

1 seat.

2 Mr. Batarse, would you call your
3 witness for the record, please?

4 **MR. BATARSE:** Yes, Your Honor. The
5 State calls Ms. Laura Martinez to the stand.

6 **THE COURT:** Thank you.

7 Ms. Martinez, raise your right hand.
8 You can face the jury.

9 *(Witness duly sworn)*

10 **THE COURT:** Thank you.

11 **MR. BATARSE:** May I proceed, Your
12 Honor?

13 **THE COURT:** You may.

14 **LAURA MARTINEZ,**
15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 **Q.** *(BY MR. BATARSE)* Ms. Martinez, could you
18 introduce yourself to the jury?

19 **A.** Hello. My name is Laura Martinez. I'm
20 Wal-Mart's asset protection manager.

21 **Q.** Ms. Martinez, how long have you been
22 working for Wal-Mart?

23 **A.** Fourteen years.

24 **Q.** I'm going to ask you a couple of questions
25 about you so the jury can get to know a little bit

1 about your background.

2 Are you from Houston?

3 A. Yes, I am. Well, I was born in Brownsville
4 and raised in Houston.

5 Q. Okay. Do you have family here?

6 A. Yes.

7 Q. Children?

8 A. Yes. I have four children.

9 Q. Four children.

10 And you said you have been working for
11 Wal-Mart for 14 years?

12 A. Yes.

13 Q. At the same location or multiple?

14 A. No. Multiple locations. For the first 10
15 years of my career, I worked at the Wal-Mart located
16 on I-10 East and Freeport Street. And then from
17 there I transferred to the Baytown store for two
18 years. And from there I transferred to the Wal-Mart
19 located on the North Freeway and West Road. And
20 currently I'm at the Wal-Mart on Wallisville Road and
21 Beltway 8.

22 Q. What positions have you held while working
23 for Wal-Mart?

24 A. Started as a cashier and worked myself
25 through the sales floor, department management,

1 accounting office, customer service manager. And
2 seven years ago I was promoted into the position that
3 I'm currently in, asset protection manager.

4 Q. Explain to the jury what that means.
5 Explain what an asset protection manager is.

6 A. Basically, we protect Wal-Mart's assets.
7 We research any strange activities in the store, any
8 theft, safety, security of the store. I am in charge
9 of managing three associates right now that are the
10 loss prevention associates that walk the sales floor.
11 And then I also conduct investigations on
12 investigations into credit card fraud, check fraud,
13 or anything like that, research video using our CCTV
14 system and research through reports that the store
15 produces.

16 Q. Explain -- you mentioned CCTV. For those
17 of us not familiar, what does that mean?

18 A. That is a camera system that records
19 digitally. We have what we call DVRs in each store.
20 That's digital videorecorders. They record 24 hours
21 a day, seven days a week. Depending on memories of
22 each of the DVRs, we can store records from 30 to 60
23 days back.

24 Q. And what -- in 2012, on June 25th, that
25 time period, what store are you working at?

1 A. I was working at Store 1279, located at
2 10411 North Freeway and West Road.

3 Q. At West Road?

4 A. Yes.

5 Q. Are there cameras in that store?

6 A. Yes.

7 Q. Okay. Roughly how many cameras?

8 A. Roughly about 350 cameras at the store.

9 **A JUROR:** Oh, my God.

10 Q. **(BY MS. KOCH)** Why so many?

11 A. Due to the area that this store is located
12 in, the high theft, high crime, and for the security
13 of our customers and our associates, we have cameras
14 placed throughout the parking lot and inside the
15 store.

16 Q. Just kind of -- can you briefly tell us
17 where you put 350 cameras.

18 A. Well, we have cameras located out in the
19 parking lot. Some stores -- in this particular
20 store, we have a shot about almost every -- down
21 every row of the store. We have the front of the
22 building. We have the sides of the building. And in
23 this particular store, our TLE is separated from the
24 store. So, we have additional cameras covering that
25 building alone. We have cameras inside the TLE

1 building. Each bay has a camera. So, we have three
2 bays. That would be three cameras there.

3 We have license plate shots at
4 different areas of the parking lot, whether it be one
5 of the entrances connected to Home Depot or the
6 entrance going out to the West Road street or to the
7 frontage street.

8 Q. Are all these cameras readily visible by a
9 layperson?

10 A. Yes, they are.

11 Q. Okay. All right. Ms. Martinez, I'm going
12 to talk to you about June 28, 2012.

13 A. Yes, ma'am.

14 Q. Or, actually, the 29th.

15 A. Right.

16 Q. Were you working that day?

17 A. Yes, I was.

18 Q. Okay. And were you the manager at that
19 time?

20 A. Yes.

21 Q. Asset protection manager?

22 A. Yes.

23 Q. Okay. Tell us about what happened that
24 day.

25 A. I came in that morning at 8:00. Usually

1 I'm scheduled for May 8:00 to 5:00. On that morning
2 I went to my office located in the back of the store,
3 and I started researching some paperwork that I had
4 to research for the day.

5 Around -- I don't recall the time, but
6 I remember receiving a phone call from customer
7 service stating that there was an officer looking for
8 asset protection or loss prevention. I went up to
9 customer service, and I met with an officer who was
10 requesting a video on a vehicle that was parked out
11 in one of our rows. He told me --

12 Q. Wait. So, I will kind of break it down
13 just a little.

14 A. Sure.

15 Q. An officer came looking for a video?

16 A. Yes.

17 Q. Okay. Did he explain to you what video he
18 was looking for?

19 A. Yes. We went out because he told me there
20 was a vehicle parked out there that it came back that
21 it was stolen and he wanted to know how long it had
22 been sitting there or how it got to our parking lot.
23 So, we walked outside to -- so I could see exactly
24 where he was talking about, the rows, and what car it
25 was that he was talking about.

1 Q. And you have -- do you have an asset
2 protection office?

3 A. Yes. We -- in that store we have two. We
4 have one in the front of the store and one in the
5 back of the store.

6 Q. Okay. Are you able to -- when you go into
7 that office, are you able to look at all the camera
8 shots; or do you have control over all?

9 A. We have in the back offices where we have
10 the computer that pulls up any shots that I need from
11 the cameras.

12 Q. So, he came and he showed you, "Hey, I need
13 video of this car" and you were able to go get the
14 video?

15 A. Yes. Once we looked at what the row and
16 what vehicle he was talking about, we came to the
17 back office. I got onto my computer and started
18 pulling the shot of the -- where the row -- where the
19 car was parked at.

20 Q. And were you able to view the vehicle that
21 he showed you?

22 A. Yes.

23 Q. Okay. And tell us, did you go back --

24 A. What I did --

25 Q. What did you do?

1 A. I pulled a live shot of the video and left
2 that shot open so I could see and backtracked 24
3 hours at a time to see what time the car pulled into
4 the parking lot to see at what time, you know, it
5 showed in that same spot. So, we were able to track
6 it to the night before where the vehicle was parked
7 around -- roughly around 10:10 at night.

8 Q. So, you found -- found when the vehicle
9 came into the parking lot?

10 A. Yes.

11 Q. And did you -- were you doing this with the
12 officer, or you were just looking for it?

13 A. I was doing it with the officer at the
14 time.

15 Q. And what did you see on the camera? Did
16 you see how it came in?

17 A. I saw the vehicle come into the parking
18 space, and I saw a female exit the vehicle. She
19 walked towards the store and about five or six spaces
20 up towards the store there was an SUV parked where a
21 male and two children walked out of that vehicle and
22 she met up with them and they walked into the store.

23 Q. And so, you saw a woman get out of that car
24 and walk into the store with some other people?

25 A. Yes.

1 Q. Okay. Did -- was there another camera
2 angle of who actually walked in?

3 A. Yes. Again, going back to the camera
4 systems, we have cameras posted at the doors where
5 the customers come in, and we also have camera shots
6 as they exit. It gives us a face shot. It gives an
7 overview. So, we have different cameras at different
8 angles and throughout the sales floor and above every
9 register.

10 Q. Were you able to get the camera shot of
11 this person walking into the store?

12 A. Yes.

13 Q. Okay.

14 A. And I said -- I was able to get a facial
15 shot and then also an overview of them coming into
16 the store.

17 Q. Were there any other shots that you were
18 able to find of this person?

19 A. Yes. I have shots of them at the register
20 paying for their purchases that they made and then
21 them going back out into the vehicle.

22 Q. Did it show them paying for the purchases?

23 A. Yes. It shows them swiping a -- some kind
24 of credit card or food stamp card or something like
25 that.

1 Q. Okay. And so, then you see -- can you
2 determine when they left?

3 A. Yes. Based on -- based on -- once the
4 transaction was finished at the register, I followed
5 through the camera shots as they exited the store.

6 Q. And how do you know what time these camera
7 angles are shown? Is there a time stamp anywhere?

8 A. There is a time stamp on the video.

9 Q. And after looking at all these different
10 camera angles, camera views, did you store the images
11 that you saw?

12 A. Yes. I was able to record it onto two CDs,
13 one for the officer and one for the store to keep
14 record; and then I was also able to save it to the
15 hard drive of the computer.

