

1 (Open court; defendant present.)

2 THE COURT: Ready? Bring them out,
3 please.

4 (Jury enters courtroom.)

5 THE COURT: Good morning. If the
6 State, please.

7 MR. PENEGUY: For purposes of the
8 record, I want to confirm that the following items
9 that were offered were admitted into evidence:
10 State's Exhibit Number 8 --

11 THE COURT: 8, 10, and 11 through 95.

12 MR. PENEGUY: Thank you, Judge.

13 Judge, may I approach the witness?

14 THE COURT: You may.

15 DIRECT EXAMINATION (CONTINUED)

16 Q. (BY MR. PENEGUY) Officer, I'm showing you
17 what has been marked for identification purposes as
18 State's 9. Do you recognize this item?

19 A. Yes, sir.

20 Q. And is this just an enhanced version of the
21 scene diagram you prepared that has been admitted
22 into evidence as State's Exhibit Number 8?

23 A. Yes, sir.

24 Q. Thank you.

25 MR. PENEGUY: Judge, we would like to

1 offer State's Exhibit Number 9 for demonstrative
2 purposes.

3 MR. SCOTT: We have no objection, your
4 Honor.

5 THE COURT: State's 9 is admitted.

6 MR. PENEGUY: And, Judge, it's just
7 for demonstrative purposes because we're going to
8 manipulate it later. Is that okay?

9 THE COURT: Well, as long as you don't
10 manipulate it in front of everybody.

11 MR. PENEGUY: May I publish State's
12 Exhibit Number 9?

13 THE COURT: You may.

14 Q. (BY MR. PENEGUY) Officer Tompkins, I'm
15 showing you what is in evidence. This is an
16 enlargement; is that correct, sir?

17 A. Yes, sir, it is.

18 Q. Is it an enhancement of what has been
19 offered and admitted into evidence as State's Exhibit
20 Number 8?

21 A. Yes, sir.

22 Q. Being able to look at this exhibit north,
23 south, east, and west, can you tell us where the
24 front door is located?

25 A. Front door would be at the top of the board

1 where I believe it's Number 6 possibly.

2 Q. Okay. So, for orientation, if you were
3 walking into this house -- is it all right if I
4 invert this and flip it the other way?

5 A. Yes, sir. And that should be a 9, by the
6 way, and not a 6.

7 Q. Okay. So, does that track with the
8 numbering?

9 A. Yes, sir.

10 Q. Okay. Officer Tompkins, you told us the
11 crime scene was secured when you arrived and that you
12 began to process and document the crime scene; is
13 that correct, sir?

14 A. Yes, sir.

15 Q. One of the things that you use to document
16 the crime scene is a crime scene video, which has
17 been admitted as State's Exhibit Number 10?

18 A. Yes, sir.

19 Q. And just kind of tell the jury when they
20 first see State's Exhibit Number 10, when they walk
21 in the front door, what is going to be the first room
22 they see?

23 A. The living room.

24 Q. Okay. And is that where Items Number 1 and
25 2 and 3 are?

1 A. Yes, sir.

2 Q. And does that room continue back all the
3 way to where Item 7 is located?

4 A. Yes, sir, it does.

5 Q. To the left of that main living room area,
6 was there a hallway?

7 A. Yes, sir, there was.

8 Q. And on this exhibit, is that to the east or
9 the west of the living room?

10 A. That would be to the east.

11 Q. How many -- or what was found -- when you
12 walked into that hallway, can you tell the jury what
13 is over in that part of the area?

14 A. There was a bedroom. I think there was a
15 second bedroom, but I specifically remember one
16 bedroom.

17 Q. Okay. So, the top of the living room. Was
18 there another entrance to another part of the house?

19 A. Yes, sir.

20 Q. Is that contained on this diagram?

21 A. No, sir, it's not.

22 Q. Okay. Can you tell the jury what you
23 remember to the south of the living room?

24 A. South of the living room was another room,
25 a bedroom as well, part of the kitchen to the south

1 area.

