

Opening Statement by Ms. Barnett
March 7, 2012

1 MS. BARNETT: We call Officer Le.
2 I'll get him.

3 THE COURT: Thank you.

4 MS. BARNETT: This witness has been
5 sworn, Judge.

6 THE COURT: Thank you.

7 If you'll step on up here, sir.

8 You may proceed.

9 MS. BARNETT: Thank you.

10 HUGH J. LE,

11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. BARNETT

14 Q. Would you please state your name for the
15 record, sir?

16 A. My name is Hugh J. Le.

17 Q. And do you work for the Houston Police
18 Department?

19 A. Yes, I do, ma'am.

20 Q. How long have you worked for the Houston
21 Police Department?

22 A. About three years.

23 Q. You need to keep your voice up.

24 THE COURT: Why don't you scoot a
25 little bit closer to that microphone.

1 *THE WITNESS:* Yes, ma'am.

2 *Q.* (*BY MS. BARNETT*) And you said you worked for
3 the Houston Police Department for three years?

4 *A.* Yes, ma'am.

5 *Q.* Where are you currently assigned?

6 *A.* Westside station.

7 *Q.* What's Westside station?

8 *A.* The address is 3203 South Dairy Ashford.

9 *Q.* Okay. And are you a patrol officer?

10 *A.* Yes, ma'am.

11 *Q.* What does that mean exactly?

12 *A.* Mostly we respond to calls, like, you know,
13 if you call 911, we respond to it.

14 *Q.* Okay. And, by the way, did you share
15 something with me that this is your first time
16 testifying?

17 *A.* Yes, ma'am.

18 *Q.* Are you --

19 *A.* I think my mic is off.

20 *MS. BARNETT:* What did you do?

21 *THE COURT:* I'm trying to get it
22 louder.

23 *MS. BARNETT:* I'm kidding. You didn't
24 do anything.

25 *THE COURT:* There's too many buttons

1 up here. I was giving everybody a hard time for not
2 being able to work that machine and I've turned the
3 microphone off.

4 MS. BARNETT: I was thinking that,
5 but --

6 THE COURT: Try it.

7 THE WITNESS: Hello.

8 THE COURT: Okay. Sorry.

9 Q. (BY MS. BARNETT) All right. So if you --
10 it's pretty likely that I'm going to ask you a
11 question that doesn't make sense. So just ask me to
12 rephrase it, if you don't understand what I'm trying
13 to get. Okay?

14 A. Yes.

15 Q. All right. Now, back on September 9th of
16 2010, what shift did you work?

17 A. September 9th, I was working night shift.

18 Q. What does night shift mean?

19 A. Night shift is -- well, my shift is from
20 8:00 o'clock in the -- on the evening to 6:00 o'clock
21 in the morning.

22 Q. All right. Okay. And that's what you were
23 working then?

24 A. Yes, ma'am.

25 Q. Is that what you're working now?

1 A. No, ma'am.

2 Q. Okay. You're on a different shift. What
3 shift are you on now?

4 A. I'm on evening shift, from 3:00 p.m. to
5 11:00 p.m.

6 Q. Which one do you like better?

7 A. I like evening shift better.

8 Q. All right. So back on September 10th of
9 2010, did you work with a partner?

10 A. Yes, ma'am.

11 Q. Who'd you work with?

12 A. Officer Willwind (phonetic).

13 Q. Okay. Do you still work with him?

14 A. No, I do not.

15 Q. Did you receive a call that night to get
16 dispatched to a Walmart?

17 A. I received a call that night. I was
18 dispatched to a Murphy USA gas station.

19 Q. A Murphy USA gas station. All right.
20 Where was that gas station located?

21 A. The physical address of that gas station
22 was 11725 Beechnut Street.

23 Q. Was there a Walmart anywhere around there?

24 A. Yes, ma'am.

25 Q. Where was the Walmart in relation to the

1 Murphy gas station?

2 A. The Walmart was a little east of that. The
3 physical address, 11755 Beechnut Street.

4 Q. Are those two locations located in Harris
5 County, Texas?

6 A. Yes, ma'am.

7 MS. BARNETT: Your Honor, may I
8 approach the witness?

9 THE COURT: You may.

10 Q. (BY MS. BARNETT) I'm going to show you
11 what's been marked for identification as State's
12 Exhibit No. 45. I'm taking this out of order since
13 we're talking about this.