16 Q. Did you give the officer a copy of that CD
17 that day?

18 A. At the time I didn't because we require a
19 subpoena for video that does not involve Wal-Mart in
20 any type of crime.

21 Q. Did you provide him anything else instead?

22 A. I provided him still shots of the person
23 that walked into the store and --

24 Q. Did you eventually provide a copy of this
25 to law enforcement?

1 A. Yes, I did.

2 Q. Do you recall when you did that?

3 A. I don't recall the date. I remember
4 receiving an e-mail from the corporate office saying
5 it was okay to release the video to the officer
6 requesting the video.

7 Q. So, you did release it?

8 A. Yes.

9 **MR. BATARSE:** May I approach, Your
10 Honor?

11 **THE COURT:** Granted.

12 Q. **(BY MR. BATARSE)** Ms. Martinez, I'm showing
13 you what's been marked as State's Exhibit No. 3.

14 A. Uh-huh (affirmative.)

15 Q. Without telling the jury what it is, do you
16 recognize this?

17 A. No.

18 Q. Okay. Before you came in today, were you
19 shown a video?

20 A. Yes.

21 Q. Okay. Now, the video that you were shown
22 this morning, is that the same video that you gave a
23 copy of to the officer?

24 A. Yes. Yes.

25 Q. Okay. The video, was that a fair and

1 accurate depiction of the images that you saw on your
2 camera system?

3 A. Yes.

4 Q. And are you a custodian of those records?
5 In other words, do you normally keep those video
6 records?

7 A. Yes.

8 Q. All right. And were the video images taken
9 at the time of the time stamp that you see there?

10 A. Yes.

11 Q. Okay.

12 **MR. BATARSE:** Your Honor, at this time
13 the State moves to enter State's Exhibit No. 3 into
14 evidence, tendering to opposing counsel.

15 **MS. FOOTE:** Your Honor, at this time I
16 ask the Court if I could take the witness on voir
17 dire.

18 **THE COURT:** Granted.

19 **VOIR DIRE EXAMINATION**

20 Q. **(BY MS. FOOTE)** Good morning, Ms. Martinez.

21 A. Good morning.

22 Q. First of all, the video that was taken, how
23 reliable is the system that you use?

24 A. It's very reliable.

25 Q. Okay. And how many times have you had to

1 use video for various purposes of investigations and
2 so forth, during the time that you have worked at
3 Wal-Mart?

4 A. Many times. A lot of investigations that I
5 do, I need to have the video in order for me to
6 proceed with those investigations.

7 Q. Okay. And the video that you provided the
8 officer in this case pursuant to the subpoena, was
9 that video the -- did you give them all shots that
10 were available during that time period?

11 A. Yes.

12 Q. Okay. And did you review all the video
13 from June 28th to June 29th, when the car was
14 discovered?

15 A. What I did is -- because I'm able to jump
16 from one time to another. So, I was able to just
17 jump through to see if the car was there. And then
18 once I saw that the car was not there, then I just
19 started playing it slow to where we could see where
20 it came in.

21 Q. So, about how many hours was it between
22 when the car actually showed up and when Officer
23 Blankenship came to you stating that the stolen
24 vehicle was on your property?

25 A. I don't recall the time the officer came on

1 the next day, on the 29th. I do recall seeing on
2 video that the car that was parked there parked
3 around 10:00 at night.

4 Q. Okay. So, did you review all the video
5 that was between the time the car arrived and the
6 time that Officer Blankenship came in asking?

7 A. Yes, I did.

8 Q. So, you reviewed every minute of every
9 hour?

10 A. Not every minute, but I did jump through to
11 see if the car was ever moved at the time, and it
12 wasn't.

13 Q. Okay. So, the only indicator that you used
14 was to see if the car had been moved?

15 A. Yes.

16 Q. Did you look at any of the video to
17 determine if there was people around the car?

18 A. Yes, I did.

19 Q. Okay. And did you do that for the entirety
20 of the hours between 10:00 and when the car was
21 actually --

22 A. I actually played it backwards from the
23 time that the officer got there to see. Because at
24 first we thought it was an associate that was working
25 there. So, we played it backwards to see if they

1 came in that morning. And at the time we didn't see
2 anybody come out of it. So, I just kept playing it
3 backwards until I was able to find it that way.

4 Q. Okay. And did you provide the State,
5 pursuant to the subpoena -- or the officer -- sorry.

6 Did you provide him with all of the
7 hours from between when the car actually arrived at
8 the parking lot and when he came in to begin his
9 investigation?

10 A. I believe -- I don't recall if I did
11 provide him up to the time that he came in the next
12 morning. I do remember I provided them from the
13 vehicle walking -- parking into the parking lot until
14 the SUV that is involved with the person that came to
15 drop it off left.

16 Q. Okay. So, you didn't provide the entirety
17 of all the video?

18 A. I don't recall if I did or not.

19 Q. Okay. As far as the angles of the video,
20 the camera shots, did you provide all of the camera
21 shots that were available in that parking lot on the
22 night of June 28th?

23 A. All of the parking lot?

24 Q. Of the --

25 A. Okay. Just --

1 Q. All --

2 A. All -- all the camera shots that were
3 available?

4 Q. That were available.

5 A. Yes, for that particular row.

6 Q. That were --

7 **THE COURT:** Excuse me. It's important
8 that the witness and the lawyer not speak at the same
9 time because Mrs. Lee is writing down what everybody
10 says.

11 **THE WITNESS:** Okay.

12 **THE COURT:** And she can't write down
13 two people talking at the same time.

14 So, Ms. Foote, will you please control
15 the pacing?

16 **MS. FOOTE:** Thank you, Your Honor.

17 Q. **(BY MS. FOOTE)** The camera shots that gave
18 you a view of the Charger and that row, did you
19 provide all those camera shots pursuant to the
20 subpoena to the officer?

21 A. Yes.

22 Q. Okay. So, how many cameras were -- are out
23 in that parking lot that cover that particular row at
24 your store?

25 A. I believe one.

1 Q. Okay. So, there is just one camera shot.
2 And do you know which direction that shot goes in,
3 that camera faces?

4 A. If you're standing in front of the
5 building, it's facing out towards the frontage road.

6 Q. Okay. So, is it your testimony that there
7 is no camera that faces back towards the store?

8 A. No.

9 Q. Okay. I'm sorry. Is there a camera -- I
10 think I got confused.

11 Is there a camera that faces back
12 towards the store in that particular row?

13 A. Towards the store, no.

14 Q. Yes.

15 A. No.

16 Q. Okay.

17 **MS. FOOTE:** Your Honor, I'm going to
18 object to State's Exhibit 3. And it's only because
19 of the fact that it doesn't provide -- according to
20 what Ms. Martinez' memory has given us today, it
21 doesn't provide the entirety of the information
22 that's available between when the car arrived on the
23 lot and when the officer came in to begin his
24 investigation. And that does not give the Defense an
25 opportunity for optional completeness because we

1 don't know what happened in between that time. All
2 we know is that that car, according to her --

3 **MR. BATARSE:** Objection, Your Honor.
4 Is there an objection, Your Honor? Object to the
5 speaking objection.

6 **THE COURT:** Sustained. I think is --
7 do you have any other points for your objection?

8 **MS. FOOTE:** No, that would be it.

9 **THE COURT:** Thank you. Overruled.
10 State's 3 is admitted.

11 **MR. BATARSE:** Your Honor, may we have
12 permission to publish?

13 **THE COURT:** Granted.

14 **(Exhibit Published)**

15 **DIRECT EXAMINATION (CONTINUED)**

16 **Q.** **(BY MR. BATARSE)** Ms. Martinez, while
17 Ms. Koch is pulling up the video, I'm going to ask
18 you to -- I want to show you some angles on the video
19 and have you explain what it is that's going on and
20 how you were able to determine which angle to choose.
21 Okay?

22 **A.** Okay.

23 **Q.** Okay. We will start with this angle. The
24 subject is arriving. What are we seeing here?

25 **A.** This is a shot of the row where you will

1 see the Charger come around the parking lot and park
2 right about in this area (indicating.)

3 Q. You can actually -- I will pause it here
4 real quick. Just so that you're aware, that screen
5 that you're looking at, you can actually mark on it.

6 A. Oh, okay.

7 Q. You can draw or at any moment in time you
8 want to show us something, you want to click on it,
9 draw on it. And if you want to clear what you have
10 already drawn, you want to press the lower just
11 left-hand corner of the screen; and that clears it.

12 A. Okay.

13 Q. Okay?

14 A. Okay.

15 Q. Sorry. So, then this is showing the cars
16 coming in?

17 A. Yes.

18 Q. Okay. I want to fast forward it a little
19 bit to where her car comes in. Now, what is that?
20 What is that we're seeing?

21 A. That is the Dodge Charger. And it's coming
22 in, and it's going to park right in this area right
23 here (indicating.) And then the SUV will be parked
24 right about here (indicating.)

25 Q. Can you mark that a little bigger so we can

1 see?