2 Q. Are those going to be parts that you walk
3 through when you're filming the scene video?

4 A. Generally, yes, sir.

5 Q. Okay.

6 MR. PENEGUY: Your Honor, at this time
7 we would publish the State's scene video.

8 THE COURT: Very well.

9 Before you do --

10 MR. PENEGUY: Do you want a copy?

11 MR. SCOTT: Thank you.

12 MR. PENEGUY: And, Judge --

13 Q. (BY MR. PENEGUY) Officer Tompkins, are
14 there parts of this scene video that contain graphic
15 images?

16 A. Yes, sir, there is.

17 Q. And what specifically are those graphic
18 images?

19 A. The body of the deceased as well as a lot
20 of blood throughout the house.

21 Q. Okay. And was it important -- to your
22 knowledge, had the body been moved or altered in any
23 way once you had arrived on the scene?

24 A. Not from where he fell, no, sir.

25 Q. Was that consistent with some of the blood

1 evidence that you located?

2 A. Yes, sir.

3 (Exhibit published in open court.)

4 Q. (BY MR. PENEGUY) Officer Tompkins, in
5 reviewing the crime scene video, State's Exhibit
6 Number 10, does it start out at a house and kind of
7 systematically attempt to go through the rooms of the
8 house?

9 A. Yes, sir.

10 Q. Do you also take photographic evidence to
11 show still shots of the places that you searched and
12 the investigation you that conducted?

13 A. Yes, sir.

14 Q. Now, we've admitted a lot of photos,
15 State's Exhibits 11 all the way through 95. I'm not
16 going to go through all of those, but are a lot of
17 those duplicitous of what is shown in the video?

18 A. Yes, sir.

19 Q. I'm going to start with just a couple of
20 them. Can you tell us the orientation of what has
21 been admitted into evidence as State's Exhibit Number
22 12?

23 A. Standing outside on the street looking
24 directly at the house.

25 Q. And the light coming from the middle of

1 that, what is that location?

2 A. That's the main entrance to the living
3 room.

4 Q. Okay. What is State's Exhibit Number 16?

5 A. Standing just outside the garage sidewalk
6 looking into the house.

7 Q. And State's Exhibit Number 18?

8 A. Standing right at the front door.

9 Q. Now I want you to describe the type of door
10 that that is.

11 A. The screen door itself, as you can see, is
12 just screen and glass with burglar bars attached.
13 And the front door itself, if memory serves me right,
14 was like those cheap aluminum doors.

15 Q. Okay. Now, when you were at the house, did
16 you inspect the burglar bar doors and the locking
17 mechanisms on all the doors?

18 A. Yes, sir.

19 Q. State's Exhibit Number 21, is that a close
20 up of the burglar bar doors?

21 A. Yes, sir.

22 Q. When you were at the location, did you
23 examine the doorjams to the location?

24 A. Yes, sir.

25 Q. Were there any signs that there was any

1 damage that had been caused like the doors had been
2 locked and forced open?

3 A. No, sir.

4 Q. Any evidence that any of them had even been
5 tampered with?

6 A. No, sir.

7 Q. Now, you documented some evidence in the
8 scene video. Were you able to examine any blood
9 evidence on the doors?

10 A. Yes, sir. On the -- actually, if you look
11 below the lock, you can see a red spot. That's a
12 blood spot there. And the door itself had several
13 pieces -- several dots of blood on it as well.

14 Q. Did the outside of the door actually have
15 blood spots or spatter on it?

16 A. Yes, sir.

17 Q. So, looking at State's Exhibit Number 18
18 again, can you show the jury what part of the actual
19 front door had blood spots on it? Did the white door
20 have any blood spots on it?

21 A. Yes, sir, but there's not -- the front
22 door -- the white door is not shown there.

23 Q. Okay. But where would it be on that
24 diagram?

25 A. That is the doorjamb right there, and then

1 the door opened inward.

2 Q. And when the door opened inward, was the
3 blood evidence on the inside part of the door or
4 outside part of the door?