14 Have you seen that before, that
15 exhibit?

16 A. Yes, ma'am.

17 Q. And what is it?

18 A. This is the southeast corner of Beechnut
19 Street and South Kirkwood Road.

20 Q. Okay. Does that appear to be an overhead
21 of the Walmart and the Murphy gas station that we've
22 been talking about?

23 A. Yes, ma'am.

24 MS. BARNETT: Your Honor, we would
25 offer into evidence State's Exhibit 45. Let the

1 record reflect I'm tendering to opposing counsel.

2 MR. ROBERT LOPER: Judge, I have no
3 objection.

4 THE COURT: It's admitted.

5 MS. BARNETT: May I publish this to
6 the jury?

7 THE COURT: You may.

8 Q. (BY MS. BARNETT) Officer -- all right. I'm
9 going to turn it around because the picture shows
10 this way.

11 State's Exhibit 45, if you touch that
12 screen that you're looking at, if you actually touch
13 on it, you can make lines.

14 Where would the Walmart be on this
15 Exhibit 45?

16 A. The Walmart is right here.

17 THE COURT: Y'all may need to change
18 the color on that.

19 Mr. Loper, you can move that anywhere
20 you need to.

21 MR. ROBERT LOPER: Okay, Judge. Thank
22 you.

23 Q. (BY MS. BARNETT) Where would the gas
24 station be?

25 A. Gas station is right here, ma'am.

1 Q. When you got a call on that night to go to
2 the Murphy gas station, what was the title of the
3 call?

4 A. It was a person-down call.

5 Q. Person down. What does that mean?

6 A. Meaning that either the person -- well, the
7 person is down, either sleeping or he's assaulted,
8 he's unconscious. We don't know.

9 Q. All right. Okay. And so are you saying
10 that you went to the Murphy gas station because
11 that's where the call came from or why did you go to
12 the Murphy gas station?

13 A. Yes. The call dropped at that gas station.
14 That's where the reportee called it in from.

15 Q. Okay. Did you go to the gas station?

16 A. Yes, ma'am.

17 Q. Were you in uniform like you are today?

18 A. Yes, ma'am.

19 Q. With your partner in a marked patrol car?

20 A. Correct.

21 Q. Who did you speak with?

22 A. We spoke with Mr. Prentess Powell.

23 Q. Was Mr. Powell associated with that gas
24 station?

25 A. He was the attendant of that gas station.

1 Q. Was he able to give you any information
2 about the person down?

3 A. Yes, ma'am.

4 Q. Okay. Did he see what happened?

5 A. No. He did not say that he did.

6 Q. All right. And was he able to direct you
7 anywhere?

8 A. Yes, ma'am.

9 Q. Where did he direct you?

10 A. He said that --

11 MR. ROBERT LOPER: Judge, I'd object
12 to hearsay.

13 THE COURT: Overruled. Letting it in
14 for motivation.

15 Q. (BY MS. BARNETT) Go ahead. You can answer.

16 A. He said that a black male came and told him
17 that there was somebody dead inside the car.

18 MR. ROBERT LOPER: Judge, I object to
19 the double hearsay.

20 THE COURT: Sustained.

21 Q. (BY MS. BARNETT) Okay. Was he able to
22 direct you to where that person might be?

23 A. Yes, ma'am.

24 Q. Did you find that person?

25 A. Yes, ma'am.

1 Q. Where was the person located?

2 A. The female was in a vehicle in the parking
3 lot of the Walmart.

4 Q. Can you show us on State's Exhibit 45 kind
5 of the area where the female's in the vehicle in the
6 parking lot.

7 A. The car is around this area somewhere. I'm
8 sorry. Where the O is.

9 Q. That's fine. Now, when you -- did you and
10 your partner walk over to that car or did you drive
11 over there or do you remember?