2 A. (Indicating.)

3 Q. Okay. So, it looks like -- for purposes of
4 the record, it looks like they came in at the same
5 time.

6 A. Yes. And you will see a female exit from
7 here and with them right here (indicating.)

8 Q. Is that the female?

9 A. Yes. White shirt and dark jeans, dark
10 pants.

11 Q. Can you circle that first, please?

12 A. (Indicating.)

13 Q. Okay. Now, do you see anyone else come out
14 of that car?

15 A. No.

16 Q. On either side?

17 A. No, neither side.

18 Q. And I want to rewind it for just a second.

19 So, this -- this car that she parks
20 next to is already here, right?

21 A. Yes.

22 Q. So, then she pulls in right here
23 (indicating.)

24 A. Back side.

25 Q. She is fixing the car, right?

Laura Martinez - May 14, 2013
Direct Examination (Continued) by Mr. Batarse

1 A. Uh-huh (affirmative.)

2 Q. This other car is leaving; but the other
3 car next to it is still next to it, right?

4 A. Right.

5 Q. And if you want you can clear the screen,
6 lower left-hand corner real quick.

7 A. (Witness complies.)

8 And at this point, you see the person
9 exiting right there (indicating), coming out from
10 there. You will see the male exit from the vehicle
11 here with two children. They will open the back of
12 the SUV.

13 Q. Okay. Did you see anyone else come out of
14 that car with her?

15 A. No.

16 Q. Can you see that on the camera?

17 A. Yes.

18 Q. Is that her, that same person congregating
19 at the Tahoe?

20 A. Yes.

21 Q. And this entire time that -- watching this,
22 she is still congregating there, right?

23 A. Yes.

24 Q. Has anyone else exited the car she came in?

25 A. No.

1 Q. For purity of the record, what are we
2 seeing now?

3 A. You see the group walking towards the
4 store.

5 Q. Is that -- is that -- I want to pause it
6 here.

7 Can you identify the person who got
8 out of the Charger?

9 A. This person right here (indicating.)

10 Q. Same person?

11 A. Yes.

12 Q. Okay. Okay. I'm going to show you another
13 angle, a different video camera.

14 A. And this is the entrance of the store.

15 Q. Now, this is the entrance around the time
16 that they're walking in?

17 A. Yes.

18 Q. How do you know that?

19 A. Based off of the time stamp from the video.

20 Q. Are the time stamps synchronized with
21 cameras in the store?

22 A. Yes, they are.

23 Q. And can you see that same woman now?

24 A. Yes.

25 Q. I want to pause it.

Laura Martinez - May 14, 2013
Direct Examination (Continued) by Mr. Batarse

1 A. Here (indicating.)

2 Q. Where do you see her?

3 A. Right there where the circle is at.

4 Q. Okay. I will continue.

5 Is she with the same people that she
6 congregated with outside?

7 A. Yes.

8 Q. Okay. Do we have another camera angle of
9 them walking in?

10 A. Yes.

11 Q. For purposes of the record, I'm showing you
12 another angle.

13 A. And this is what's actually on the door
14 jam, what we call the door jam. The camera is
15 installed in the actual door.

16 Q. It's installed in the door?

17 A. Yes.

18 Q. Now, can you -- is this person right here
19 (indicating), is that the same person who exited the
20 Charger?

21 A. Yes. That is her right here (indicating.)

22 Q. And is this area in Wal-Mart before she
23 goes through double doors?

24 A. Yes. This is what we call the vestibule.

25 Q. Do we have another angle?

Laura Martinez - May 14, 2013
Direct Examination (Continued) by Mr. Batarse

1 A. Of them exiting the store, entering, that
2 would be it.

3 Q. If it is okay with you, we will do the
4 register view here real quick.

5 A. Sure.

6 Q. Could you tell us what we're looking at?

7 A. Here is the cashier that will be scanning
8 the merchandise that they purchased. You will see
9 the customer over on this side, and then they will be
10 swiping their card at the end of the transaction
11 through the debit reader.

12 Q. And who is it that gives the clothes to the
13 cashier?

14 A. It would be the female.

15 Q. And how do you know that?

16 A. One, I was able to identify the child as
17 walking by. And then also you will see a small
18 glimpse of what she is wearing. And then also there
19 is another angle of them leaving the register going
20 towards the exit. So, I was able to synchronize it
21 by time to show that they were the ones that were
22 exiting that register at the time.

23 Q. Okay. So, all of this you're basically
24 following her through the store with different camera
25 angles?

Laura Martinez - May 14, 2013
Direct Examination (Continued) by Mr. Batarse

1 A. Not throughout the entire store; but
2 through some parts, yes.

3 Q. Okay. And -- okay.

4 A. And this is where I was talking about them
5 leaving the register.

6 Q. Okay. That angle we just saw before is
7 that register?

8 A. Yes, this register right here (indicating.)

9 Q. Okay. So, that's how we know it is her,
10 the same person?

11 A. Yes.

12 Q. Okay. And what is this?

13 A. And this is, again, the entrance shot,
14 because at that time of night there is only one
15 entrance and exit to the store. So, it's, again, the
16 same shot as them coming in; but now this is them
17 leaving. And you will see them come from this way
18 (indicating.)

19 Q. Okay. While she is doing that, we're
20 not -- we're going to try to find the actual point
21 where she finds -- where they are walking out. I
22 just want to ask you, at this point do you know who
23 the person is that you're watching? I mean, do you
24 know her identity at that point?

25 A. No, I don't.

1 Q. Okay. But as you just explained to the
2 jury, you saw the car come in. You have a video
3 camera of her coming out of the car and the same
4 woman coming out of the store.

5 A. Right.

6 Q. Then when they leave, where does she go?

7 A. She goes into the SUV.

8 Q. Okay. And do you -- I mean, is she an
9 employee of your store? Do you recognize her?

10 A. No, I don't.

11 Q. You don't recognize who she is, right?

12 A. No.

13 Q. And I want to ask you, as well, the car --
14 the Charger we saw parked, when the officer pointed
15 that car out to you on the 29th, was that -- was that
16 car in the same parking spot as right now, what we
17 saw in the video?

18 A. Yes, it was.

19 Q. Okay. So, it didn't look like it had been
20 moved, right?

21 A. No.

22 Q. So, the same place it had been left is
23 where it was when the officer told you?

24 A. Yes.

25 Q. Let me ask you this -- kind of weird -- so,

1 she didn't get into the car she came in?

2 A. No.

3 Q. She got back into the SUV?

4 A. Yes.

5 Q. Okay. So, that car was just pretty much
6 abandoned there; is that right?

7 A. Right.

8 Q. Okay. Ms. Martinez, Defense counsel
9 mentioned to you that you didn't put all 350 angles
10 on the video. Why didn't you do that?

11 A. One is because the CD doesn't hold enough
12 storage for that, and there is no real reason why I
13 should put all the other video onto one CD.

14 Q. That's fair. I want to show you the camera
15 angle again, and explain to us -- again, this is the
16 same entrance/exit?

17 A. Yes, the grocery entrance/exit. And here
18 is the subject leaving with the merchandise
19 (indicating.)

20 Q. Are they -- she is with the same gentleman,
21 same children?

22 A. Yes, same group.

23 Q. Okay. What angle is this?

24 A. This angle is of them -- you will see them
25 come from here (indicating.)

1 Q. What is here (indicating)?

2 A. This is the store.

3 Q. Okay. The entrance.

4 A. And you will see them walking across and
5 get into a vehicle that's roughly around this area
6 (indicating), if I'm not mistaken.

7 Q. Okay. Going back to the original angle
8 here (indicating), I'm going to show you where they
9 are getting in the car. Okay.

10 A. Yes.

11 Q. Can you still see the Charger in the video?

12 A. Yes. The Charger is still here. You see
13 them arriving at the SUV.

14 Q. And what are we seeing now?

15 A. The subject is entering the vehicle, the
16 SUV. They're closing the door, and they will be
17 pulling out in a minute.

18 Q. Did any one of those group of people -- did
19 anyone go back to the Dodge Charger?

20 A. No.

21 Q. The Charger was just left there?

22 A. Yes.

23 Q. And I do want to ask you -- we have been
24 talking about time stamps and the synchronized time
25 being of the camera. I don't see that on this video

Laura Martinez - May 14, 2013
Direct Examination (Continued) by Mr. Batarse

1 on your system. When you're looking at it in the
2 office, are you able to see that?

3 A. Yes.

4 Q. And you confirmed that these times are
5 consistent with where they were when they were there?

6 A. Yes.

7 Q. Is that why you gave this video and you put
8 this all on the same disk?

9 A. Yes.

10 Q. And what are we seeing now?

11 A. You will see the SUV exit to this way,
12 towards the garden center (indicating.) And the
13 Charger is still there.

14 Q. Okay. What angle is this?

15 A. This is the exit towards the garden center.
16 The garden center is located here (indicating.)

17 Q. This is the direction they were just
18 traveling?

19 A. Yes. This is just them leaving. I was
20 able to obtain the license plate of the SUV as it was
21 exiting the store.