5 A. On the outside part of the door.

6 Q. State's Exhibit Number 24. What is this a
7 still shot of?

8 A. Standing in the doorway looking inside, a
9 baker's rack, for lack of a better word, a seat
10 cushion. Directly behind the baker's rack is the
11 decedent along with an overturned dining room table
12 and an upturned sofa to your right.

13 Q. Okay. So, the black item that we see in
14 the top right corner of State's Exhibit 24, is that
15 the upturned couch?

16 A. Yes, sir.

17 Q. This is State's Exhibit Number 25. Is this
18 just a different angle?

19 A. Basically, like, stepping just inside the
20 door so you can actually see things to the left as
21 well.

22 Q. Okay. Can you tell us what the entrance
23 on the -- or was there an entrance or an exit from
24 the living room on the left side of this photograph?

25 A. Yes. Actually you can see that straight

1 ahead. If that gives you an indication, that's the
2 door here, and there's a doorjamb right there, and
3 this was the entrance.

4 Q. What did that exit lead to?

5 A. Small hallway and the two bedrooms you saw
6 in the video.

7 Q. For purposes of the record, are those on
8 the east side of the living room?

9 A. It was on the west side of -- excuse me.
10 Yes. East side of the living room.

11 Q. Okay. Is State's Exhibit Number 26 just
12 completing the panoramic view of the living room?

13 A. Exactly.

14 Q. What does State's Exhibit Number 27 show?

15 A. The doorjamb that I just showed you
16 entering into the hallway, that would be standing at
17 that door entry looking out towards the front door.

18 Q. And looking at the front door -- earlier
19 you said the front door hadn't been shown in an
20 earlier picture.

21 A. Correct.

22 Q. Is the front door shown in State's Exhibit
23 Number 27?

24 A. Yes, sir, front door.

25 Q. What can you tell us about the front door

1 when you examined it?

2 A. An old door, a lot of dings and dents in
3 it, blood spatter, several pieces of blood spatter on
4 the actual door itself on the outside of the door,
5 once again, meaning it opened inward.

6 Q. State's Exhibit Number 29. Where -- what
7 is the perspective of that photograph?

8 A. Standing in the same doorway that led to
9 the hallway I just told you about, except looking to
10 the left of the living room. Right there is the
11 upturned sofa that we just saw a moment ago. And
12 another entryway going into those back rooms that we
13 just saw on the video.

14 Q. Okay. And for purposes of the record, what
15 side of the photograph is the upturned sofa on in
16 State's Exhibit Number 29?

17 A. Right there (*indicating*).

18 Q. The indication that you made, is that on
19 the right side of the photograph of State's Exhibit
20 Number 29?

21 A. Yes, sir.

22 Q. The exit to the back -- did the house
23 appear to have, like, curtains covering doors or --

24 A. Doors, windows. If they weren't curtains,
25 they were just pieces of cloth.

1 Q. Okay. State's Exhibit Number 34. What is
2 this perspective?

3 A. Standing at the south side of where the
4 body was lying. If you were to look straight ahead,
5 you would see the front door, but instead you're
6 seeing the man laying there facedown.

7 Q. Okay. When you were processing this crime
8 scene, did you have an opportunity to examine the
9 decedent, Baron Armstrong, on the ground?

10 A. Yes, sir.

11 Q. Did you have an opportunity to document how
12 he appeared to lay on the ground?

13 A. Yes, sir.

14 Q. Did you have an opportunity to document the
15 evidence and the blood around his body?

16 A. Yes, sir.

17 Q. Did he appear to have been disturbed as he
18 lay on the ground?

19 A. Disturbed from when he initially fell?

20 Q. Yes, sir.

21 A. No, sir.

22 Q. Can you describe how you determined that?

23 A. Because of the amount of blood, especially
24 the blood that was coming out of his head, you could
25 see where it pooled. And there is also another

1 picture, when we get to it, and you'll see how it
2 pooled around there. Because of the wounds to his
3 stomach, he was bleeding quite a bit. Had he been
4 moved, there would have been other heavier
5 concentration of blood on the carpet or other areas,
6 say if he was leaning against the sofa or anything
7 like that.

