yes.

6 **(At the Bench, on the record.)**

7 MR. ROBERT LOPER: Judge, I would have
8 specific objection to State's Exhibit 39. Appears to
9 be a photo of a Bible and the objection would be as
10 to relevance.

11 THE COURT: Overruled. I'm assuming
12 its contents?

13 MR. REED: Yes, Judge.

14 MR. ROBERT LOPER: Then I object to 43
15 and 44. They're basically the same shot. They're
16 particularly bloody. I think their probative
17 value -- prejudicial effect outweighs the probative
18 value they might have to this jury. They're
19 particularly gruesome.

20 THE COURT: Tell me why you need both
21 of those. What is important in this one because that
22 is not pretty. It's not in that one.

23 MR. REED: I'm going to take this one
24 out, Judge.

25 THE COURT: I'm granting on 44. On

1 45, I don't know if your objection was to both of
2 them.

3 MR. ROBERT LOPER: It was 43.

4 THE COURT: Forty-three. Granting it,
5 to 44. Any further objection on 43?

6 MR. ROBERT LOPER: None other than
7 stated.

8 THE COURT: Well, your objection was
9 to both of them.

10 MR. ROBERT LOPER: It is to both of
11 them.

12 THE COURT: Individually, if your
13 objection is still this is more prejudicial than
14 probative --

15 MR. ROBERT LOPER: Correct.

16 THE COURT: -- I'm looking at the
17 different factors involved and making a decision that
18 it is not more prejudicial than probative. I'm
19 allowing it in. It does show the injury to the head
20 and it is -- although not pretty, it isn't pretty,
21 but it was more probative than prejudicial.

22 MR. ROBERT LOPER: Thank you.

23 MR. REED: Can I ask you beforehand as
24 far as publishing to the jury? I don't think she has
25 family in the courtroom.

1 THE COURT: This is okay. It's when
2 we do the autopsy photos that I do not think it's
3 right to put on the screen.

4 MR. REED: Thank you, Judge.

5 **(End of Bench Discussion)**

6 Q. (BY MR. REED) Investigator French, what
7 other kind of things did you observe specifically
8 about the female that you found?

9 A. First thing I noticed, she was wearing a
10 zebra print type of dress, but over the dress she had
11 a -- what I call medical scrub jacket. Lot of times
12 you see a nurse or an x-ray technician or hospital
13 employee. So I thought she was some kind of hospital
14 employee.

15 Q. Were you able to find out any information
16 about her as far as name or address?

17 A. I was. I believe on the lapel of her
18 jacket, she had a badge for her -- I don't remember
19 if it was a hospital or what it was. It had her name
20 on it and I believe we eventually found her driver's
21 license inside of the purse. In looking at the photo
22 of the license, I could tell it was her.

23 Q. Did you make a report about this incident?

24 A. I did. I did what we call supplement. Our
25 reports may have a hundred supplements in it. I did

1 one to describe the scene that I saw.

2 Q. In your report did you put her name and all
3 the other information that you told us thus far?

4 A. Yes, I did.

5 Q. What was her name?

6 A. Her name was Joan Ogunleye.

7 Q. Can you spell that last name?

8 A. I can. Last name is spelled

9 O-G-U-N-L-E-Y-E.

10 Q. Did you happen to get, like, a date of
11 birth and all the rest of that information off of her
12 driver's license?

13 A. I did.

14 Q. That's also reflected in your report?

15 A. That is.

16 Q. Now, with the photos that were taken while
17 you were there, we saw these photos. They started
18 off with State's Exhibit 36. What is this a photo
19 of?

20 A. That is Ms. Ogunleye's purse.

21 Q. Okay. And what's this below it?

22 A. That's going to be a pill bottle that was
23 found inside of the purse.

24 Q. Did it have her name on it?

25 A. There was no label on it. It looked like

1 the label had been torn off or an empty pill bottle
2 that had been used. No name on it.

3 Q. Were you able to identify what those pills
4 were?

5 A. Yes. I think I knew what they were.

6 Q. How were you able to identify?

7 A. We actually look at the pills and just
8 based upon experience from patrol and past narcotics
9 classes I've taken, I believe they were Xanax pills.

10 Q. And is that another -- it's kind of hard to
11 see right here. Is that another pill?

12 A. I believe that's another Xanax pill.

13 Q. I'm sorry. I'm showing, for purposes of
14 the record, State's Exhibit 38. You said that's
15 another pill?

16 A. Yes, sir.

17 Q. Had that fallen out in her purse?

18 A. I believe so.

19 Q. I'm showing you State's Exhibit 39. Again,
20 were these items that were in her purse?

21 A. Yes.

22 Q. Now, the pictures of the actual victim, the
23 complainant, can you describe, before I show them
24 to the jury, what we're getting ready to see?

25 A. We're going to see a close-up of the back

1 of her head. This is where she was shot. I believe
2 in the photo you may also see part of -- I believe
3 she was wearing a wig that had fallen off. When we
4 found her, her wig was partially hanging off of her
5 head.

6 Q. Now, when you found her in the vehicle, the
7 wig was, like, laying where? Like, on her right
8 side? Left side?

9 A. I believe she was laying back and the wig
10 was somewhat tucked under her head and hanging off
11 her shoulder maybe.

12 Q. I'm showing you State's Exhibit 41. What
13 are we looking at here?

14 A. You are looking at the back side of
15 Ms. Ogunleye as she's being laid on the body bag.

16 Q. So there is other officers, slash,
17 investigators that were out there taking her body.
18 Are they taking her body out of the vehicle?

19 A. That is correct.

20 Q. State's Exhibit 42, same picture?

21 A. Yeah. You can see the top of her -- that's
22 her back and bottom of her torso. You see the back
23 of her head. You see a lot of blood that's coming
24 off the back of her head from where she's been shot.

25 Q. And State's Exhibit 43?

1 A. That is a close-up of the back of her head.
2 You can see the gunshot wound to the back of her
3 head.

4 Q. If you wouldn't mind showing the jury and
5 maybe circling it on that screen to your left where
6 the gunshot wounds are?

7 A. Sure. Using my finger?

8 Q. Yes.

9 A. (Witness complies.)

10 Q. What do you do after discovering the body,
11 pulling the body out, photos were taken, obviously?
12 What'd you do after that?

13 A. After that, again, we had two other
14 investigators that were part of the scene.

15 Q. You're talking beyond her body being
16 removed from the scene?

17 A. Yes. I joined back up with those
18 investigators to continue the investigation.

19 Q. Did you see any witnesses or interview any
20 witnesses there at the scene?

21 A. We spoke to, I believe, the manager of the
22 Walmart. We actually looked at some surveillance
23 footage while we were on the scene. Kind of went
24 back and forth from inside the Walmart to outside.
25 The Walmart was closed, I believe at midnight, and

1 they allowed us access inside with the manager to
2 look at some of the parking lot surveillance footage
3 that they had.

4 Q. Now, did you look at that footage there at
5 the Walmart or did you, like, take a copy with you
6 and look at it later?

7 A. There was a copy picked up later. I wasn't
8 around when that happened. I actually looked at the
9 footage inside the Walmart.