22 Q. So, you got the license plate?

23 A. Yes.

24 Q. Did you give that to anyone there?

25 A. Yes. Well, to the officer.

1 Q. To the officer?

2 A. Yes. That is a shot of the license plate
3 right there (indicating.)

4 Q. That's how you got the plate?

5 A. Yes.

6 Q. So, many cameras. Okay.

7 And just for clarification,
8 Ms. Martinez, that same Charger never moved in your
9 view and of the camera and all the video never moved
10 from the time that it got parked there until the time
11 that the officer got there and told you about the
12 car, right?

13 A. Right.

14 MR. BATARSE: Pass the witness, Your
15 Honor.

16 THE COURT: Thank you.

17 Cross-examination?

18 MS. FOOTE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 Q. (BY MS. FOOTE) Good morning, Ms. Martinez.

21 A. Good morning.

22 Q. Okay.

23 (Sidebar discussion outside hearing of
24 the Court Reporter)

25 Q. (BY MS. FOOTE) Okay. You stated earlier on

1 voir dire that there was only one camera angle going
2 down that particular area in the parking lot,
3 correct?

4 A. Yes.

5 Q. Okay. And you provided that particular
6 footage to the officer, correct?

7 A. Yes.

8 Q. And that's the footage we just saw here
9 today, correct?

10 A. Yes.

11 Q. Okay. Now, would you admit that that
12 particular footage has blind spots in it?

13 A. Yes.

14 Q. Okay. And would you also admit that you're
15 not able to see the driver's door nor the passenger's
16 door of the large van that is directly next to the
17 silver Charger that we're here about today, correct?

18 A. Right.

19 Q. Okay. And you can also admit that you
20 aren't able to see who the driver of the silver
21 Charger was at any point on that particular video,
22 correct?

23 A. Based off the video?

24 Q. Well, I'm sorry. When the car pulled into
25 the parking lot where the camera first caught it,

1 were you able to see who the driver was?

2 A. No.

3 Q. When this was shining directly -- when it
4 was -- when the light was shining directly onto the
5 car when it first pulls in, you're not able to see
6 who is driving that car, are you?

7 A. No.

8 Q. Okay. And as that car drives down the lot,
9 you're not able to see who is driving that car?

10 A. No.

11 Q. And when that car parks, you're not able to
12 see who gets out of that car? At the time that the
13 door opens, correct?

14 A. Correct.

15 Q. Okay. So, the only time you're able to see
16 someone is when that person comes from between the
17 Charger and the car that is parked directly next to
18 it, correct?

19 A. Correct.

20 Q. Okay. And only when that person is at the
21 tail of the silver Charger are you able to actually
22 begin to identify someone, correct?

23 A. Correct.

24 Q. Okay. Now, if I could direct your
25 attention --

1 **MS. KOCH:** And this is at 9:57.

2 **MS. FOOTE:** I need 10:06 p.m. Like
3 10:06.

4 **MS. KOCH:** This is at 10:06.

5 **MS. FOOTE:** Okay. Thank you.

6 **Q. (BY MS. FOOTE)** Sorry about that. Okay.
7 Is the same Charger parked at this
8 particular time?

9 **A.**Yes.

10 **MS. KOCH:** Do you want before it's
11 parked there?

12 **MS. FOOTE:** Yeah. At 10:06.

13 **THE COURT:** Excuse me. Are y'all
14 having sidebars? Do you want those on the record?

15 **MS. FOOTE:** We're just trying to get
16 the actual timing because they're assisting me with
17 the video since they have the terminal there.

18 **THE COURT:** Okay. Then by agreement
19 of the parties, the conversation back and forth
20 across the conference tables with regard to the video
21 will not be recorded; is that right?

22 **MR. BATARSE:** Yes, Your Honor.

23 **MS. FOOTE:** Yes, Your Honor, just
24 trying to get time stamps.

25 **THE COURT:** Okay. If there is

1 something you want on the record, let us know.

2 *(Sidebar discussion outside hearing of*
3 *the Court Reporter)*

4 Q. (BY MS. FOOTE) Okay. So, on this video you
5 see the black van, correct?

6 A. Yes.

7 Q. Okay. And that black van is parking
8 directly next to the spot where the Charger is going
9 to eventually park?

10 A. Yes.

11 Q. Okay. Now, at this point -- and you can
12 kind of watch a couple more minutes. Did you see
13 anybody getting out of the van? And we will just
14 kind of let it roll a little bit.

15 Now, generally when people pull into a
16 parking spot, they don't usually take this long to
17 get out of the car unless they're doing something
18 else, like maybe talking on the phone or tending to
19 children or something like that, correct?

20 A. Correct.

21 Q. Okay. But -- so, would you agree that at
22 this point they are taking their time getting out of
23 the car?

24 A. Yes.

25 Q. Okay. Now, we see the silver Charger in

1 question pull up. They have already passed the spot
2 we saw because the Tahoe -- Suburban is going to
3 park. The other vehicle is going to park up close.
4 So, the Charger seems to intentionally park further
5 back, correct?

6 A. Correct.

7 Q. Okay. And as we can see by -- based on the
8 behavior of the -- or movement of the Suburban, that
9 there is an actually closer spot. Looks to be
10 several closer spots.

11 A. Yes.

12 Q. No one has gotten out of the van yet,
13 correct?

14 A. Correct.

15 Q. Okay. Now, at this point you can't see who
16 is in the van; and you can't see who is in the
17 Charger?

18 A. Correct.

19 Q. Okay. The Suburban is still parking?

20 A. Yes.

21 Q. Okay. Now, nobody has gotten out of the
22 van yet. And then you see Ms. Williams, correct?

23 A. I see a female subject.

24 Q. The female subject?

25 A. Yes.

1 just take an hour. I'd like to get started at a
2 quarter of 1:00. So, when you finish lunch, if you
3 want to walk around the courthouse, you may. Just be
4 back by 12:45. Thank you. Have a great lunch.

5 All rise, please for the jury.

6 *(Jury released)*

7 *(Lunch recess taken)*

8 *(AFTERNOON SESSION)*

9 *(Jury enters the courtroom)*

10 **THE COURT:** Thank you. Please be
11 seated.

12 We need the witness back on the stand.

13 *(Brief Pause)*

14 **THE COURT:** Thank you.

15 Ms. Foote, I believe you were on
16 cross-examination.

17 **MS. FOOTE:** Thank you, Your Honor.

18 **Q.** *(BY MS. FOOTE)* Okay. So, thus far we
19 haven't seen who got out of the black van. We're a
20 few minutes into them having already parked?

21 A. Right.

22 **Q.** The Suburban -- Suburban has already
23 parked. The Charger has already parked --

24 A. Yes.

25 **Q.** -- correct.

1 So, that gets us up to speed as to
2 where we are.

3 *(Sidebar discussion outside hearing of*
4 *the Court Reporter)*

5 **THE COURT:** Excuse me. Were y'all
6 having a sidebar?

7 **MS. FOOTE:** Yes, Your Honor, we are.

8 **THE COURT:** Why don't you back up so
9 we don't all hear it, since it's not on the record.

10 **MR. BATARSE:** Yes, Your Honor. Sorry,
11 Judge.

12 **MS. FOOTE:** Sorry, Judge. I forgot.

13 **THE COURT:** Okay.

14 **Q.** **(BY MS. FOOTE)** Okay. So, again, we're at
15 the point where we see the silver Charger pull up.
16 Can you see who is driving that car?

17 A. No.

18 **Q.** Okay. All right. And that's the Suburban
19 that you referred -- that you have referred to as the
20 woman in white who eventually meets up with the
21 passenger, correct?

22 A. Correct.

23 **Q.** Okay. We have the full video now.

24 **MS. FOOTE:** Okay. Thank you.
25

1 Q. (BY MS. FOOTE) Okay. We see here that the
2 Suburban is repositioning itself for parking.

3 A. Yes.

4 Q. Okay. And at this point -- right there.
5 In this little area right here -- I can't get it
6 right, but you can see movement from the Charger.

7 Okay. Let's back up. When you see
8 movement from the Charger --

9 A. The driver's side door opening.

10 Q. Okay. And how do you identify that?

11 A. I was able, on this video here, because
12 it's in a different screen from when I originally saw
13 it -- but the larger you make the image, the mega
14 pixels are distorted more, or you're not able to see
15 as clear as what I saw when I first burned the video.
16 But right in here, right where that red line is at,
17 you could see the Charger; and you can also see the
18 driver of the minivan still in there, as the other
19 person is exiting from the Charger and going around
20 the minivan.

21 But you do see movement right around
22 there, behind the minivan where the Charger is at.

23 Q. All the things that you're saying that you
24 were able to see on your video, we're not able to see
25 here today, correct?

1 A. Because of the way the mega pixels show up
2 on this screen here.

3 Q. Okay.

4 A. Not because the video is different, but
5 it's because the way it's being projected on this
6 screen.

7 Q. Okay. So, that was your --

8 A. On my screen.

9 Q. -- your observation on your screen --

10 A. Yes.

11 Q. -- of which we don't have?

12 **MS. FOOTE:** If you play --

13 **THE COURT:** Excuse me. Excuse me. It
14 is real important that we do this in an orderly
15 fashion. Let her finish her question all the way
16 through before you answer.