8 Q. In your experience as a crime scene unit
9 officer, have you examined homicide scenes where
10 emergency response personnel have tried to
11 resuscitate a body?

12 A. Many times.

13 Q. Was there any evidence of that at this
14 scene?

15 A. No, sir.

16 Q. Was there any evidence that anyone had
17 moved the body from the position that it lay in?

18 A. No, sir.

19 Q. And were you able to capture how the body
20 was positioned?

21 A. Such as it is now?

22 Q. Yes, sir.

23 A. Yes, sir.

24 Q. Did you make sure while you were there that
25 no one moved or disturbed the body while you were

1 processing it?

2 A. Yes, sir.

3 Q. This is State's Exhibit Number 35. What is
4 this showing?

5 A. Standing towards the end, by his feet
6 looking down onto the body. That gray box that you
7 see there is a small entertainment or stereo system
8 lying on his left arm.

9 Q. Was that actually on top of the decedent?

10 A. On top of the left arm.

11 Q. State's Exhibit Number 36. What does this
12 show?

13 A. Just his feet and a couple couch cushions.

14 Q. Is that how his feet appeared when you
15 examined his body?

16 A. I don't recall if this photo was taken when
17 I got there or after the arrival of the medical
18 examiner. The medical examiner is the one that turns
19 the body. We don't touch the body.

20 Q. Okay. State's Exhibit Number 37. What
21 does that image show?

22 A. His upper body and showing him facedown on
23 the carpet and the pool of blood I mentioned to you
24 earlier.

25 Q. How are his arms positioned?

1 A. His left arm is down to his side. His
2 right arm is kind of to the south and then bent back
3 to the west. I think there was a couch cushion down
4 there. I think that's what that white piece was.

5 Q. Were you able to see any blood pool?

6 A. Yes.

7 Q. Where was that?

8 A. Right there where his head is.

9 Q. Was that consistent with where you observed
10 his visible injuries?

11 A. Yes, sir.

12 Q. These initials series of photographs that
13 were taken, do they show the crime scene before you
14 laid down markers?

15 A. Yes, sir.

16 Q. At what point in an investigation do you
17 lay down evidence markers?

18 A. Generally you try to take a picture or
19 video of the whole scene untouched, if you will, so
20 that if I was to show it to you or the jury or
21 anybody, you see what I saw when I arrived on the
22 scene. Once that is done and you determine where all
23 your evidence is, then you lay down your markers and
24 you basically create the scene, this time as it
25 pertains to evidence.

1 Q. Did you do that in this case?

2 A. Yes, sir.

3 Q. After the living room, where does the video
4 take us?

5 A. Out the front door and down to --

6 Q. After the living room here, do you process
7 the bedrooms on the video? Do we see them on the
8 video?

9 A. I'm sorry. I'm not understanding your
10 question. After the video --

11 Q. The crime scene video, do you take us on a
12 walk to show the bedrooms that we were talking about
13 to the east of the living room?

14 A. Oh, yes, sir.

15 Q. State's Exhibit Number 39. Was that one of
16 the bedrooms?

17 A. Yes, sir.

18 MR. PENEГУY: Judge, may I approach
19 the witness?

20 THE COURT: You may.

21 Q. (MR. PENEГУY) It's hard to see on the
22 overhead. Would you look at State's Exhibit
23 Number 39 and describe it to the jury?

24 A. It's the entrance to one of the bedrooms
25 and somebody had a handwritten note on the door that

1 said, keep out, off limits.