10 Q. And about how many cameras did they show
11 you footage of?

12 A. There were two main cameras we focused on.

13 MR. REED: Judge, if I could have a
14 minute? I'd like to publish State's Exhibit 46.

15 THE COURT: All right.

16 Q. (BY MR. REED) Now, throughout your -- after
17 you looked at the video that night -- I am sorry.
18 After you looked at the video that night, did you
19 ever have a chance to look at the video again?

20 A. Yes.

21 Q. When you looked at the video, I guess the
22 second or third time, did you have an opportunity to
23 make -- go through and point out or write down notes
24 or key points about what you saw in that video?

25 A. I did that night. I actually took in my

1 field notes, I have the times from each different
2 camera that I viewed.

3 Q. You did all of that that night?

4 A. I did that night.

5 Q. Do you have those notes with you today?

6 A. I do have them with me.

7 Q. Do you think it would be helpful for the
8 jury if they were able to see maybe a larger copy of
9 those notes?

10 A. Certainly.

11 MR. REED: Judge, State would like to
12 publish for demonstrative purposes State's Exhibit
13 63.

14 THE COURT: All right.

15 MR. ROBERT LOPER: Can we approach?

16 **(At the bench, on the record.)**

17 MR. ROBERT LOPER: Derrick has
18 explained to me this is not in his report, but these
19 are notes that he made on his own, so to speak, but
20 it's very close to the notes he would make if he were
21 going to put it in a report.

22 THE COURT: If you're not offering it
23 into evidence; otherwise, it's something he -- he
24 could hold that and dictate it to Derrick as it went
25 on. This would be -- I'm not introducing it into

1 evidence because it is his notes and hearsay. But it
2 seems like it would be an easier way if you're
3 pointing directly to the time. They can't read it
4 anyhow.

5 MR. REED: For clarification, these
6 are the same times that are on the video stamps that
7 are on the video.

8 THE COURT: I'm not introducing it
9 into evidence.

10 MR. REED: I understand.

11 THE COURT: But I'm going to allow it
12 to be displayed so you can directly go to the time if
13 that's how you would like to do it.

14 MR. ROBERT LOPER: Just note my
15 objection.

16 MR. REED: Judge, it's 1:15 -- it's
17 12:15 Judge, I didn't if you want to pause right now?

18 THE COURT: No.

19 **(End of Bench discussion.)**

20 (BY MR. REED) Investigator French --

21 THE COURT: Do you know what? We will
22 pause for lunch at this point. So you can figure out
23 your placement and make sure everything's set up.

24 We're going to go ahead and pause for
25 lunch. I need to remind you of the admonitions of

1 the Court. Don't discuss this case among yourselves
2 or with anyone else.

3 **(Luncheon recess.)**

4 *THE COURT:* The court may be seated.

5 I'm sorry for the delay. I had a
6 hearing at lunchtime and sometimes lawyers say, It's
7 only going to take 15 minutes. And when a lawyer
8 says that, you should multiply it by five. It took a
9 little bit longer. I apologize for the delay.

10 Are you ready to continue?

11 *MR. REED:* Yes, Judge.

12 *THE COURT:* You may.

13 Q. (BY MR. REED) Now, Investigator French, when
14 we left off, you told us that you arrived on the
15 scene, saw the victim's body. You had done some
16 investigative work and you had gone into the store,
17 correct?

18 A. Correct.

19 Q. And you began viewing a video that the
20 store manager showed you?

21 A. Correct.

22 Q. And it had a few camera scenes?

23 A. It did. There were two camera scenes in
24 particular that we viewed.

25 Q. Okay. If you wouldn't mind stepping off

1 the stand.

2 A. (Witness complies.)

3 Q. And this information right here, what's the
4 jury looking at?

5 A. What you're looking at are times. There
6 were two cameras, like I said, Camera 11 and Camera
7 4. These are just surveillance cameras from the
8 Walmart parking lot and these are times I recorded
9 from each camera.

10 Q. Now, is this something that you made?

11 A. I did.

12 Q. Okay. Now, before I start playing this
13 video, what is this here?

14 A. That is a view from Camera 11 of the
15 Walmart parking lot.

16 Q. How do you know this is Camera 11?

17 A. Well, it's got it labeled: Camera 11. And
18 I recognize the video from seeing it previously.

19 Q. For purposes of the record, I'm showing you
20 the video that was entered into evidence as State's
21 Exhibit 46.

22 What times are these at the top of the
23 screen?

24 A. That's going to be 10:23 p.m. So you see
25 the time and then you'll see the seconds next to it.

1 For purposes of this chart, I need to put the seconds
2 on there for the times.

3 Q. What about this?

4 A. That's going to be the date, September 9th,
5 2010.

6 Q. Now, what's the first time that you have up
7 there?

8 A. I began by documenting what I saw on Camera
9 11 and that begins at 10:17 p.m.

10 Q. I'm playing the video now. That's 10:17.
11 What are we seeing?

12 A. Unfortunately, the problem with these
13 digital videos that the stores have, they skip and
14 you may skip so many milliseconds and then see
15 something. If you look, you're going to see light
16 poles. You'll see this first row where the grass is
17 and the first light pole. If you notice the row
18 behind that, you're going to see another light pole
19 and parked right in front of that light pole is a
20 white Toyota Camry.

21 Q. Is this what you're referring to?

22 A. That is correct. That is the white Toyota
23 Camry.

24 Q. Okay. What's the next time that you felt
25 something of significance happening in this video?

1 A. The next time's going to be 10:24 p.m.

2 Q. What do we look for? What happens at
3 10:24?

4 A. At 10:24 p.m., the headlights of that Camry
5 come on.

6 Q. Do they just come on or did they just flash
7 or will we see that?

8 A. I don't recall if they stay on or if they
9 just flash. I believe they flash. That is
10 approximately 10:24, you can see that.

11 Q. I'm going to slow it down here just a
12 little bit.

13 A. There you go.

14 Q. And so what we just saw was the headlights
15 flash?

16 A. That is correct.

17 Q. And this is just in your training and
18 experience, would that tell you someone's inside of
19 that vehicle?

20 A. Yes.

21 Q. Okay. Someone had to be operating that
22 light for it to be flashing like that, correct?

23 A. Correct.

24 Q. What's the next time that you have this on
25 your chart for Camera 11?

1 A. This is at 10:24 p.m. The next time is
2 10:25 p.m.

3 Q. What are we going to see on 10:25?

4 A. At approximately 10:25 p.m., you're going
5 to see two males walk around the rear of that white
6 Toyota Camry to the passenger side. You see them
7 right there.

8 Q. Right here?

9 A. Yes.

10 Q. Okay. What do they do?

11 A. I believe they get inside the Camry.
12 Again, with the way the milliseconds skip on the
13 video, you see them at the rear of the Camry.

14 Q. I see some movement right here.

15 A. Correct. I believe they're entering the
16 Camry at that point.

17 Q. What's the next time?

18 A. It's also at 10:25 p.m., few milliseconds
19 down. You'll see a dark van is parked, which is
20 parking right now. I don't believe it's going to be
21 related whatsoever, but I made note of it. It parks
22 in front of where her vehicle is. And you'll see the
23 driver get out and walk toward Walmart and go inside.

24 Q. So the dark van, to the best of your
25 knowledge, has nothing to do with this?

1 A. Correct. I don't believe it had anything
2 to do with it.

3 Q. What's the next time?

4 A. The next time should be 10:27 p.m.

5 Q. What are we going to see around 10:27?

6 A. 10:27 p.m., you had two males that approach
7 that Camry. One of them had a dark-colored shirt.
8 You'll see them walk around the back side of that
9 Camry.