17 **THE WITNESS:** Yes.

18 **THE COURT:** Thank you.

19 Ask your question again, please.

20 **MS. FOOTE:** Thank you, Your Honor.

21 Q. **(BY MS. FOOTE)** Okay. So, what you're
22 describing now is what you said you saw on your video
23 but not the one we have here today, correct?

24 A. If you play it slowly, I can show you -- or
25 you can kind of see where there is some movement in

1 the door.

2 Q. Okay. So, let's address that. Now, you're
3 saying there is movement in the door. There is
4 obviously a driver of that vehicle, correct?

5 A. Correct.

6 Q. Okay. So, someone could assume that there
7 is going to be movement in the vehicle because there
8 is a person in it, correct?

9 A. Correct.

10 Q. Okay. So, when this car is parking, if you
11 look at the video, you will see that once it gets in
12 the spot, it pulls a little bit past the spot and
13 backs up in that same spot, correct?

14 A. Correct.

15 Q. Is that characterized as movement?

16 A. Yes.

17 Q. Okay. Now, you also see that this
18 particular car, when it pulls into the spot and
19 supposedly -- well -- and somebody gets out. If
20 somebody gets out of the car, the whole thing is --
21 if you look there, you see the lights are on in that
22 vehicle, correct?

23 A. Yes.

24 Q. Okay. Now, if we continue to look --

25 A. Right there. You see up at the top?

1 Q. There are people passing by, correct?

2 A. At the --

3 Q. People walking through the area where that
4 car is?

5 A. No.

6 Q. Where the cars are?

7 **THE COURT:** Excuse me. Excuse me.
8 Okay. Ask your question again, please.

9 Q. **(BY MS. FOOTE)** Are there people walking
10 through the area where the cars are?

11 A. Yes.

12 **MS. FOOTE:** Okay. Go ahead.

13 Q. **(BY MS. FOOTE)** All right. So, there are
14 people walking through the area. There is obviously
15 something going on between the area where the van is
16 and the car is.

17 A. Yes.

18 Q. Okay. Now, the thing is we're only to
19 assume what's going on, aren't we?

20 A. At this point, yes.

21 Q. Okay. Because we can't see from that other
22 angle, correct?

23 A. From which angle?

24 Q. From the angle on the side -- on the other
25 side of the van.

1 A. Correct.

2 Q. Okay. Now, it's highly likely that the
3 person that you're saying was driving the car could
4 have been getting out of the van, correct?

5 A. It could be.

6 Q. Okay. Because at this point we're about
7 five minutes in. Nobody has gotten out of the van,
8 correct?

9 A. Correct.

10 Q. Okay. So, it would make sense that at some
11 point someone was going to emerge from the van,
12 correct?

13 A. Correct.

14 Q. Okay. So, we really don't know. We're
15 assuming -- and that would be you are assuming that
16 someone got out of that Charger and is the person in
17 the white shirt, correct?

18 **MS. KOCH:** Objection, Your Honor,
19 speculation.

20 A. Correct.

21 **THE COURT:** Overruled. You may
22 answer.

23 **MS. FOOTE:** Thank you, Your Honor.

24 A. Correct.

25 **MS. FOOTE:** Can I ask the question

1 again, Your Honor?

2 **THE COURT:** All right.

3 **MS. FOOTE:** Just to make sure.

4 **Q.** (BY MS. FOOTE) Okay. So, you're assuming
5 that the person that was in the white shirt got out
6 of the Charger and not the van, correct?

7 **A.** Correct.

8 **Q.** Okay. At any point did you ever see -- in
9 your observation of the video, did you ever see any
10 other people emerge from that -- the silver Charger
11 or the van?

12 **A.** I did see a person exit the van and get
13 back into the van, and then I did see two other
14 individuals go into the minivan and pull out the
15 minivan -- pull out from the parking lot in the
16 minivan.

17 **Q.** Okay. What was the time frame on that?

18 **A.** I don't recall the time; but if you keep
19 playing it, it will show there.

20 **Q.** Okay. Now, those actions did not happen
21 one, two, three, in terms of one minute somebody gets
22 out of the van, the next minute two people get out of
23 the van, and the next minute the van pulls off and
24 leaves. It didn't happen like that, did it?

25 **THE COURT:** Excuse me. Can you ask

1 your questions in a more concise form?

2 **MS. FOOTE:** Okay, Your Honor.

3 **Q.** (**BY MS. FOOTE**) All of the movement that
4 you're talking about as far as the van is concerned,
5 it didn't happen within a matter of minutes, did it?

6 **A.** I don't -- I don't understand what you mean
7 by "within a matter of minutes."

8 **Q.** It wasn't a short time period. It wasn't
9 10 minutes, was it?

10 **A.** I can't recall. I don't recall.

11 **Q.** Okay.

12 **A.** I have to continue looking at the video.

13 **Q.** Okay. Well, at this time you are on --

14 **MS. FOOTE:** I pass the witness.

15 **THE COURT:** Thank you.

16 Redirect?

17 **MR. BATARSE:** Yes, Your Honor.

18 **REDIRECT EXAMINATION**

19 **Q.** (**BY MR. BATARSE**) Ms. Martinez, I'm going to
20 walk you through this. Let's not assume anything.
21 Okay?

22 **A.** Okay.

23 **Q.** What I'd like to do with you is I'd like to
24 have you step down, and I'd like to do a little
25 timeline with the video so we can show the jury what

1 happened when -- so everyone understands what's going
2 on.

3 A. Okay.

4 Q. And then we're going to explain why you say
5 that she came out of that car. Okay?

6 A. Okay.

7 **MR. BATARSE:** Your Honor, may she step
8 down?

9 **THE COURT:** Yes, sir.

10 **MR. BATARSE:** Thank you, Your Honor.

11 Q. **(BY MR. BATARSE)** Stand right here, please.

12 A. (Witness complies.)

13 Q. Okay. Let's start from minute 1 on the
14 video. And, actually, why don't you go up here so
15 you can show the jury.

16 **MR. BATARSE:** Can you press "play"?

17 **MS. KOCH:** Yes.

18 Q. **(BY MR. BATARSE)** Okay. What did we see in
19 the upper left-hand corner of the screen?

20 A. The vehicle coming in.

21 Q. Okay. Watch the vehicle for a few seconds.

22 A. (Witness complies.)

23 Q. Now, where is it parking?

24 A. It parks in Row E.

25 Q. Is that the same black van we have been

1 talking about?

2 A. Yes.

3 Q. Okay. I want to pause it right there.

4 So, this is about -- what time period
5 do you see right here?

6 A. 1:34.

7 Q. Can we see a few seconds before that that
8 it actually came in?

9 A. Yes.

10 Q. Okay. So, around 1:30?

11 A. 1:30.

12 Q. The black van arrives, right?

13 A. Yes.

14 Q. Okay. Let me ask you this: When you saw
15 it coming in that upper left-hand corner of the
16 screen, like if I'm over on this side, is this where
17 the building is?

18 A. Yes.

19 Q. It's driving away from the building --

20 A. Yes.

21 Q. -- is that correct?

22 A. Yes.

23 Q. So, it's originally at the very beginning
24 when we started at 1 -- thank you. So, we're
25 starting over here at 1 minute. We see it driving

1 away from the building?

2 A. Yes.

3 Q. Okay. And then it comes in and parks in
4 that spot, right?

5 A. Yes.

6 Q. You don't know -- we don't know if the car
7 dropped anyone off at this point, right?

8 A. No.

9 Q. But we know it stopped right there, right?

10 A. Yes.

11 Q. Okay. So, that's at 1:30, minivan arrived.

12 Now, let's move up to 2:58. Right
13 there is fine. Now, what are we seeing?

14 A. The Charger.

15 **THE COURT:** Excuse me just a minute.
16 The witness has her back to the jury.

17 **MR. BATARSE:** I'm sorry, Judge.

18 **THE COURT:** It's real important you
19 speak loudly so it goes backwards.

20 A. The Charger that's pulling up into the
21 parking lot.

22 Q. **(BY MR. BATARSE)** Okay. And what time frame
23 was that about?

24 A. 3:00 -- 3:02. And there is the SUV to
25 follow it at 3:19.

1 Q. Okay. Ms. Martinez, you mentioned that the
2 equipment that you used at Wal-Mart is on a big
3 screen that you're looking or a small screen?

4 A. It's a small screen.

5 Q. Low resolution or high resolution?

6 A. High resolution.

7 Q. This screen that we're looking at here, is
8 that lower or higher resolution than you saw on the
9 screen when you observed it?

10 A. This is lower resolution.

11 Q. Okay. Well, let's try something. You can
12 stay standing right there.

13 What I'm going to try to do, I'm going
14 to make it smaller. And that looks really small,
15 right?

16 A. Yes.

17 Q. And the jury will have access to the video
18 in deliberations, but I want you to look at it on
19 that big screen here. And I want to go to about
20 minute 4 -- and you can get closer if you want -- and
21 pause it here for a second.

22 What you were testifying for Defense
23 counsel -- she asked you if you saw movement coming
24 out of that -- out of the driver's side door of the
25 Charger, right?