2 Q. Okay. Anything relevant on State's Exhibit
3 Number 39? Did you examine this bedroom?

4 A. I looked in every room in the house, but I
5 don't remember anything specific about this.

6 Q. Okay. State's Exhibit Number 43, what is
7 this an image of?

8 A. A little brighter image of the room that we
9 just saw.

10 Q. Okay.

11 MR. PENEGUY: Judge, may I approach?

12 THE COURT: You may.

13 Q. (MR. PENEGUY) State's Exhibit Number 39 and
14 43, are those the same rooms or different rooms?

15 A. I'm sorry. Yeah, they're different,
16 different signs.

17 Q. Okay. How can you tell them apart?

18 A. Because in the photo, the keep out here is
19 stuck with -- on each corner was four pieces of like
20 clay or glue. This one is stuck with like two, plus
21 the handwriting is different and the inside is
22 different as well. Here you see a closet, you see
23 like a nightstand.

24 Q. Okay. These photographs, are these some of
25 the things that you're documenting in the bedrooms

1 shown on the diagram here, State's Exhibit Number 8
2 and 9?

3 A. On those two, I don't recall specific to
4 the room shown there with the Number 8. I would have
5 to see more photos to be able to correlate that.

6 Q. Okay. Showing you State's Exhibit
7 Number 44, 45, 46, 49.

8 A. Okay.

9 Q. What are these photographs of?

10 A. These are photographs of the back bedroom
11 basically at the southeast corner. If you're looking
12 at the diagram there, it's going to be your top left
13 corner with the Number 8.

14 Q. What was marked Item Number 8?

15 A. A piece of a chair, broken chair.

16 Q. State's 44, what's shown in that
17 photograph?

18 A. The inside of the bedroom walking in.

19 Q. State's Exhibit Number 45.

20 A. That's a mirror on the floor with a lot of
21 blood dripping down it.

22 Q. Was that found in that bedroom with the
23 Marker 8?

24 A. Yes, sir.

25 Q. State's 46, can you tell us anything about

1 evidence in this room?

2 A. I would have to look at the photo up
3 closer, but I believe this was blood castoff. Like
4 when you hit something and you come back, blood is
5 being thrown off, making contact with articles.

6 Q. Okay. And what was Item Number 8?

7 A. That was the chair.

8 Q. Is that shown in State's 49?

9 A. Yes.

10 Q. State's Exhibit Number 49. Was there blood
11 evidence on the chair?

12 A. Oh, yes.

13 Q. Where is the bed on State's Exhibit
14 Number 49?

15 A. In correlation to the chair, it's right
16 here (*indicating*).

17 Q. Is that on the left side of State's Exhibit
18 Number 49?

19 A. Yes, sir.

20 Q. In your report, do you document with
21 photographs the kitchen area of the house?

22 A. I took photos, but I don't remember
23 anything being specific to the kitchen as far as the
24 crime itself was concerned.

25 Q. Did you take photographs of another, like,

1 bedroom suite that goes out to the south side of the
2 living room?

3 A. I believe I did.

4 Q. Okay. In looking at this diagram, where
5 would those be?

6 A. I would have to look at the photo again,
7 but if I remember correctly, if you look at the top
8 of the diagram itself where you see the letter N
9 facing down, that's the doorway into the next room
10 with the bedroom to the left.

11 Q. Okay. State's Exhibit Number 54, is that
12 showing part of that room or set of rooms?

13 A. Correct.

14 Q. State's Exhibit Number 55. What are we
15 looking at there?

16 A. That would be one of the other rooms.

17 Q. Was there -- did you go -- what is in the
18 top part of State's Exhibit Number 55 there?

19 A. Can you be specific as to what you are
20 talking about?

21 Q. Sure.

22 MR. PENEGUY: Judge, may I approach
23 the witness?

24 THE COURT: You may.

25 Q. (BY MR. PENEGUY) Showing you what has been

1 marked, admitted, State's Exhibit Number 54, 55, 57,
2 59, 65, 66.

3 A. 54 is a picture of a headboard and some
4 clothing lying on the ground. I don't specifically
5 see a bed itself.

6 55 is a closer view of the articles of
7 clothing lying on the ground in that back room.

8 57 is a nightstand with a bunch of
9 trash on it as well as on the floor.