10 Q. You see that one male or two males?

11 A. Just the one male.

12 Q. Is he coming into focus yet?

13 A. I think he just -- you see him go by.

14 Q. Okay. Could that potentially be -- I saw
15 something pass as this car was passing.

16 A. Correct. That should be the male in the
17 dark shirt.

18 Q. I'm going to press "play" again.

19 A. Sure.

20 Q. I see that figure's gone. What's the next
21 time?

22 A. The next time's going to be at 10:28 and
23 that is when you'll see the male in the light-colored
24 or white-colored or white shirt walk back in front of
25 the camera.

1 Q. Okay. Is that --

2 A. I think that might have been.

3 Q. Been it?

4 A. Correct.

5 Q. Okay. And the next time?

6 A. The next time will be at 10:30 p.m. You're
7 going to see both males enter the Camry.

8 Q. Press "fast forward" a little bit.

9 Let me ask you something while it's
10 getting to 10:30.

11 A. Sure.

12 Q. Do we see where these males go back and
13 forth from?

14 A. You will, and that's why I have Camera
15 No. 4 documented. That would be one row beyond or
16 behind from where the Camry is parked. You'll see
17 the males go in and out of that camera view.

18 Q. Okay. So we're at 10:30. I just paused it
19 at 10:30 and 36. I see some movement here by the car
20 door.

21 A. Correct.

22 Q. Okay. I guess what's the next time we
23 should be looking for?

24 A. 10:32 p.m. You're going to see those males
25 go back to the maroon vehicle, which will be in

1 Camera No. 4, but you're going to see them leave the
2 camera view behind the pole. In this camera view,
3 this is Camera 11.

4 Q. Right now I see. Are these the figures
5 you're speaking of?

6 A. Can you continue to play it?

7 Q. Okay. You want me to rewind it?

8 A. Can you, right to the 10:32? I'm sorry.

9 Q. I see movement by the passenger door. Is
10 that what you're speaking of?

11 A. Yes.

12 Q. And then these two males?

13 A. Yeah. You have some movement on the right
14 back corner, I guess.

15 Q. Okay.

16 A. And then they're out of the camera view.

17 Q. Is there anything after this?

18 A. Not on Camera 11. The next documentation
19 is Camera 4.

20 Q. I see that and the jury sees it. There's a
21 time lapse here. Is there anything else of
22 significance that you pick up from Camera 11 after
23 this?

24 A. I have to look at my notes. I do believe
25 after a few minutes you'll see the maroon vehicle

1 exit the parking lot. Right there.

2 Q. Okay.

3 A. Coming from Camera 4 into Camera 11's view?

4 Q. Okay. I see it exiting and kind of
5 turning, I'm assuming. What street is that?

6 A. That would be approaching Beechnut.

7 Q. Okay. Anything else you can think of of
8 significance after this?

9 A. No.

10 Q. So let's go to Camera 4. Actually, this is
11 more of Camera 11. What time is this right now?

12 A. That's 11:40 p.m., which I believe is going
13 to be shortly before patrol arrives out there. You
14 can see the Camry still parked there.

15 Q. Okay. Fast forward, 11:48. Now 11:56.
16 Camry's still not moving?

17 A. No, sir.

18 Q. Looks like we're now at September 10th.
19 I'm going to Camera 4. What's the starting point of
20 Camera 4?

21 A. Camera 4 would be 10:24 p.m. Can I make a
22 note to the jury?

23 Q. Yes.

24 A. You have 10:24, 10:27. I inadvertently --
25 there's two times. 10:26 should have been in here,

1 so I put brackets around them.

2 Q. And how do you know this is Camera 4?

3 A. It's labeled in the bottom left corner.

4 You see Camera 4.

5 Q. You want to go straight to 10:24, you said?

6 A. Yes, sir.

7 Q. What are we going to see around 10:24?

8 A. Around 10:24, you've got the first two rows
9 of parking spaces. You're going to see a maroon
10 vehicle pull up. I don't believe that's going to be
11 the vehicle. You'll see it in just a second. Two
12 males get out of it. There it comes. Right there it
13 stops.

14 Q. Where is that at?

15 A. Right where your cursor is, just above you
16 and to the right. Right there.

17 Q. Right here?

18 A. Correct.

19 Q. Is that the vehicle we need to be paying
20 attention to?

21 A. Yes, it is.

22 Q. Okay. And what's the next time?

23 A. That continues and you should see two males
24 get out of the passenger side and they'll be out of
25 camera view. There you go. You'll see the light

1 shirt and dark shirt right there.

2 Q. Okay. What's the next time of
3 significance?

4 A. The next time would be 10:26 p.m. And the
5 10:26, you're going to have two other vehicles pull
6 up next to that maroon vehicle. And within that same
7 minute, those two vehicles are going to leave.

8 Q. Do those vehicles stop or --

9 A. I think one is pulled up there right now.
10 You should have another one pulling up. They stop
11 just briefly and within that same minute, they leave
12 the parking lot.

13 Q. Now, to the best of your knowledge and from
14 your investigation, do you know whether or not those
15 vehicles had anything -- did they seem to be involved
16 at all?

17 A. I don't know.

18 Q. Okay. What's the next time we should be
19 looking at?

20 A. The next time should be 10:27 p.m. You'll
21 see the male with the dark shirt get into the maroon
22 vehicle.

23 Q. Now, is that the same figure that you see
24 get out at around about this time on Camera 11?

25 A. It's hard to tell, but I believe so.

1 Q. Is that it?

2 A. He leaves the maroon vehicle.

3 Q. What's the next time we should be looking
4 at?

5 A. 10:30 p.m. And you're going to see a male
6 get back out of the maroon vehicle.

7 Q. You said at 10:30?

8 A. Yes, sir.

9 Q. These the same two?

10 A. That's correct.

11 Q. Okay. Male in white shirt or light-colored
12 shirt?

13 A. Light-colored shirt and a dark-colored
14 shirt.

15 Q. Okay. Does that time correspond with
16 Camera 11 as far as two males getting into the Camry?

17 A. That is correct.

18 Q. What's the next time of significance we
19 should be looking for?

20 A. That was 10:30 p.m. The last time I have
21 on there is 10:32 p.m. The males come back on the
22 passenger side of that maroon vehicle and they're
23 going to leave the parking lot towards Beechnut.
24 You'll actually see them go out of that view and
25 Camera 11 picks up.

1 Q. I just saw some movement.

2 A. Keep going. You'll see that vehicle pull
3 out in just a second.

4 Q. Is there anything else on Camera 4 of
5 significance that we should be looking for that you
6 found?

7 A. No, sir.

8 Q. Thank you, Investigator French. If you
9 don't mind having a seat back on the stand.

10 A. (Witness complies.)

11 Q. Now, did you happen to see stills of that
12 video?

13 A. I did.

14 Q. Okay. And did those stills correspond with
15 the times that you just mentioned and talked about
16 when we watched the video?

17 A. Yes, they did.

18 Q. I saw you had a time of around about 10:24
19 and we're looking at -- or for purposes of the
20 record -- State's Exhibit 47. Is this the flashing
21 of lights?

22 A. That's correct.

23 Q. Okay. State's Exhibit 48, is that the same
24 thing?

25 A. It is the same thing. You actually really

1 get a sense of the lights flashing.