12 A. We drove over, then we got on foot.

13 Q. Were you able to see -- was the parking lot
14 filled? I mean, the Walmart.

15 A. No. It was closing time, so there were
16 very few cars in the parking lot.

17 Q. Okay. Do you remember about what time the
18 call was dropped?

19 A. We got the call at 12:15 a.m.

20 Q. Okay. Was Walmart still open?

21 A. At that time, yes.

22 Q. Did you know -- was there any information
23 about when this may have happened? Are you aware of
24 when this may have happened?

25 A. I have no clue, ma'am.

1 Q. Okay. Now, were you the first police
2 presence on the scene?

3 A. That's correct.

4 Q. Were you there before ambulance or anybody
5 else?

6 A. We were there before ambulance and other
7 emergency services.

8 Q. Now, when you got there and you said the
9 parking lot was not very crowded; is that right?

10 A. That's correct.

11 Q. What did you see?

12 A. Well, we walked around the area, try and
13 look into cars, see if we could see possibly what the
14 reportee told us. And there was a car in the middle
15 of the parking lot that was parked pretty much by
16 itself. And we see a lady inside the vehicle,
17 appeared to be unconscious.

18 Q. Okay. You couldn't tell immediately that
19 she was dead?

20 A. No, I could not.

21 Q. Did you learn that she was dead while you
22 were there?

23 A. Yes, I learned after HFD came.

24 Q. Now, when you said she looked unconscious,
25 does that mean -- did you see any blood? Did you see

1 any wounds?

2 A. I mean, I did not notice blood at the time.
3 Didn't see a wound, but she was laying with her head
4 back against the headrest and, you know, her mouth
5 open and stuff like that.

6 Q. Okay. All right. Could have been asleep?
7 Could have been unconscious? You don't know?

8 A. That's correct.

9 Q. Now, do you try and open the door and go
10 in? Is that what happens?

11 A. I did not. I tried to tap on the window
12 with my long flashlight, but, you know, no response.
13 HFD arrived pretty much afterwards.

14 Q. All right. So when HFD arrived -- and were
15 they dispatched about the same time as you or do you
16 know?

17 A. I'm pretty sure on the person call -- I
18 mean, person-down call, HFD dispatched at the same
19 time we get the call.

20 Q. When they arrived, did they kind of take
21 over or what happened?

22 A. Well, when HFD arrived, they pretty much
23 checked on the female.

24 Q. So they were the ones that went into the
25 car?

1 A. That's correct.

2 Q. Now, you see what they did?

3 A. They just checked for vital signs.

4 Q. Okay.

5 A. And I was told by them that --

6 MR. ROBERT LOPER: Excuse me. Object
7 to hearsay.

8 THE COURT: Sustained.

9 MS. BARNETT: That's my fault.

10 Q. (BY MS. BARNETT) Was there a time when
11 Homicide came out to the parking lot? Were you
12 there?

13 A. Yes, ma'am.

14 Q. When HPD Homicide came out. Why were you
15 still at the scene when HPD Homicide came out?

16 A. My job as primary unit is to stay and
17 secure the scene until we were released by Homicide.

18 Q. When you say "secure the scene," what do
19 you mean?

20 A. Taped up the scene, looked for any possible
21 evidence and hold the witnesses or -- and/or the
22 reportee at the scene until they could be interviewed
23 by the Homicide Division.

24 Q. Let me just stop and go back. When you
25 just said this, it reminded me.

1 You said you were told to hold
2 witnesses, hold the scene for Homicide. You
3 testified earlier that your conversation with the guy
4 at Murphy's, he told you there was another man told
5 him about the female's body?