10 And 59 is the toilet in the back of
11 the house there.

12 And 65 is just showing a bed half made
13 with the blankets a little ruffled.

14 And 66 is just a nightstand.

15 Q. Okay. These photographs, can you describe
16 how that back room appeared?

17 A. Messy, unkempt, dirty.

18 Q. Was there a separate bathroom for the back
19 sets of rooms?

20 A. Yes, there was.

21 Q. Now, State's Exhibit Number 65 is a bed.
22 Does it appear to be -- did it look like anybody was
23 living back there? Could you tell?

24 A. It looked like somebody was living back
25 there. And that is actually the bed lying on the

1 floor against the wall. You can actually see the
2 corners of the wall. Not necessarily living back
3 there, but somebody had been staying there.

4 Q. State's Exhibit Number 66, does that
5 actually show the corner of the bed with a little
6 more furniture?

7 A. Yes, sir.

8 Q. Where is the bed?

9 A. *(Indicating.)*

10 Q. Is that the bottom right corner of State's
11 Exhibit Number 66?

12 A. That's correct.

13 Q. State's Exhibit Number 70?

14 A. Hard to tell, but that's actually the
15 kitchen.

16 Q. State's Exhibit Number 72?

17 A. Broken piece of a table located just inside
18 the kitchen.

19 Q. State's 80, does that show some of the
20 crime scene markers on the case?

21 A. Yes, sir, it does.

22 Q. Why did you put down markers at Position
23 Number 1?

24 A. You try to coordinate your investigation to
25 go along with your scene diagram as well. Generally

1 you want to start with the most prominent pieces of
2 evidence, which in this case happened to be those
3 table legs there broken and covered in blood. If you
4 do that, especially when you're walking in the front
5 door like I was here, you can start laying out the
6 scene so that if I have to show it to you or somebody
7 else, you can get an idea of what I saw when I looked
8 inside.

9 Q. And I'll put Marker Number 1.

10 A. Marker 1 is pieces of wooden broken chair
11 legs.

12 Q. What was Marker Number 2?

13 A. More pieces of broken chair legs.

14 Q. What was Item Number 3?

15 A. A small metal plant stand.

16 Q. What was Item Number 4?

17 A. That was the small stereo that was lying on
18 his arm I mentioned earlier.

19 Q. Are each of those documented in your crime
20 scene diagram, State's Exhibit Number 80?

21 A. Yes, sir.

22 Q. And shown in the enlargement, State's
23 Exhibit Number 9?

24 A. Yes, sir.

25 Q. Did you tag items of evidence in this case?

1 A. Yes, sir.

2 Q. Did you tag the items marked Marker Number
3 1, 2, 3, 4?

4 A. Yes, sir.

5 Q. When you tagged them, did you secure them
6 as evidence in this case?

7 A. Yes, sir.

8 Q. What happens with things you secure as
9 evidence in a case?

10 A. I take possession of them from the crime
11 scene. I package them up, and I take them over to
12 the HPD property room. They are tagged into evidence
13 there for trial or possible testing if they need that
14 done.

15 Q. And in preparation for your testimony
16 today, did you collect these items again?

17 A. Yes, sir, I did.

18 Q. Where did you get them from?

19 A. From the property room.

20 Q. Did you bring them to the criminal justice
21 center?

22 A. Yes, sir, I did.

23 Q. Did you maintain possession of them until
24 you turned them over to me for this case?

25 A. Yes, sir, I did.

1 Q. Have you had an opportunity to look at them
2 again?

3 A. Yes, sir, I have.

4 Q. Are they in the same or essentially the
5 same condition as when you tagged them?

6 A. Yes, sir.

7 MR. PENEГУY: Judge, may I approach
8 the witness?

9 THE COURT: You may.

10 Q. (MR. PENEГУY) For purposes of the record,
11 I'm going to show you what has been marked 96, 97,
12 98, 99, and 100. Do you recognize those items?