2 Q. Okay. Forty-nine. Now we're in Camera 4.
3 Is that the red car pulling in?

4 Let me show you a better one, State's
5 Exhibit 50.

6 A. Correct.

7 Q. Camera 4? And all of this is still going
8 in the same sequence of time, just two different
9 cameras, right?

10 A. Correct.

11 Q. Fifty-one? That's -- again, I think that's
12 Camera 4, if I'm not mistaken?

13 A. Yes, that's Camera 4, 10:24 p.m.

14 Q. Okay. And 53 in Camera 4?

15 A. Correct.

16 Q. All right. And the time stamped at the
17 top, is that what that is?

18 A. Yes.

19 Q. And now at 10:25:24?

20 A. We're back to Camera 11.

21 Q. What camera are we looking at now?

22 A. Camera 11.

23 Q. This is State's Exhibit 54. And does this
24 correspond with what you saw or what you noted when
25 you were describing the video?

1 A. Correct.

2 Q. Okay. Now, State's Exhibit 55, what time
3 is that at the top?

4 A. 10:27 and 44.

5 Q. Camera 4?

6 A. Correct.

7 Q. And what's that again, according to your
8 notes? What's going on there?

9 I'm sorry. I actually have your
10 notes.

11 A. That's going to be when the male in the
12 dark shirt, I believe, enters the maroon vehicle.

13 Q. Okay. And State's Exhibit 56, what we're
14 looking at now, what time is that?

15 A. It's still Camera 11 and that is at 10:28.

16 Q. Okay. And what's going on here?

17 A. You got the male in a light-colored T-shirt
18 walking back around in front of the Camry.

19 Q. Okay. And then State's Exhibit 57, back in
20 Camera 4, what time is that at the top?

21 A. That is at 10:30.

22 Q. Go ahead.

23 A. 10:30, you're going to have the male coming
24 back out of the maroon vehicle.

25 Q. Okay. Let's see, State's Exhibit 58.

1 A. That's Camera 11 again. That's at 10:32
2 and then you should have -- they should be heading
3 back to their car.

4 Q. Okay. Now, from looking at that video,
5 when you watched it the first time, were you able to
6 identify any faces?

7 A. No.

8 Q. Was it any clearer, I guess, that night,
9 the video, when you first watched it or is this the
10 same video?

11 A. It looks the same, from what I recall.

12 Q. What do you do next after watching the
13 video and talking to the manager of the store?

14 A. After watching the video and talking to the
15 manager, I went back out and continued to document.
16 We take quite a bit of notes when we work these
17 scenes. It takes time for the medical examiner to
18 arrive, for the body car to arrive. So I continued
19 to document the scene.

20 Q. When you went back out and you saw the
21 victim and you saw the victim the first time, right?
22 And you mentioned a little bit earlier that you had
23 done some -- while you were on patrol for those nine
24 years, you had encountered a lot of things. One of
25 them you mentioned was family violence.

1 A. Yes.

2 Q. You were able to learn, you know, just
3 different investigative techniques from the different
4 encounters, right?

5 A. Sure.

6 Q. Were you ever able in your patrol years to
7 learn, like, how to find out -- not how to find out,
8 but how to look and see whether or not there were
9 defensive wounds or, you know, actual some kind of
10 combat had taken place?

11 A. Sure.

12 Q. Okay. From looking at this victim, from
13 what you saw that night, did it look as if there was
14 any type of defensive wounds on her?

15 A. No.

16 MR. LOPER: I'm going to object to
17 that, Judge. I think it's beyond the scope of his
18 expertise.

19 THE COURT: That's overruled.

20 You may answer.

21 A. No. I didn't see any signs of a struggle.

22 Q. (BY MR. REED) Okay. What kinds of things do
23 you look for, for you to decide whether or not there
24 were any signs of struggle?

25 A. The things we document when we work a

1 homicide scene, we note signs of struggle. We note
2 the order or disorder of the scene, meaning are
3 things scattered in the vehicle, for example. Is
4 their clothing torn? Do they have wounds on their
5 hands from trying to fight. I didn't note anything
6 that would lead me to believe that there was some
7 type of struggle with her.

8 Q. Here I'm showing you State's Exhibit 29.
9 You see her hands are kind of placed in her lap?

10 A. Correct.

11 Q. Are those the kinds of things you look for?

12 A. I would look at their hands, definitely.

13 Q. See anything on her hands that night?

14 A. Not at all.

15 Q. From these photos?

16 A. I don't notice anything that's out of the
17 ordinary, really. I notice her glasses there, but,
18 you know.

19 Q. What about State's Exhibit 28, her hands
20 again?

21 A. Just down by her side. Nothing that I
22 would have thought too abnormal, really. Nothing
23 that I would have noted.

24 Q. Okay. And State's Exhibit 31, we see her
25 feet there also?

1 A. Yes.

2 Q. In your opinion, in your experience, would
3 her feet probably have been moved had they been --
4 had there been any struggle?

5 MR. ROBERT LOPER: Judge, I'm going to
6 object.

7 THE COURT: Sustained.

8 MR. ROBERT LOPER: Thank you.

9 Q. (BY MR. REED) To the best of your
10 knowledge, was there a phone recovered at the scene?

11 A. There was not a phone recovered at this
12 scene here in the parking lot.

13 Q. What about in the car, inside of the car?

14 A. You know, again, the car is removed from
15 the scene and taken to the print stall. And there
16 are separate Crime Scene Units, CSIs, that do
17 processing of the car. And I did not take part in
18 that. So I can't say a phone was recovered from the
19 car.

20 Q. What about her purse?

21 A. No phone in her purse, no.

22 MR. REED: Judge, under Rule 1006,
23 State offers State's Exhibit 63. And this is the
24 rule of summaries. It basically states the contents
25 of writings, recordings, photographs are otherwise

1 admissible --

2 THE COURT: I'll consider it when the
3 jury's out when I can read it.

4 MR. REED: Okay. Thank you, Judge.
5 No further questions.

6 THE COURT: All right. Mr. Loper.

7 MR. ROBERT LOPER: Thank you, Judge.

8 **CROSS-EXAMINATION**

9 **BY MR. ROBERT LOPER:**

10 Q. Investigator French, how are you?

11 A. I'm doing well, thank you.

12 Q. Good. Couple questions for you about your
13 work in this case.

14 And as I understand it, you got to
15 Homicide about 2009, correct?

16 A. That is correct.

17 Q. Do you remember the month?

18 A. I transferred in September of 2009.

19 Q. So you had been in the division about a
20 year when this event occurred, correct?

21 A. Give or take. I did a little bit of time
22 in family violence and that actually transitioned
23 into a separate division for a little while and I was
24 brought back to Homicide. Family violence was
25 originally Homicide and then -- about a year.

1 Q. Well, I'm just trying to get around to
2 this. You'd been to a few homicide scenes by the
3 time this event occurred in September of 2010,
4 correct?

5 A. Yes.

6 Q. How many do you think you made?

7 A. Probably less than a dozen.

8 Q. Okay. Was this not the first time you'd
9 done the scene investigation or was this the first
10 time you'd done a scene investigation?

11 A. I had done the scene investigation before.

12 Q. Okay. And it turned out that you went to
13 this particular scene because you happened to be the
14 guy that was on duty and picked up the phone the
15 night that the call came in, correct?