6 A. That's correct.

7 Q. Did you ever see that man again?

8 A. No, ma'am.

9 Q. Or did you ever see that man?

10 A. No.

11 Q. Did that man ever, to your knowledge, come
12 and talk to you or your partner?

13 A. No. We never made contact with that person
14 that told Mr. Powell.

15 Q. Did you ever see a man that fit the
16 description walking through the parking lot?

17 A. No, ma'am.

18 Q. Were you able to relay to Homicide the
19 information that you had gotten from Mr. Powell at
20 the Murphy's gas station?

21 A. Yes, ma'am.

22 Q. Okay. Now, you and I looked over some
23 pictures of that scene before, did we not?

24 A. That's correct.

25 MS. BARNETT: Your Honor, may I

1 approach the witness?

2 *THE COURT:* You may.

3 Q. (*BY MS. BARNETT*) Officer Le, I'm going to
4 show you what's marked for identification purposes as
5 State's Exhibit 1 through 44. But I'm going to show
6 you right now State's Exhibits No. 1 through 34.
7 Take a look at those and tell me whether or not you
8 can identify them.

9 A. Yes, ma'am.

10 Q. Let me also ask you to take a look at 35
11 through 44. Are you able to identify these pictures?

12 A. I can ID 35, but I can't ID 36 through 44.

13 Q. All right. So I'll add 35. This was on 36
14 through 44. You were not a part of what happened in
15 these pictures; is that right?

16 A. Correct.

17 Q. Okay.

18 *MS. BARNETT:* Your Honor, we would
19 offer into evidence State's Exhibits 1 through 35.
20 Let the record reflect I'm tendering to opposing
21 counsel.

22 *MR. ROBERT LOPER:* Could we approach,
23 Judge?

24 *THE COURT:* Yes.

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

1 MR. ROBERT LOPER: I'm going to have
2 some objections to some of the photos and there might
3 been multiple objections, depending on which photo
4 I'm talking about. Would you like me to do each of
5 them one at a time or as a group?

6 THE COURT: Let me look at them first.
7 Okay.

8 MS. BARNETT: Judge, I think we have
9 to prove it's a white car.

10 MR. ROBERT LOPER: Judge, I think that
11 No. 7 and 8 are exact same image. I think they're
12 repetitious.

13 THE COURT: That's overruled. They're
14 not quite the same.

15 MR. ROBERT LOPER: I think that nine
16 and ten are exactly the same thing. Objection is
17 they're repetitious.

18 THE COURT: Sustain on nine.

19 MR. ROBERT LOPER: Eleven and 12 are
20 repetitious. I think the photo is reprinted twice.

21 THE COURT: Sustain on 12.

22 MR. ROBERT LOPER: State's Exhibit 24,
23 25 and 26 essentially show the same view of the
24 complainant, the body. I think they're repetitious
25 and overbearing.

1 THE COURT: Denying on that. There's
2 some distinction.

3 MR. ROBERT LOPER: State's Exhibit
4 No. 23, they had several photos that show the
5 complainant and I think that that's just cumulative.
6 And because of the angle of the shot, I think that
7 any probative value of that photograph would be
8 outweighed by its prejudicial effect on this jury.