1 A. Correct.

2 Q. And you said that -- what did you tell her?

3 A. That there was an -- the driver's door --
4 driver's side door opened up, and you could see
5 movement coming out from the Charger.

6 Q. Is that more difficult to see on these
7 screens?

8 A. It is if it's -- yeah.

9 Q. Okay.

10 A. It was difficult to see.

11 Q. So, I want you to get up here close; and I
12 want you to tell me if you can see the movement on
13 this screen. Okay?

14 A. Okay.

15 **MR. BATARSE:** Start it, please.

16 Q. **(BY MR. BATARSE)** Okay.

17 A. Right there you see somebody exiting from
18 the Charger.

19 Q. Okay. And I want you to point to the
20 jury -- you can see this. Point if you want. I know
21 it's really high.

22 A. Right -- right in this area here
23 (indicating.)

24 **MR. BATARSE:** And, Ms. Koch --

25 **THE COURT:** Excuse me.

1 **MR. BATARSE:** Sorry. Yes, Your Honor,
2 I didn't realize she was going to keep on talking.

3 **THE COURT:** You're talking on top of
4 the witness and on top of the Judge. So, try and be
5 more patient. Okay. Thank you.

6 **MR. BATARSE:** Yes, Your Honor. Sorry,
7 Judge.

8 Ms. Koch, if you wouldn't mind playing
9 it back just a little bit further, please. Back to
10 about 3:58. Perfect.

11 **Q. (BY MR. BATARSE)** Step up and show us when
12 you see some movement.

13 **A.** Right there (indicating.)

14 **Q.** Okay.

15 **A.** In that area.

16 **Q.** All right. And so, when you say "that
17 area," I want you to clarify for the record, what are
18 you saying?

19 **A.** Right from the driver's side of the
20 Charger.

21 **Q.** Okay. So, are you assuming that; or did
22 you just see it on the screen?

23 **A.** I saw it on the screen.

24 **Q.** Okay. We will press "play." And that was
25 about 4:02, 4:05. Okay. And now, pass -- 4:14, is

1 that the time on the screen?

2 A. Yes.

3 Q. Do we see a person emerge from the car?

4 A. Yes.

5 Q. Okay. So, let's write that down. What did
6 I do with my marker? Well, I can use this one.

7 **A JUROR:** She has it.

8 **MR. BATARSE:** That's okay. Thank you.

9 Q. **(BY MR. BATARSE)** Okay. Now, I want to fast
10 forward here to -- well, let me ask you, Defense
11 counsel asked you if you ever saw any movement from
12 that black van, right?

13 A. Right.

14 Q. Okay. Okay. I'm going to take you to
15 minute -- at minute 9, tell us when you see the
16 movement that you described.

17 A. Right there. You see somebody exiting from
18 the minivan.

19 Q. Okay.

20 A. And you see them get back in --

21 Q. Okay.

22 A. -- the driver's side.

23 Q. Someone exits and gets back in on the
24 driver's side, right?

25 A. Yes.

1 Q. Okay. What minute was that?

2 A. 9:17.

3 Q. Okay. And now let's go to 10:30. What are
4 we seeing now?

5 A. Right there you see two individuals walk up
6 to the minivan. One goes on the driver's side, and
7 once goes on the passenger side. And the one on
8 driver's side is seen entering the passenger's side
9 of the van.

10 Q. You mean the one in the driver's side is
11 what?

12 A. Entering the passenger -- the backside of
13 the driver.

14 Q. You mean the rear?

15 A. The rear, yes.

16 Q. I want to pause there.

17 That silver SUV that followed the
18 Charger, is that car still parked there?

19 A. Yes.

20 Q. Okay. So, about 10:30 people get in the
21 black van.

22 Okay. And now let's go to -- jump to
23 1450, if you don't mind. Tell the jury what you're
24 seeing here.

25 A. The minivan is exiting the parking lot.

1 Q. Minivan is leaving?

2 A. Yes.

3 Q. Okay.

4 A. Charger.

5 Q. I want to pause here. I was about to ask
6 you what cars are still here.

7 A. The Charger and SUV.

8 Q. Okay. Is the defendant still in the store
9 at this time?

10 A. Yes.

11 Q. Okay. You can have a seat. Thank you,
12 Ms. Martinez.

13 A. Yes. (Witness complies.)

14 Q. From going through that little timeline
15 right there, did that help kind of put everything in
16 perspective?

17 A. Yes.

18 Q. All right. Are -- so, I just want to be
19 clear --

20 MR. BATARSE: Can I approach the board
21 again, Judge?

22 THE COURT: Yes, sir.

23 Q. (BY MR. BATARSE) Just go over it right
24 here. At 1:30, black van arrives, right?

25 A. Yes.

1 Q. 3:02, silver Charger arrives?

2 A. Yes.

3 Q. 4:02, a female exits the silver Charger?

4 A. Yes.

5 Q. 4:15, female seen walking from the back of
6 that Charger, right? We saw that?

7 A. Yes.

8 Q. At around 9:17, you see the driver of the
9 van -- the black van enter and just go back inside
10 the car, right?

11 A. Yes.

12 Q. 10:30, we see people get in the black van?

13 A. Yes.

14 Q. Now, when that black van arrived, did we
15 see any people get out of that black van when it
16 arrived?

17 A. No.

18 Q. Now, we saw the van coming from where?

19 A. From the front of the building.

20 Q. From the front of the building. Okay.

21 Great.

22 So, at 1455, the black van leaves,
23 right?

24 A. Yes.

25 Q. And the Charger is still there?

1 A. Yes.

2 Q. And the SUV is still there?

3 A. Yes.

4 Q. I want to look right here. Okay. So, I'm
5 starting the video back up at 4815.

6 Now, what are we seeing?

7 A. You're seeing the group of people that
8 first walked into the store back at the SUV.

9 Q. Okay.

10 A. Loading up their purchases.

11 Q. What is that time stamp?

12 A. 4837.

13 Q. Okay. Ms. Martinez, from 1455 to 1418,
14 about how many minutes is that? Rough estimate is
15 fine.

16 A. Thirty-four minutes.

17 Q. Thirty-four minutes later the female that
18 we see on the video is leaving in the SUV; is that
19 right?

20 A. Yes.

21 Q. On the next day, that same Charger that she
22 came in is still there the next day?

23 A. Yes.

24 **MR. BATARSE:** Pass the witness, Your
25 Honor.

1 **THE COURT:** Recross?

2 **MS. FOOTE:** Yes, Your Honor. Thank
3 you.

4 **RECROSS-EXAMINATION**

5 **Q.** **(BY MS. FOOTE)** As a loss prevention
6 officer, do you have to survey videos and try to put
7 together crimes and crime scenes on a regular basis?

8 A. Yes.

9 **Q.** Okay. And you can answer this generally,
10 if you would like; but when you're doing that, a lot
11 of times you have to assume things because you don't
12 know all the bits and pieces that are going on at the
13 time, correct?

14 A. Correct.

15 **Q.** So, based on this video and what you
16 perceive as movement and so forth, you're assuming,
17 still, that the woman that's seen in the white shirt
18 got out of that Charger, correct?

19 A. Based on what I have seen on the video, she
20 did get out of the Charger.

21 **Q.** That's what you're assuming?

22 A. Correct.

23 **Q.** You couldn't see it?

24 A. I could see her exiting the vehicle from
25 the driver's side.

1 Q. Okay. You saw someone exiting the vehicle?

2 A. I saw a female exit, yes.

3 Q. Okay. And how would you know that it was a
4 female that was exiting the vehicle based on the
5 shadow behind the black van?

6 A. Based on her coming around from the
7 Charger.

8 Q. So, it's an assumption, correct?

9 A. Yes.

10 Q. Okay. Now, that black van that's on the
11 video, could you tell that it's a passenger van?

12 A. Yes.

13 Q. Okay. And passenger vans have doors on
14 both sides of the vehicle, correct?

15 A. Correct.

16 Q. And passenger vans have the ability to seat
17 quite a few people, correct?

18 A. Correct.

19 Q. If we go by the timeline that's been
20 presented, not the one I drew up, but the timeline
21 that's available here for us today, starting at 1
22 minute and 34 seconds, we see the black van pull
23 up -- well, you noted that not until about eight
24 minutes later did anyone emerge from the van,
25 correct?

1 A. Correct.

2 Q. Okay. And that time, according to what's
3 there on the chart, at 9:17 is when someone actually
4 emerged from the van, correct?

5 A. Correct.

6 Q. And then you said that you saw that same
7 person turn around and get right back in the van,
8 correct?

9 A. Correct.

10 Q. Then you said that you saw additional
11 people exit the van and get right back in the van,
12 correct?

13 A. No.

14 Q. Okay. What did you see?

15 A. I see two individuals going up to the van
16 and entering the van.

17 Q. Okay. Did you ever see those individuals
18 exit the van?

19 A. No.

20 Q. Okay. Did you ever -- the -- if I could
21 turn your attention to the video --

22 **MS. FOOTE:** Judge, if I could have a
23 moment, I'm trying to match up my times with the
24 times they have available here.