16 A. Correct.

17 Q. Now, sometimes it occurs in the Houston
18 Homicide Division that the person who gets called out
19 maintains the investigation throughout the entirety
20 of the investigation, correct?

21 A. That is correct.

22 Q. Sometimes the person who gets called out
23 might turn the investigation over to the next shift
24 of investigators; is that also correct?

25 A. Yes.

1 Q. And that second way is kind of what
2 happened in this case, isn't it?

3 A. Yes.

4 Q. What you did that night, you have told the
5 jury about, but the rest of the work -- most of the
6 rest of the work was turned over to another set of
7 investigators.

8 A. Yes.

9 Q. And as the scene -- as the investigator
10 that was working on the scene, you did not become
11 involved in interviewing any witnesses, did you?

12 A. I did not.

13 Q. You may have had contact with the people
14 that worked at Walmart, but in terms of interviewing
15 witnesses for some personal knowledge that they would
16 have of what happened at the scene, you didn't get
17 yourself involved in that?

18 A. No, I did not.

19 Q. And when you were telling the jury about
20 the videotape that you have reviewed and the notes
21 that you made, were these notes that you had made
22 that night as you were reviewing the tape?

23 A. Yes.

24 Q. Okay. So although you told the jury
25 earlier that sometime later when you weren't present,

1 someone picked up a copy and I presume that's the
2 copy we've been looking at, right?

3 A. Correct.

4 Q. Your work that you did and the times that
5 you noted and all these things were done that night
6 there at whatever machine they could provide for you
7 there at Walmart, correct?

8 A. Correct. Yes, sir.

9 Q. Did you do that work with the help of any
10 other officers or were you doing that by yourself?

11 A. I took my own notes. There were two other
12 officers with me viewing the video, but I captured
13 the notes with that.

14 Q. Did y'all engage in some kind of discussion
15 like you kind of did with Mr. Reed just now, where:
16 Did you see that? Write down the time? Can you help
17 me with that? Back it up again. Let's look at it
18 again. That type of discussion with the other
19 officers?

20 A. We discussed the video, but as far as times
21 were, I noted my own times without their assistance.

22 Q. Okay. Those were notes that you made
23 yourself in some type of little spiral notebook or
24 something like that, correct?

25 A. Correct.

1 Q. But as I understood it and the reason why
2 you had your own notes there today is those notes did
3 not get written down in the Houston Police report
4 supplement that you prepared, correct?

5 A. Correct.

6 Q. Did you approach the vehicle and do the
7 things you told the jury about before you went to
8 look at the videotape?

9 A. Yes.

10 Q. Okay. Then let's start with that. It's
11 very customary and normal when the homicide
12 investigator gets to the scene to receive some kind
13 of summary or review from the patrol officers that
14 are already on the scene, correct?

15 A. Correct.

16 Q. Without going into anything anybody would
17 have said to you, you got somewhat of an update about
18 what the situation was, correct?

19 A. Before I even left the Homicide Division to
20 go to the scene, yes.

21 Q. And you probably got that over the
22 telephone, didn't you?

23 A. Yes, sir.

24 Q. Okay. Okay. And so when you got out
25 there, was there another homicide investigator that

1 was there for the purpose of doing any witness
2 interviews?

3 A. Yes, there was.

4 Q. Who would that have been?

5 A. That would have been Sergeant J.J. Wilson.

6 Q. And I believe you also said -- my notes
7 indicate here -- that the fire department had already
8 cleared the scene prior to your arrival, correct?

9 A. To my knowledge, I don't recall the fire
10 department being there when I arrived.

11 Q. Do you remember how many police vehicles
12 were there?

13 A. I believe there were two patrol officers
14 there. I believe maybe a sergeant as well.

15 Q. Did you ride with your partner, Sergeant
16 Wilson, or did y'all arrive separately?

17 A. No, I arrived separately.

18 Q. Okay. Do you remember if you arrived
19 before Wilson did or the other way around?

20 A. I arrived afterwards.

21 Q. So did you get any further update when you
22 got to the scene from Sergeant Wilson or did you just
23 have the information you received over the telephone
24 earlier?

25 A. I believe I spoke with the primary, Officer

1 Le. I'm sure I spoke with Sergeant Wilson and
2 Investigator Wackman who was also out there.

3 Q. And when you approached the -- I'm going
4 directly to the vehicle itself. Obviously it was
5 pointed out where it was located, right? Correct?

6 A. I saw it as soon as I pulled into the
7 parking lot. It was surrounded by crime scene tape.

8 Q. Of course, and that also. You had said
9 earlier that you looked inside the vehicle but that
10 you didn't touch anything; is that correct?

11 A. That is correct.

12 Q. When you say you didn't touch anything,
13 that means you didn't touch any part of the vehicle,
14 you didn't touch any part of the woman that was
15 inside, you didn't touch any of her belongings,
16 anything, correct?

17 A. I handled her purse. Her purse was on top
18 of the vehicle. We inventoried that with the help of
19 the medical examiner. Anything in the interior of
20 the vehicle, no, that wasn't touched.

21 Q. Well, I was starting with interior of the
22 vehicle. When you looked inside, you did not touch
23 anything inside the vehicle?

24 A. No, sir.

25 Q. You didn't change anything?

1 A. No.

2 Q. Okay. Were you present when these
3 photographs were taken that you've been talking
4 about?

5 A. Yes.

6 Q. Did I understand you to say that at the
7 time that you had arrived that the purse had already
8 been removed and placed on the hood?

9 A. The purse had been removed by the Houston
10 Fire Department and was on the hood when I arrived.

11 Q. And the reason that you went through the
12 purse because you're the officer that was working,
13 doing the scene investigation, correct?

14 A. Correct.

15 Q. And you found a number of things inside the
16 lady's purse, correct?

17 A. Correct.

18 Q. Including information that helped you kind
19 of figure out who she was by way of, I believe you
20 said, driver's license, correct?

21 A. Correct.

22 Q. And you were able to take that driver's
23 license, look at the photograph on it, compare it to
24 the lady that was in front of you and that's how you
25 could tell this is this lady?

1 A. I assumed it was the woman, yes.

2 Q. Well, you say you assumed. Did you make a
3 determination or did you assume?

4 A. We at that point believed that that was
5 Joan Ogunleye. The medical examiner will make
6 affirmative ID, but preliminary at the scene, yes, I
7 did.

8 Q. Among other things that you found in her
9 purse -- and I think you pointed it out for the
10 jury -- was a bottle that, based on your training
11 experience, appeared to be of pills. And you said
12 they appeared to be Xanax pills, correct?

13 A. That is correct.

14 Q. And those also have sort of a slang street
15 name, too, don't they?

16 A. They do.

17 Q. What is that?

18 A. Handlebars.

19 Q. Is that something that is sometimes sold
20 illegally on the street?

21 A. Yes.

22 Q. What did that tell you when you found that
23 prescription bottle that did not have a prescription
24 label on it?

25 A. They were in this person's possession.

1 MR. REED: Objection, Your Honor.
2 Calls for speculation.

3 THE COURT: It's overruled.

4 You may have finish.

5 A. Either they used them or they could have
6 been for sale. I don't know.

7 Q. (BY MR. ROBERT LOPER) At that point in time,
8 you didn't know?

9 A. I did not.

10 Q. But it certainly occurred to you these
11 could be drugs there for the purpose of sale?

12 A. It did.

13 Q. You also found inside that purse some other
14 receipts that tended to have Ms. Ogunleye's name on
15 it, correct?

16 A. Yeah. There was a bank statement. She
17 also had a wallet. Inside that, there was a
18 checkbook with checks and her name on those checks.