9 THE COURT: Overruled. Angle's like
10 that, it goes up. Overruled.

11 MR. ROBERT LOPER: That's all we have,
12 Judge.

13 THE COURT: So you have all those.
14 The others are admitted through 34.

15 MR. ROBERT LOPER: For the record, I
16 have no objection to the other numbers that we didn't
17 talk about.

18 THE COURT: Thank you.

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

20 MS. BARNETT: May I publish this to
21 the jury?

22 THE COURT: You may.

23 MS. BARNETT: Let me start off with
24 State's Exhibit 1. What does this show us.

25 A. That's the address of the Walmart.

1 Q. Okay. And State's Exhibit No. 2?

2 A. That's the drug's -- pharmacy entrance of
3 the Walmart.

4 Q. And State's Exhibit No. 3?

5 A. To the right of it, that's the Murphy
6 gas -- USA gas station.

7 Q. Is that what you're speaking of?

8 A. That's correct, ma'am.

9 Q. Is that the place that you originally --
10 you and your partner went to talk to Prentess Powell?

11 A. Correct.

12 Q. In State's Exhibit 3, we see part of a car
13 there. Is that the complainant's car?

14 A. No, ma'am.

15 Q. Let me show State's Exhibit No. 4. What
16 does that show us?

17 A. That's the white Camry that the victim was
18 in.

19 Q. Now, State's Exhibit No. 4, we see a
20 vehicle behind the Camry. What vehicle is that?

21 A. I believe that's the Crime Scene Unit
22 vehicle.

23 Q. It looks like there is some yellow tape
24 around the scene. What is that?

25 A. That's pretty much the perimeter that we

1 set around the vehicle so that nobody could pass in
2 or out if they have no place in that area.

3 Q. Now, when you testified earlier about
4 preserving the scene, is this what you were referring
5 to?

6 A. That's correct.

7 Q. Okay. What are you trying to say? What
8 are you trying to do there?

9 A. Trying to set barriers so no pedestrians or
10 shoppers would walk into that area so that they would
11 not contaminate the crime scene.

12 Q. Like, if there's ballistics evidence there
13 or some type of DNA something or other, you would
14 save that for the investigators?

15 A. That's correct.

16 Q. Let me show you State's Exhibit No. 10.
17 The Camry we see here in State's Exhibit No. 10, is
18 that in the exact same spot in relation to the
19 Walmart as when you arrived and saw the complainant
20 in the car?

21 A. That's correct.

22 Q. So the way we see it here in State's
23 Exhibit 10, that's the way you saw it when you first
24 arrived?

25 A. Yes, ma'am.

1 Q. State's Exhibit 11. Now, is that you or
2 your partner that's shown there?

3 A. That would be my partner talking to -- I
4 believe that's the Mr. Prentess Powell.

5 Q. From the Murphy's gas station?

6 A. That's correct.

7 Q. Okay. Let me show you State's Exhibit
8 No. 12. What does this show us, sir?

9 A. Shows the inside of the vehicle. If you
10 look on the bottom a little bit, it looks like it's
11 the victim's head.

12 Q. Is that what you're referring to?

13 A. That's correct.

14 Q. And the way that we see the victim
15 positioned in State's Exhibit No. 20, is that the way
16 that you saw it?

17 A. Pretty much, yes.

18 Q. Show you State's Exhibit 27. What does
19 that show, sir?

20 A. That's the victim in the front driver's
21 seat.

22 Q. Okay. Now, when you were able -- were you
23 able to see -- when you looked through the window of
24 the vehicle, were you able to see what we're seeing
25 in State's Exhibit 27? Were you able to see that?

1 A. Yes, ma'am.

2 Q. Okay. And was it obvious to you what was
3 going on with her, like whether she was badly hurt or
4 asleep or what?

5 A. Well, before HFD came, I did not know --
6 you know, I didn't know her condition, but after HFD
7 came, we found out that she had sustained --

8 MR. ROBERT LOPER: Object to
9 nonresponsive, Judge.

10 THE COURT: Sustained.

11 Q. (BY MS. BARNETT) Okay. All right.

12 MS. BARNETT: May I have just a
13 second, Judge?

14 THE COURT: You may.

15 Q. (BY MS. BARNETT) Let me show you what's
16 been introduced as State's Exhibit No. 23. I believe
17 you told us earlier that you thought that her mouth
18 was open. Is that the way that you saw it that
19 night?

20 A. That's correct, ma'am.

21 Q. Okay. Did you ever see any blood around
22 her face or her neck?

23 A. I did not.

24 Q. Let me show you State's Exhibit 25. Are
25 you able to see in this photograph any blood, in

1 State's Exhibit 25, what appears to be blood or might
2 be blood?

3 A. Right now?

4 Q. Yes, sir.

5 A. Yes.

6 Q. I'm sorry?

7 A. Yes.

8 Q. Okay. Were you able to see that that
9 night?

10 A. Originally, I didn't see that.

11 Q. Would you say that that's a large amount of
12 blood?

13 A. I would.

14 Q. You would. Okay. All right. Now, I'm
15 also going to show you what's been introduced as
16 State's Exhibit 35. What does State's Exhibit 35
17 show?