25 **THE COURT:** Yes, ma'am.

1 **MS. FOOTE:** If you could go to 9:17 on
2 the video.

3 **MR. BATARSE:** Sure.

4 **Q. (BY MS. FOOTE)** If I could turn your
5 attention to the video. And you said at 9:17 you saw
6 someone exit the van, correct?

7 **A.** Correct.

8 **Q.** Can you point out when you see them exit?

9 **A.** You might want to go back. Right there.

10 **Q.** Okay. Right there.

11 All right. Now, if we continue to
12 watch, what else do you see going on at that van?

13 **A.** Just the movement from the person that is
14 driving it.

15 **Q.** Okay. Now, do you see that person get out
16 of the van and then go into the sliding door?

17 **A.** Yes. He gets in, yes.

18 **Q.** Okay.

19 **MS. FOOTE:** And I don't know if that
20 started yet because I can't see anything.

21 *(Sidebar discussion outside hearing of*
22 *the Court Reporter)*

23 **Q. (BY MS. FOOTE)** All right. So, there is --
24 there is a -- all right. So, do you see any
25 additional movement at the van?

1 A. Just from the driver's side.

2 Q. Okay. So, the driver is still in the van?

3 A. Yes.

4 Q. Okay. Okay. So, is there more movement at
5 the van now?

6 A. Yes.

7 Q. So, what do you see?

8 A. I saw -- if you go back a couple seconds,
9 you can see two individuals coming from this side.
10 One goes to the passenger side, and the other one
11 goes on the driver's side rear and enters the van.

12 Q. Okay.

13 A. Right there. You see the two individuals
14 coming from here.

15 Q. So, obviously, there are doors on the other
16 side of the van, as well, correct?

17 A. Correct. Now --

18 **MS. FOOTE:** And you can just keep
19 hitting "play" because I'm waiting for it to get to a
20 certain part.

21 Q. **(BY MS. FOOTE)** Now, we never see anybody
22 get out of the van until we see the driver start to
23 make movement, correct?

24 A. Correct.

25 Q. But then you see two people come and get

1 into the van?

2 A. Correct.

3 Q. Okay. Now, there is a point here -- I'm
4 waiting on it to happen -- eventually -- and I don't
5 know if you recall this or not, but the person that
6 is driving the van has on a white shirt. You can
7 agree with me on that, correct?

8 A. He has a light-colored shirt.

9 Q. A light-colored shirt?

10 A. Correct. Uh-huh (affirmative.)

11 Q. Okay. Now, he eventually gets out of the
12 van and he walks to the store himself, correct, if
13 you can recall that?

14 A. I don't recall that.

15 Q. Okay. I'm just going to let it keep
16 playing.

17 Okay. So, while we're waiting on
18 that, I will ask you some more questions. So, you
19 told the State when you thought you saw things on the
20 video, how you identified them and so forth; but all
21 those things are still just assumptions, correct?

22 A. I'm going based off the video.

23 Q. But assumptions of what's on the video?

24 **MS. KOCH:** Your Honor, at this point I
25 object to asked and answered.

1 Q. (BY MS. FOOTE) Do you have any picture, any
2 snapshots of Ms. Williams getting out of the Dodge
3 Charger?

4 A. Not specifically her. I have female
5 subject getting out of -- I have a subject getting
6 out of that Charger.

7 Q. You have a subject getting out of the
8 Charger. Okay. So, you don't have any picture or
9 snapshots like the ones we saw earlier with her
10 standing -- that you gave to Officer Blankenship --
11 with her standing next to the McDonald's in the
12 Wal-Mart?

13 A. I don't understand.

14 Q. You don't have any clear photos. You don't
15 have anything that says this is her face, this is
16 her, I see her getting out of this driver's seat of
17 the 2012 Dodge Charger?

18 A. No, I don't.

19 Q. Okay. And if I ask something you don't
20 understand, please -- you know, I can rephrase. I
21 will try.

22 Okay. So, just to be clear, you
23 didn't have any other business with Ms. Williams, did
24 you?

25 A. No.

1 Q. Okay. So, she wasn't under investigation
2 from Wal-Mart for any type of transaction that
3 occurred within the Wal-Mart, correct?

4 A. No.

5 Q. Okay. The only information that you have
6 to provide for us today is in regards to what's on
7 this video, correct?

8 A. Correct.

9 Q. So, you don't have any other information
10 about Ms. Williams. You don't have any other
11 information about what's going on with Enterprise.
12 You don't have any other information about this case
13 whatsoever, correct?

14 A. Correct.

15 Q. Okay. So, the only thing you know is what
16 you provided as far as this video is concerned?

17 A. Correct.

18 **MS. FOOTE:** Pass the witness, Your
19 Honor.

20 **THE COURT:** Thank you.

21 Redirect?

22 **MR. BATARSE:** Yes, Your Honor.

23 **FURTHER REDIRECT EXAMINATION**

24 Q. **(BY MR. BATARSE)** Ms. Martinez?

25 A. Yes.

Laura Martinez - May 14, 2013
Further Redirect Examination by Mr. Batarse

1 Q. Defense counsel is right. You don't know
2 Ms. Williams, do you?

3 A. No, I don't.

4 Q. And before that day, you had never met that
5 woman --

6 A. No.

7 Q. -- right?

8 A. Right.

9 Q. And just like she said, you didn't have a
10 pending investigation or anything like that, right?

11 A. Right.

12 Q. What you did is you just got the video that
13 was taken of the acts that occurred; is that correct?

14 A. Correct.

15 Q. Now, understanding that, you know, you
16 don't know who she is, you can't ID her, or whatever
17 the issue is, in State's Exhibit No. 1 and No. 2 that
18 are up here, these photos -- do you remember these?

19 A. Yes.

20 Q. Are these the photos that you gave to the
21 officer?

22 A. Yes.

23 Q. Okay. Now, I'm going to ask you a
24 question. Did you know who this person was when you
25 gave him the photos?

1 A. No.

2 Q. Okay. All right. Is this the same person
3 who was driving the Charger?

4 A. Yes.

5 Q. Okay. So, I'm asking -- I'm going to ask
6 you the question, are you assuming that this person
7 is the one that came out of the Charger; or do we
8 have video evidence?

9 A. I have video of it.

10 Q. Okay. So, this is a very clear photo of
11 her, right?

12 A. Yes.

13 Q. You provided this to the officer?

14 A. Yes.

15 Q. Okay. And over here -- see, every time I
16 here the word "assume," I freak out. So, I want to
17 make sure that we're clear. You saw right here, at
18 4:02, we had a female -- how do we know it was a
19 female?

20 A. The way she was dressed and the way she was
21 walking.

22 Q. Okay.

23 A. And hair.

24 Q. That person that came on the video, how
25 many angles do we have total that we showed the jury?

1 How many video angles do we have?

2 A. Of the person or --

3 Q. Of the person.

4 A. I'd say about three or four angles.

5 Q. Three or four angles. Right.

6 And at the beginning we went through
7 different angles with them and showed when the person
8 got out of the Charger and the person walked out, got
9 into the store, met up with the other people there.

10 Do you remember that?

11 A. Yes.

12 Q. Is that the same -- in other words, all I'm
13 trying -- I want to make clear that the picture that
14 you have in front of you that shows the person's
15 face, is that the same person who got out of that
16 Charger?

17 A. Yes.

18 Q. Okay. Are you assuming that?

19 A. No.

20 Q. Okay. And when I asked you if someone was
21 getting out of the car and if you saw that, did you
22 actually see that on the screen?

23 A. Yes.

24 Q. And when you saw -- when you are watching
25 the screen in Wal-Mart on your high-resolution

1 monitor, could you see that person moving, coming out
2 of that car?

3 A. Yes.

4 Q. Okay.

5 **MR. BATARSE:** No further questions,
6 Your Honor.

7 **THE COURT:** Thank you.

8 Redirect?

9 **MS. FOOTE:** Yes, Your Honor.

10 **FURTHER RECROSS-EXAMINATION**

11 Q. (**BY MS. FOOTE**) I asked you earlier did you
12 have definitive evidence of Ms. Williams getting out
13 of the car and you told me no; but, yet, on redirect
14 you just said that you did, that you saw her.

15 Where is the video where you actually
16 saw Ms. Williams get out of that car?

17 A. I don't have a face shot of her getting out
18 of car. I can say, based off the video that I have,
19 that the female that entered the store at that time
20 is the same female that exited the Charger at the
21 time that it's seen on video.

22 Q. Okay. You also stated that you didn't know
23 who got out of the vehicle, that you couldn't see
24 them until they get to the tail of the vehicle,
25 correct?

1 A. Correct.

2 Q. Okay. So, you don't know for sure. That
3 was not true, correct?

4 **MR. BATARSE:** Your Honor, I object to
5 complex question.

6 **THE COURT:** Can you simplify?
7 Sustained.

8 **MS. FOOTE:** Thank you, Your Honor.