19 Q. Did you look to see whether it appeared
20 whether any of the checks were missing or not?

21 A. I noted in my report that it was Checks
22 No. 1811 through 1840 and didn't look further beyond
23 that.

24 Q. Okay. So you didn't check to see if any
25 were missing?

1 A. I did not.

2 Q. Okay. And you also documented that she had
3 about \$385 in cash in her purse, correct?

4 A. That's correct.

5 Q. Do you recall if that cash was in some type
6 of wallet? Was it folded away? Was it just in the
7 open purse?

8 A. It was inside a black leather wallet, which
9 had been inside the purse.

10 Q. Now -- and I don't know if you could
11 determine this or not, but you've been to some
12 scenes. Were you able to determine by looking at the
13 vehicle and the lady that was inside whether she had
14 been injured there in the vehicle or injured
15 somewhere else and placed in the vehicle or could you
16 not tell?

17 A. It's hard to say.

18 Q. From what you could see, you just couldn't
19 tell?

20 A. From what I saw, I believe she was injured
21 inside the vehicle.

22 Q. Why do you say, It's hard to say?

23 A. There is always a possibility she could
24 have been placed there, but I thought it was unlikely
25 considering the camera view that I watched. And I

1 watched the vehicle pull up and I didn't see anything
2 in the camera to show a body being placed inside the
3 vehicle. So I believe she was inside the vehicle
4 when she was injured.

5 Q. If the body was already injured inside the
6 vehicle when it pulled up and it never got out, it
7 could have still been there when you were watching
8 the surveillance video, correct?

9 A. It's possible.

10 Q. Well, that's the question. All I'm asking
11 is: You may think it likely, but you're not telling
12 us you could rule it out, can you?

13 A. There is no way for me to tell from that
14 video where she was in the vehicle when it pulled up.

15 Q. Okay. When you started looking at the --
16 I'm sorry. Let me talk about the car for a second.

17 While you were still there, you looked
18 inside. You didn't touch anything. You went through
19 the purse that was on the hood. What other
20 documentation on the scene did you do?

21 A. Documentation of the parking lot, you know,
22 location where we're at, what part of the city it's
23 in, the vehicle, the condition of Ms. Ogunleye, the
24 way she was found. Her clothing, her position inside
25 the vehicle. We noted her arms are down by her side.

1 Just the way the body is found. Once she's removed
2 from the vehicle, we make note of any jewelry or
3 anything found in the pockets, which the medical
4 examiner does when they arrive.

5 Q. Okay. Were all of those things done before
6 you went to start your review on the video?

7 A. No.

8 Q. Did you leave the scene, your scene
9 investigation, to go do the work on the videotape and
10 then come back, I assume?

11 A. I did. We had patrol officers that were
12 guarding the scene while we went inside the Walmart.

13 Q. How long a period of time do you think it
14 took you to go through these cameras and find what
15 you were looking for and make the notes that you have
16 told the jury about?

17 A. Probably no more than 30 minutes.

18 Q. Okay. And how far back on the cameras did
19 you go in terms of time to start watching the
20 surveillance tape?

21 A. I don't have the exact time that I went
22 back documented, but it would be just before the
23 Camry is shown on the video, which would have been, I
24 guess, 10:17 p.m. is when the Camry pulls up.

25 Q. How did you determine when the Camry pulled

1 up?

2 A. Watching the video, it shows it at 10:17
3 pull up.

4 Q. I understand that. I wasn't trying to be
5 facetious, but how did you know where to start to
6 start watching until you saw it pull up? I mean, did
7 you go to 8:00 p.m.? 9:00 p.m.? 10:00 p.m.?

8 A. I don't recall. Possibly 10:00 p.m. I
9 arrived on scene at 1:05 a.m. and we just went back
10 from there.

11 Q. Okay.

12 A. Walmart's video, they can skip back pretty
13 quickly.

14 Q. Well, you knew because it had been told to
15 you by the patrol officers that they arrived around
16 12:10 or 12:15, correct?

17 A. Correct.

18 Q. And you knew that they were the first
19 patrol officers on the scene, right?

20 A. That's correct.

21 Q. But what you didn't know, at least at that
22 point in time, is when the event may have occurred as
23 to when the shooting took place, right?

24 A. That's correct.

25 Q. And because you really can't say whether

1 the shooting took place in the car or someplace else,
2 you still really don't know when the shooting took
3 place of your own personal knowledge, do you?

4 A. No.

5 Q. And so when you're at the Walmart and
6 you're going through the surveillance video, I mean,
7 did you first start at midnight to see if you saw
8 anything and you didn't and you went back to
9 11:00 p.m. and started to see if you saw anything?
10 How did you do it?

11 A. I don't have that documented, so my best
12 guess would be 10:00 p.m. probably is when we
13 started. We may have gone back further, maybe beyond
14 10:00 p.m. It's hard to tell.

15 Q. I think Mr. Reed asked you this question,
16 but so the jury understands, what we've been watching
17 today is not the best tape, right? Would you agree?
18 Little jerky?

19 A. I'm no expert on video. It skips here and
20 there.

21 Q. It's not like your TV at home. It's not
22 like my TV at home. Would you agree with that?

23 A. I'd agree with that.

24 Q. Okay. Kind of hard to watch is what I'm
25 saying. You agree with that?

1 A. I'm able to watch it. I wouldn't say it's
2 the clearest video.

3 Q. I apologize. I didn't mean to sound --
4 it's hard to watch. It's your job to watch.

5 What I meant was it's difficult to see
6 clearly what took place. Would you agree with that?

7 A. Yes.

8 Q. Okay. My point there being that in order
9 to make sure you didn't miss anything, at whatever
10 time you start watching the tape, whether it was
11 10:00 p.m., 9:00 p.m. or whenever it was that you
12 backed it up, I assume you had to let it run in real
13 time and concentrate on that area of the parking lot
14 to make sure you didn't miss anything, correct?

15 A. That's correct.

16 Q. Ultimately, eventually, you see the Camry
17 come up and I guess that's when you started taking
18 your notes and looking at the time --

19 A. Correct.

20 Q. -- et cetera?

21 How did you determine which cameras to
22 look at when you were looking at the video system?
23 Did someone from the Walmart store tell you, These
24 are the ones you should look at or did you look at
25 them all and narrow them down?

1 A. We looked at them, and based upon where her
2 Camry was when we arrived, you know, when you go to
3 look at their video, they actually have real time
4 playing as well. And we could look and see there's
5 the Camry, so from those camera angles, we just back
6 it up.

7 Q. As you back it up, I know the view that the
8 jury got, we can kind of jump ahead from the time
9 that you noted in your report.

10 A. Sure.

11 Q. But as I think you also agree, at least
12 even during some of the direct testimony, some of the
13 vehicles that drove near the Camry, some of the
14 vehicles that parked near the Camry, you can't say
15 whether they were involved in this event or not,
16 correct?