18 A. That looks like the female's purse that was
19 on the vehicle.

20 Q. Okay. In State's Exhibit 19, what we've
21 introduced, the purse is on the outside of the
22 vehicle?

23 A. That's correct, ma'am.

24 Q. Did you do that?

25 A. No, I did not.

1 Q. Who did that?

2 A. I don't remember. I don't know if it was
3 HFD or Homicide Division.

4 Q. And do you know whether or not the contents
5 of her purse were gone through?

6 A. I don't remember going through her
7 contents.

8 Q. Okay. Not that you did, if anybody did.
9 Do you know if anybody did?

10 A. I don't know.

11 Q. Were you there when Ms. Ogunleye was taken
12 out of the vehicle?

13 A. No, I was not there, ma'am.

14 Q. Had you already left the scene?

15 A. Yes, I was told by Homicide to -- yeah, I
16 was already left -- I left the scene.

17 Q. Do you remember about how long you were at
18 the scene?

19 A. I'd say about three hours.

20 Q. And were you there when Homicide arrived?

21 A. That's correct.

22 Q. And did you have a conversation with
23 Homicide and tell them everything you know?

24 A. Yes. I spoke to Officer French.

25 Q. Officer French. All right. Night-shift

1 Homicide?

2 A. That's correct.

3 Q. I just want to make sure we're clear on
4 this. Everything that we talked about, the Walmart
5 and the Murphy's gas station, those places and
6 Ms. Ogunley's car and body were located in Harris
7 County, Texas?

8 A. Yes.

9 Q. Thank you.

10 MS. BARNETT: Pass the witness.

11 THE COURT: Mr. Loper.

12 **CROSS-EXAMINATION**

13 **BY MR. ROBERT LOPER:**

14 Q. Good morning, Officer Le. How are you?

15 A. Good.

16 Q. I have a couple questions about your
17 testimony. Now, you prepared a supplement that
18 encapsulated what did you in this case, right?

19 A. That's correct, sir.

20 Q. Okay. You've had a chance to look at that
21 supplement, haven't you?

22 A. I have, yes.

23 Q. Okay. And if I were to sum up what you
24 did, basically, you were the first officer on the
25 scene, secured the area and stayed there until

1 Homicide Division arrived as well as doing some other
2 things as well, correct?

3 A. Correct, sir.

4 Q. You were not involved in interviewing any
5 witnesses that might have had knowledge about this
6 case, were you?

7 A. I spoke to the reportee. I did not talk to
8 any witnesses, no.

9 Q. The reportee, for the jury's education, is
10 the person who is known as Prentess Powell, correct?

11 A. Correct, sir.

12 Q. And Prentess Powell told you some things
13 and that was about what someone else may have told
14 him, correct?

15 A. Correct, sir.

16 Q. But you were never able to find that other
17 person to find out what he had to say or to talk to
18 that other person directly, correct?

19 A. Correct, sir.

20 Q. In fact, not being able to find that other
21 person, you're not sure there even was another
22 person. You just know what Prentess Powell told you,
23 correct?

24 A. Correct, sir.

25 Q. Okay. And you said that you were out there

1 for about three hours; is that right?

2 A. Correct.

3 Q. And after it was directed to you that there
4 was a person down there in the lot, you and your
5 partner basically went around and went car to car
6 until you were able to find what you found, correct?

7 A. Yes, sir.

8 Q. I know that you had said that the parking
9 lot was not very full because the store was almost
10 closing or was closed, correct?

11 A. Yes.

12 Q. How many vehicles would you estimate were
13 out there as you and your partner began your search?

14 A. I would say it's going to be less than 20
15 vehicles.

16 Q. Okay. Do you remember, if you do, whether
17 you start at one end of the lot and work the other
18 direction or how did you determine how to start?