9 Q. **(BY MS. FOOTE)** So, what you said wasn't
10 true. You don't know for sure?

11 A. Based on the video, I can see the person
12 exiting the Charger.

13 Q. But you don't know if it was Ms. Williams?

14 A. If I trace it through the video, it's her
15 coming into the store.

16 **MS. FOOTE:** Thank you, Your Honor. I
17 have no more questions.

18 **THE COURT:** Excuse me. May she finish
19 her answer? Don't talk over her, please.

20 Say your answer again.

21 A. Based off the timeline and through video
22 research, the person that got out of the Charger is
23 the same person that entered the store.

24 **THE COURT:** Do you have any other
25 questions, Ms. Foote?

1 **MS. FOOTE:** Yeah, a couple of more.

2 **Q.** **(BY MS. FOOTE)** If you have better video,
3 why didn't you bring it here?

4 **A.** What do you mean by "better video"?

5 **Q.** You said that the one that you had at
6 Wal-Mart is better resolution, you can see better,
7 and so forth. If you had a better video, why didn't
8 you provide it?

9 **A.** That's due to the monitor, not the video.

10 **Q.** Have you ever testified before,
11 Ms. Martinez?

12 **A.** No.

13 **Q.** Okay. I have one more question. What --
14 wouldn't you find it odd -- this video was taken at
15 night, correct?

16 **A.** Correct.

17 **Q.** And the original time stamp, it was about
18 10:00 p.m. somewhere around there?

19 **A.** Correct.

20 **Q.** Okay. Now, this black van, when it pulls
21 up, we don't have an exact time, according to what's
22 here; but -- so, we can say 1:34 -- I will use their
23 timeline. So, we can say 1:34, which is about
24 10:06 p.m. at night, the black van pulls up, correct?

25 **A.** Correct.

1 Q. Okay. Now, if we go through the timeline
2 and we add up the minutes, we're only talking about
3 basically 14 minutes that this van is on the scene,
4 correct?

5 A. Correct.

6 Q. Okay. Now, during that time period, no one
7 ever gets out of the van?

8 A. The driver gets out of the van.

9 Q. Well, I'm sorry. They get out of the van,
10 but they don't -- they don't stay gone for very
11 long --

12 A. Correct.

13 Q. -- right?

14 Okay. Now -- so, we see the driver
15 get out of the car -- out of the van about four
16 minutes and 15 seconds into this, according to the
17 timeline, correct?

18 A. No. That's the time that the females walk
19 in from the car.

20 Q. Oh, I'm sorry. Yeah, that's still too fast
21 sorry. 9:17. I apologize. At 9:17.

22 So, about nine minutes into it, the
23 van parking, we see someone emerge from the van,
24 correct?

25 A. Correct.

1 Q. Okay. And then less than six minutes
2 later, the van leaves?

3 A. Correct.

4 Q. Now, as a person that -- is Wal-Mart pretty
5 busy at that time of night?

6 A. Depends on the day.

7 Q. Okay. In looking at the video and that
8 parking lot, did Wal-Mart -- did your store seem to
9 be pretty busy at that time of night?

10 A. Yes.

11 Q. Okay. And on average, about how long on
12 average do your shoppers stay in the store?

13 MR. BATARSE: Objection, Your Honor,
14 speculation and relevance.

15 THE COURT: Sustained.

16 Q. (BY MS. FOOTE) Don't you find it odd that
17 they stayed in the car longer than they were in the
18 store?

19 MR. BATARSE: Objection, Your Honor,
20 relevance.

21 THE COURT: Well, speculation.

22 MR. BATARSE: Speculation.

23 THE COURT: Sustained.

24 Q. (BY MS. FOOTE) So, once the driver got out
25 of the car at 9:17, people -- sorry, not 9:17; but at

1 nine minutes and 17 seconds, the same van leaves at
2 1455, correct?

3 A. Correct.

4 Q. So, that's only about five minutes,
5 correct?

6 A. Correct.

7 Q. Okay. Nine minutes in the parking lot,
8 five minutes in the store, correct? The timeline
9 that you gave?

10 A. No. The timeline shows that at nine
11 minutes the driver emerges from the van, and then at
12 the other time is when the individuals come up from
13 the store and get into the van.

14 Q. And did you ever see anybody emerge from
15 that van and walk up the parking lot?

16 A. No.

17 **MS. FOOTE:** I don't have my own video.
18 Okay.

19 *(Sidebar discussion outside hearing of*
20 *the Court Reporter)*

21 **THE COURT:** We don't allow cell
22 phones. Everybody turn off your cell phone, please.

23 Q. *(BY MS. FOOTE)* Okay. Now, do you see this
24 individual that is walking up the parking lot?

25 A. Yes.

1 Q. Okay.

2 A. The one in the white shirt?

3 Q. Yes, the one in the white shirt.

4 A. Yes.

5 Q. Okay. Now, did you see the car that he
6 emerged from?

7 A. Yes.

8 Q. And where was that?

9 A. Next to the minivan.

10 Q. Okay. So, there is a car parked next to
11 the minivan?

12 A. Yes.

13 Q. Which one is that?

14 A. Driver's side, dark vehicle. They parked
15 between the minivan and the --

16 Q. They parked between the minivan and the
17 white car?

18 A. Yes.

19 Q. What kind of car is that?

20 A. Looks to be a sedan. When the driver
21 exited the vehicle, he turned on his alarm. You can
22 see the flash of lights in between the two cars.

23 Q. So, actually -- sorry. Were you done?

24 A. (Nods in the affirmative.)

25 Q. Okay. Actually, there were two parties

1 that got out of the vehicles at the same time,
2 correct?

3 A. I didn't notice the other party.

4 Q. Okay.

5 **MS. FOOTE:** Can you go back a little
6 bit?

7 Q. **(BY MS. FOOTE)** So, now, at this time -- I
8 don't know if you can see that clearly. There is
9 actually an open space in between the van and that
10 white car, correct?

11 A. Correct.

12 Q. Okay.

13 A. Then we see the black car pull up.

14 Q. And now, do you see the people beginning
15 to -- okay. So, you see the guy right there
16 (indicating)?

17 A. Yes.

18 Q. At the top of the screen in the white shirt
19 (indicating)?

20 A. Yes.

21 Q. Okay. He is at the van, isn't he?

22 A. He is in between the van and the car or van
23 and the cart corral.

24 Q. Okay. Now, if you continue to play, he
25 actually closed the door on the van, did he not?

1 A. There is a vehicle parked there. That's
2 not the van.

3 Q. Okay. Okay. So, back to what I was
4 saying, this car was parked for much longer than
5 anybody getting out, going anywhere, doing anything
6 inside the store, correct?

7 A. What do you mean?

8 Q. The van, it was parked for much longer time
9 than anybody getting in or out of the car or going
10 into the store. You agree it was parked for nine
11 minutes?

12 A. Yes.

13 Q. Okay. But it left at 15 minutes in, 1455?

14 A. Yes.

15 Q. Okay. You agree that you do not have a
16 clear view of who was in the Charger?

17 **MR. BATARSE:** Asked and answered, Your
18 Honor.

19 **THE COURT:** Repetitive.

20 **MS. FOOTE:** Thank you, Your Honor.

21 **THE COURT:** Move on to something else,
22 please.

23 Q. **(BY MS. FOOTE)** You said you followed
24 Ms. Williams around the store as far as, you know,
25 locating her on your video, correct?

Laura Martinez - May 14, 2013
Further Recross-Examination by Mr. Batarse

1 A. Yes.

2 Q. Okay. And when she left the store, did she
3 leave the store in that Charger?

4 A. No.

5 Q. Did she ever go back to towards the
6 Charger?

7 A. No.

8 Q. About how long were they in the store,
9 according to the video time stamps?

10 A. I don't recall.

11 Q. Okay. Was it more than five minutes?

12 A. Yes.

13 Q. More than 30 minutes?

14 A. I don't recall.

15 Q. It was a substantial amount of time,
16 though, correct?

17 A. I guess, yeah, you can say.

18 Q. Okay. And when she went into the store,
19 did she buy a couple of, you know, minuscule items;
20 or did she do full-out shopping?

21 A. There is some groceries and some apparel.

22 Q. Okay. So, by all indications, Wal-Mart was
23 not a pit stop, correct?

24 A. Right, I guess.

25 **MS. FOOTE:** Pass the witness, Your

1 Honor.

2 **THE COURT:** Thank you.

3 Are you going to ask more questions?

4 **MR. BATARSE:** No, Your Honor. No
5 further questions.

6 **THE COURT:** All right. Thank you.

7 Is this witness excused?

8 **MR. BATARSE:** Yes, Your Honor.

9 **MS. FOOTE:** Yes, Your Honor.

10 **THE COURT:** Then you're released as a
11 witness. Thank you so much.

12 **THE WITNESS:** Thank you.

13 **(Witness released)**

14 **THE COURT:** Thank you. Who will be
15 your next witness?

16 **MS. KOCH:** Officer Zermeno, Your
17 Honor.

18 **THE COURT:** Thank you.

19 **THE BAILIFF:** Judge, this witness has
20 not been sworn.

21 **THE COURT:** Hello, Officer. Come on
22 up and face the jury, and I will give you the oath.

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

24 **THE COURT:** Thank you, sir.

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