17 A. You'd have to be specific about which
18 vehicle, if you're basing it upon my documentation.

19 Q. Well, when you had Camera 4 -- when
20 Camera's tape was up a minute ago, at 10:26, another
21 vehicle pulled up and the question was: Did you know
22 whether it was involved?

23 And you said, No, I don't know.

24 A. That's correct.

25 Q. My point is, as you were giving those times

1 earlier, Mr. Reed was fast-forwarding to each one,
2 you picked out those times because that's what it
3 appeared to you to be the most likely time that there
4 was some vehicle or people in a vehicle that were
5 connected to that Camry, correct?

6 A. Correct.

7 Q. But you say there could have been more and
8 you just missed some?

9 A. I don't believe so.

10 Q. When we had your chart up a minute ago --
11 you have a copy of this, right?

12 A. I have my notes, yes, sir.

13 Q. Okay, good. Then let's do it like this:
14 On your chart at 10:24 on Camera 11, on the tape, it
15 appears that the lights of the Camry come on?

16 A. Correct.

17 Q. Okay. From the tape that we watched that
18 the jury just saw, it is almost impossible to
19 determine how long the lights were on. Do you agree
20 with that?

21 A. No, I don't.

22 Q. Okay. Did you get the same view as you
23 were watching the tape that night as we all got as we
24 were watching in the courtroom just now?

25 A. Same camera I looked at, yes.

1 Q. Okay. And you're saying that when you
2 watched that, you could tell the lights were on for
3 just a brief second?

4 A. Yes.

5 Q. Do you think it was because we were jumping
6 around so much that we didn't see it as well as you
7 did?

8 A. No.

9 Q. You don't have any idea the significance of
10 those lights coming on and going off, do you?

11 A. No, I do not.

12 Q. At 10:25 we're still in Camera 11. It says
13 2X -- we all agree that means two males, right?

14 A. Yes, sir.

15 Q. Two males walk around rear of the Camry to
16 the Camry passenger side, front and back. Are you
17 telling the jury you can tell from that camera angle
18 that they were males?

19 A. I think they look like males, yes.

20 Q. You really did?

21 A. Yes.

22 Q. Don't you think you're making a bit of an
23 assumption?

24 A. No.

25 Q. The night that you looked at this

1 videotape, this is before you know anything about the
2 case, right?

3 A. Correct.

4 Q. Obviously, as a member of the Police
5 Department, you ultimately learn who got charged in
6 the crime, right?

7 A. I did.

8 Q. You certainly know who's on trial today?
9 You know that, right?

10 A. Yes.

11 Q. Okay. But you didn't know any of that
12 information as you're looking at the surveillance
13 tape that night?

14 A. No, I did not.

15 Q. Right. You're just looking at that tape
16 and you're telling this jury that those flashy,
17 jumpy, nondescript blobs that we see moving looked
18 like males to you?

19 A. It did look like males to me, yes.

20 Q. Would you agree with me that in some of the
21 parts of the tape, you can't tell whether people are
22 getting in a car or getting out of a car?

23 A. You can tell they're at the vehicle.

24 Q. But you can't tell whether they're getting
25 in or getting out, can you?

1 A. Well, when I say that they're either
2 getting in or getting out, that's in comparison to
3 what I am seeing on Camera 4, when they're coming in
4 or out of that view. So as things go out of Camera
5 4, they go into Camera 11's view or vice versa.
6 That's how I made that determination.

7 Q. But you can't tell by looking at the
8 tape -- do you agree?

9 A. It's difficult.

10 Q. That they're getting in or getting out?

11 A. It's difficult.

12 Q. Don't you agree that some of the
13 assumptions that you made here are based upon
14 information you later learned in the investigation?

15 A. No.

16 Q. You couldn't tell their race, could you?

17 A. No, I could not.

18 Q. You couldn't tell whether they had long
19 hair or short hair, could you?

20 A. No. It's difficult to tell.

21 Q. You couldn't tell their height, could you?

22 A. They were over the roof of the vehicle.

23 Q. Obviously, if it was a better videotape,
24 better camera quality and so forth, and you can see
25 who it was, the crime could have been solved maybe

1 that night, right?

2 A. It's possible.

3 Q. And you would certainly agree that the
4 nonspecific or less clear view that you have in
5 looking at that video prevented that from even being
6 a possibility, correct?

7 A. I'd agree with you.

8 Q. How were you able to tell -- I guess this
9 would have been on Camera 4 -- that a maroon vehicle
10 pulled up into the parking lot?

11 A. How was I able to tell?

12 Q. Yes, sir.

13 A. 10:24 p.m, you can see that vehicle pull up
14 and stop.

15 Q. How could you tell by looking at what we
16 just looked at that the color of that vehicle was
17 maroon as opposed to red or something else?

18 A. Could have been. For my notes, I put
19 maroon. That's what it looked like to me.

20 Q. Okay. Again, just like when you said males
21 got in or got out, you kind of assumed a little bit,
22 right? You made some assumptions here?

23 A. I don't think I did.

24 Q. You just said it could have been another
25 color. You just chose maroon, right?

1 A. It looked maroon to me.

2 Q. Okay. It looked maroon to you based on
3 what we just watched?

4 A. Correct.

5 Q. But do you agree you're not sure that it
6 was?

7 A. I'm not sure, but it looked maroon.

8 Q. Now, if you assume -- and I think you
9 did -- that the event took place around 10:30 or so
10 when the lady was shot -- do you agree with that,
11 that it was around 10:30?

12 A. It's possible.

13 Q. Okay. If you assume, as I think you do,
14 that you thought it happened at 10:30, wouldn't that
15 have been captured on the camera as you're watching
16 the vehicle?

17 A. I could not determine from the camera
18 angle -- we're talking about Camera 11 where you see
19 her Camry -- what's going on inside the vehicle.

20 Q. But certainly that night, because that
21 would be a very critical point to determine the point
22 in time the shots were fired, if they were shot at
23 that time --

24 A. Sure.

25 Q. -- absolutely know that you were very

1 closely watching that to see if you could see it,
2 correct?

3 A. Yes. I couldn't tell.

4 Q. But, I mean, I know you couldn't tell, but
5 absolutely you would agree that that's one of the
6 most important things you were trying to look for as
7 you watched the tape that night, right?

8 A. Yes.

9 Q. Identity would be very important, but also
10 determine when the shots were fired, right?

11 A. Yes.

12 Q. From the camera angle that you had, both
13 11 -- well, I guess only on 11 because as we looked
14 at No. 4, the Camry's not even in view; is that
15 correct?

16 A. The Camry? No, the Camry is not in view.

17 Q. At all in Camera 4?

18 A. Not at all.

19 Q. So the only view the jury has, if they
20 decide later they wanted to see it or anything like
21 that, of the Camry would be Camera 11, right?

22 A. That's correct.

23 Q. As you're looking at that view of the Camry
24 on Camera 11, hard as you tried, you couldn't ever
25 see any type of flash from the gunshot?

1 A. No. The only flash I ever saw were the
2 headlights.

3 Q. And, you, being a police officer, have
4 enough working knowledge of a gun to be able to say
5 that you know there would be flash from a gun, if it
6 was fired? Guns do flash, don't they?

7 A. They do.

8 Q. You said as you looked at the scene -- and
9 this goes back to your family violence days and
10 experience -- that there didn't appear to you to be
11 any type of struggle, correct?