19 A. We came from the Murphy gas station, which
20 is the southwest corner of that, and pretty much
21 walked, you know, northeast direction.

22 Q. Had you received any -- excuse me -- had
23 you received any information as to the type of
24 vehicle or the color of vehicle the person may be
25 down in?

1 A. I don't remember it was stated on the call
2 slip or not.

3 Q. But right now, you don't remember?

4 A. Yes, that's correct.

5 Q. Obviously, for that reason, that's why you
6 and your partner were going to look at every car
7 until you found something, if you did, correct?

8 A. Right.

9 Q. Do you remember whether it was you or your
10 partner who found this particular vehicle where the
11 lady was in?

12 A. I do not remember, sir.

13 Q. Were you and he walking to the vehicle
14 together or were you going in one direction as he
15 went in another direction?

16 A. It was two of us. We spread out.

17 Q. Okay. And you don't remember whether
18 you're the one who found the lady or your partner
19 found the lady; is that right?

20 A. That's correct.

21 Q. Okay. But whichever one of you found her,
22 I assume you called your partner over or vice versa.
23 Would that be accurate?

24 A. That would be accurate, yes.

25 Q. In your report you indicate that you could

1 tell the female was not breathing, correct?

2 A. Yes, sir.

3 Q. And you remember that being your thought
4 that night, that you could tell the female was not
5 breathing?

6 A. Correct.

7 Q. Why did you tap on the window with your
8 flashlight then?

9 A. It was just a reaction to see if she wakes
10 up, I guess.

11 Q. But I thought in your report it indicates
12 you could tell she wasn't breathing?

13 A. That's correct, sir.

14 Q. Did you -- did you determine that she was
15 not breathing before you tapped on the window?

16 A. Well, I don't know. It's just a reaction
17 to somebody that's laying in the vehicle without --
18 you know, unconscious or not responding, so we
19 just -- that's what I just had a reaction.

20 Q. Okay. Well, to be fair, as you walked up,
21 you said you couldn't tell whether she was injured,
22 whether she might have been asleep or unconscious in
23 some other way, correct?

24 A. Well, she appeared to be unconscious. I
25 just don't know if she was injured.

1 Q. That's the way I meant to say it. As you
2 walked up, your first initial view was you couldn't
3 tell whether she was injured or whether she was just
4 unconscious, correct?

5 A. That's correct.

6 Q. Okay. As I understand it, you did not open
7 her car door. Neither you nor your partner even
8 attempt to open her car door until HFD arrived,
9 correct?

10 A. That's correct, sir.

11 Q. So any opinion that you reached, and
12 apparently you did because it's in your report, that
13 she was not breathing, you're saying you were able to
14 determine that just by looking through the window? I
15 guess, right?

16 A. I guess you can say that, yes.

17 Q. Well, is that how you determined it?

18 A. That's correct.

19 Q. Okay. Was it your recollection that HFD
20 arrived very close after -- very soon after you found
21 the woman or did it seem to take a few minutes?

22 A. They arrived pretty soon afterwards because
23 we arrived at 0015 hours, which is 12:15 hours, and
24 we talked to Mr. Powell. And they were -- they were
25 there pretty quick because they pronounced at 12:20,

1 so, you know.

2 Q. I'm sorry. Was it your recollection that
3 they arrived after you had found the lady in the
4 vehicle or before?

5 A. After, sir.

6 Q. From what you could tell, from what you
7 found, especially after you had learned from HFD of
8 the lady's condition, you were not able to determine
9 when this event had occurred; is that right?

10 A. That's correct, sir.

11 Q. Nothing about it, as you can see it or look
12 at it, and you've had various photos introduced, was
13 able to lead you to make any kind of even estimate as
14 to how long the lady had been there in the car,
15 correct?

16 A. That's correct.

17 Q. And other than Mr. Powell, the reportee,
18 and I'm not counting HFD personnel, you did not
19 interview any other witnesses regarding this
20 incident, correct?

21 A. I asked around, but I didn't find any
22 witnesses, no.

23 Q. Were there a number of people out there,
24 kind of bystanders, onlookers type people?

25 A. There were some people, but I don't

1 remember as to, you know, how many people. But I
2 remember there was some people that's walking into
3 the store and some were coming out. But it was not
4 too many people.

5 Q. Do you remember stopping some of these
6 people and asking if they had any direct knowledge of
7 what took place there?

8 A. Yes, sir.

9 Q. Did you take anybody's names or telephone
10 number or information?

11 A. No, I did not.

12 Q. The crime scene tape we saw in some of the
13 exhibits, you and your partner actually put up that
14 crime scene tape; is that right?

15 A. That's correct, sir.

16 Q. Okay. How did you determine where to place
17 it?

18 A. It was a pretty big lot and so we just, you
19 know, pushed carts out -- we looked around the car to
20 see if we find anything, but pretty much we didn't
21 find anything. So we just taped up whatever we, you
22 know, we could tape up, as in like if there's a pole
23 there, we use that pole as one of the anchors or a
24 cart, something we could use.

25 Q. Okay. I guess between you and your

1 partner, you just kind of estimated where to put it
2 then, correct?

3 A. Yes, sir.

4 Q. Here is one pretty good photo of it,
5 State's Exhibit 4. That's crime scene tape that
6 we're all looking at, correct?

7 A. Yes, sir.

8 Q. So there's no magical formula you use to
9 determine where you should put the tape. You just
10 determine that's where to put it, correct?

11 A. Yes, sir.

12 Q. It was not at the direction of the Homicide
13 officers?

14 A. No, sir.

15 Q. Not at the direction of Crime Scene Unit
16 officers?

17 A. No, sir.

18 Q. So the jury understands, the Crime Scene
19 Unit, your knowledge, your understanding, your three
20 years on the force, is the person who would actually
21 do evidence collection at a scene like that, correct?

22 A. I'm sorry?

23 Q. A Crime Scene Unit officer would be the
24 person who normally would be involved in collecting
25 evidence at a scene like that, correct?

1 A. That's correct, sir.

2 Q. That would not normally be what you or your
3 partner would have done, correct?

4 A. Well, if it's laying on the ground, we
5 would, yes.

6 Q. Did you find anything laying on the ground
7 in this particular case?

8 A. No, sir.

9 Q. I assume that you and your partner looked
10 for anything that might have been on the ground?

11 A. We looked to see if we could find any
12 possible evidence, but we did not find any.

13 Q. As far as that purse is concerned that we
14 actually can see it in this one up there on the front
15 hood of the car. I believe that you had said you
16 don't know how the purse got on the hood, but you're
17 not the person who put it there, correct?

18 A. Correct.

19 Q. You weren't involved personally in any type
20 of search of the vehicle, were you?

21 A. No, sir.

22 Q. Thank you, sir.

23 MR. ROBERT LOPER: That's all I have,
24 Judge.

25 THE COURT: Anything further?

1 MS. BARNETT: No, Judge. Pass the
2 witness.

3 THE COURT: Thank you, sir. You may
4 step down. You're excused.

5 If you'll call your next.

6 MR. REED: Judge, the State calls
7 Andre Gatlin.

8 THE COURT: Step on up here, sir.
9 Right around here.

10 You may proceed.

11 MR. REED: Thank you, Judge.

12 **ANDRE GATLIN,**

13 having been first duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MR. REED:**

16 Q. Good morning, Mr. Gatlin.

17 A. Good morning.

18 Q. Can you please introduce yourself to the
19 jury?

20 A. My name is Andre Gatlin. I'm assistant
21 manager at the Walmart at 11755 Beechnut Street.

22 Q. If you don't mind speaking slowly and real
23 clearly so the court reporter can take down
24 everything that you say.

25 How long have you been working at that