12 A. That's correct.

13 Q. You're certainly no medical doctor, though?

14 A. I am not.

15 Q. But you're just saying from looking at it,
16 it didn't appear that there were any -- I guess you
17 were looking for any type of cuts on the lady's
18 hands?

19 A. Any sort of sign of a struggle and just
20 looking, I didn't note any.

21 Q. Okay. You certainly weren't able to
22 tell -- it's well beyond your knowledge and expertise
23 to determine how she was sitting when she was shot,
24 could you?

25 A. I could not.

1 Q. You certainly couldn't tell from where the
2 shot came in the car when she was shot, could you?

3 A. She was shot in the back of the head and
4 sitting in the driver's seat, so -- but, no.

5 Q. You were about to say, so if you assume she
6 was looking forward, she was shot from behind?

7 A. Correct.

8 Q. You can't really say that, can you?

9 A. No, I cannot.

10 Q. Okay. She could have been shot from the
11 front seat. She could have been shot from the
12 backseat. You, from what you looked at, just
13 couldn't tell?

14 A. Correct.

15 Q. And then, finally, both from what you had
16 at the scene that night and the videotape that you
17 saw, there was no indication to you as to who fired
18 the weapon inside the vehicle, if it was fired at
19 that time of night, around 10:30 or so?

20 A. Correct.

21 Q. If you assume that the jury believes they
22 could tell that that looked like two people getting
23 in that vehicle, there's certainly nothing on the
24 tape that shows which person fired the weapon, right?

25 A. Correct.

1 Q. You can't tell by looking at the video
2 whether one or the other was carrying a weapon, could
3 you?

4 A. No, you could not.

5 Q. You couldn't tell if both were carrying a
6 weapon, right?

7 A. No.

8 Q. Couldn't tell if either had a weapon or the
9 weapon was already in the vehicle, right?

10 A. Right.

11 Q. And you certainly couldn't tell by looking
12 inside the vehicle at the lady that was in there
13 whether she had the weapon or not, could you?

14 A. No. Until she's removed, no, I couldn't
15 tell if there was a weapon or not.

16 Q. Now, once she was removed, were you present
17 when a search was done in the vehicle to determine
18 whether any weapon was ever recovered?

19 A. No.

20 Q. That would have been done later after it
21 was taken --

22 A. To the print stall.

23 Q. -- to the print stall?

24 A. Correct.

25 Q. Thank you, sir.

1 MR. ROBERT LOPER: That's all I have,
2 Judge.

3 THE COURT: Anything else?

4 MR. REED: Just briefly, Judge.

5 THE COURT: All right.

6 **REDIRECT EXAMINATION**

7 **BY MR. REED:**

8 Q. Inspector French, Mr. Loper mentioned
9 whether or not you could tell from that video that we
10 all watched if someone was getting in or out of the
11 car. And you said not every point you can tell
12 whether or not they're getting in or out of the car,
13 right?

14 A. Correct. Again, like I said, you've got
15 two cameras. So we see people coming in and out of
16 one view to the other.

17 Q. In your experience and training and just
18 years of driving, maybe just seeing someone walk next
19 to a car, next to a vehicle, if they walk next to
20 that vehicle and they disappear, what does that tell
21 you?

22 MR. ROBERT LOPER: I'm going to
23 object. I think that calls for speculation.

24 THE COURT: That's overruled.

25 Q. (BY MR. REED) Go ahead and answer.

1 A. They got inside the vehicle or they're
2 ducking by the vehicle.

3 Q. Okay. We're looking at State's Exhibit 54
4 right here. That's Camera 11 that you spoke about
5 earlier. And this is one of many of the snapshots
6 that we see from the video, but that's at 10:25. Are
7 those two figures in this vehicle -- I mean, in this
8 exhibit?

9 A. Yes, they are.

10 Q. All right. And you in your notes that at
11 10:25, they walk around the rear of the car. Are
12 they walking towards that vehicle at 10:25?

13 A. Towards the Camry, yes.

14 Q. Towards the Camry? Okay. From the best of
15 your knowledge, do they disappear after that?

16 A. Yes.

17 Q. You never see them again until, I think
18 according to your notes, 10:28, right? I'm sorry.
19 10:27?

20 A. Correct, 10:27.

21 Q. At 10:28, which is -- again, we're looking
22 at State's Exhibit 56, we see somebody, I guess the
23 figure in the white, is he walking away from the
24 vehicle, according to your notes?

25 A. Yes.

1 Q. And as we looked at earlier with all of
2 these still shots we kind of see a back-and-forth
3 going on?

4 A. Correct.

5 Q. All right. Mr. Loper also spoke briefly
6 about -- spoke briefly about gunfire and the spark, I
7 guess, that you can see from a gun, if it's fired?

8 A. Correct.

9 MR. REED: Judge, I'm handing State's
10 Exhibit 92 to the bailiff. It's actually a weapon.
11 Asking the bailiff to check this weapon?

12 THE COURT: Thank you.

13 THE BAILIFF: It's clear, Judge.

14 THE COURT: Thank you.

15 MR. REED: Judge, may I approach?

16 THE COURT: Yes.

17 Q. (BY MR. REED) Inspector French, I'm showing
18 you State's Exhibit 92. It's a gun, obviously. If a
19 gun like this was pressed firmly against someone's
20 body, in this case, firmly against someone's head, is
21 it guaranteed -- back of their head and the way she
22 was sitting in her car, is it guaranteed that we
23 would see a flash or a spark?

24 A. No, it's not.

25 Q. Have you investigated situations like that

1 where -- I'm sorry, not investigated situations, but
2 seen guns fired where they wouldn't produce a spark
3 because of close range or something like that?

4 A. I probably have.

5 Q. Okay. If it was pressed to the side of
6 someone's head or someone's body, would we definitely
7 see a spark?

8 MR. ROBERT LOPER: Judge, I'm going to
9 object. I think that's beyond his expertise unless
10 he's got some ballistics knowledge we don't know
11 about.

12 THE COURT: Sustained.

13 MR. REED: No further questions,
14 Judge.

15 THE COURT: Anything further?

16 MR. ROBERT LOPER: Just a couple
17 questions, Judge.

18 **REXCROSS-EXAMINATION**

19 **BY MR. ROBERT LOPER:**

20 Q. Sir, there's one thing that I think you
21 mentioned about the brackets over here on this chart.

22 A. Correct.

23 Q. Did I understand you to say there was a
24 missing minute from the videotape?

25 A. No. What happens is if you look at Camera

1 4 -- my notes are okay, but when I made this chart, I
2 put 10:24 then I went to 10:27 and I inadvertently
3 left out 10:26.

4 Q. This is just supposed to be in order?

5 A. Correct.

6 Q. Okay. You never noticed any type of
7 missing tape off of the surveillance video that you
8 looked at?

9 A. No.

10 MR. ROBERT LOPER: That's all I have,
11 Judge. Thank you.

12 THE COURT: Anything further?

13 MR. REED: Judge, State would offer
14 State's Exhibit --

15 THE COURT: I can't read any of that.

16 MR. REED: No further questions.

17 THE COURT: Step down. Thank you.

18 If you'll call your next.

19 MR. REED: Judge, I believe
20 Ms. Barnett is getting her, April Palatino.

21 THE COURT: All right.

22 MS. BARNETT: State calls April
23 Palatino.

24 THE COURT: Were you sworn in already?

25 THE WITNESS: No, ma'am.