13 A. Yes, sir.

14 Q. Are those the items that you had tagged in
15 evidence in this case?

16 A. Yes, sir.

17 Q. What numbers were you using in marking
18 these evidence?

19 A. State's evidence 96, 97, 98, 99, 100, on my
20 diagram you're looking at Number 1.

21 Q. When you process them, did they come in a
22 paper bag?

23 A. Yes.

24 Q. Is that how you preserved the evidence?

25 A. In this bag, yes.

1 Q. Okay. Are these items in substantially the
2 same condition as when you tagged them?

3 A. Yes, sir.

4 MR. PENEGUY: Judge, at this time we
5 would offer State's Exhibit Number Exhibit 96 through
6 100.

7 THE COURT: Repeat that. 96 --

8 MR. PENEGUY: 96, 97, 98, 99, 100.

9 THE COURT: Thank you.

10 MR. SCOTT: We have no objection, your
11 Honor.

12 THE COURT: Thank you. 96 through 100
13 exhibits are admitted.

14 Q. (MR. PENEGUY) State's Exhibit Number 96,
15 can you tell us what State's Exhibit Number 96 was?

16 A. A piece of a broken chair leg.

17 Q. Okay. And was there evidence to show that
18 it had been connected to a chair at some point?

19 A. The broken chair in the residence.

20 Q. Are there parts of State's Exhibit
21 Number 96 that show they have been broken off from
22 something?

23 A. Oh, yes, sir.

24 Q. What is what has been admitted as State's
25 Exhibit Number 97?

1 A. Another piece of broken chair leg.

2 Q. Can you describe State's Exhibit Number 97?

3 A. It's basically just your regular chair leg,
4 goes in the bottom of a chair. And then covered in
5 blood. This one is not specifically broken off as
6 much as it is detached from the actual chair itself.

7 Q. Does State's Exhibit Number 97 contain
8 blood evidence?

9 A. Oh, yes.

10 Q. Where is that shown?

11 A. All over, all the red you see here is blood
12 evidence.

13 Q. Is that dried blood?

14 A. Yes, it is.

15 Q. And when you guys tag this stuff, do you
16 tag it a certain -- or do you process it a certain
17 way just because it's a biohazard?

18 A. Yes.

19 Q. What do you do?

20 A. If it's blood evidence on an item such as
21 this, it's packaged in paper bags. Reason being is
22 that it dries faster that way. Depending on the
23 amount of blood that's on there depends on how
24 exactly it's packaged. Were you to tag something
25 like this in a plastic bag, it stands potential to

1 collect mold and mildew.

2 Q. When you're looking at State's Exhibit
3 Number 80 and processing this crime scene, could you
4 see the blood evidence on State's Exhibit Number 97
5 as it lay in the living room?

6 A. Yes, sir.

7 Q. State's Exhibit Number 98?

8 A. Another broken piece off of a chair. Once
9 again you see here where it was broken off from part
10 of the dowel. The top part was broken off here. And
11 this one -- not as much as the other one, but this
12 one has a substantial amount of blood on it as well.

13 Q. State's Exhibit Number 99 and 100?

14 A. These two are pieces of a broken chair.
15 This one again broken off at both ends. Blood
16 evidence around the top part trickling down toward
17 the bottom.

18 This one broken piece of a chair. Not
19 necessarily any blood markings on it, but definitely
20 part of the scene itself as you see right there.

21 Q. Okay. State's Exhibit Number 96 through
22 100. Are these blunt objects?

23 A. Yes, they are.

24 Q. State's Exhibit Number 96 through 100, are
25 these items capable of causing serious bodily injury?

1 A. Yes, sir.

2 Q. Capable of causing someone's death?

3 A. Yes, sir.

4 Q. When you track the scene, were you
5 attempting to collect pieces of evidence that
6 contained blood?

7 A. That -- of course things that contain
8 blood, but anything related to the actual crime
9 itself is what I'm looking for.

10 Q. What are you basing that off of?

11 A. Statements from the first officer on the
12 scene when I get there, statements from possible
13 witnesses, the totality of what I see when I go in
14 there.

15 Q. What did you mark as State's Exhibit -- or
16 what did you mark with an evidence marker as Item
17 Number 2 at this crime scene?

18 A. It was more of those pieces of wood right
19 there.

20 MR. PENEГУY: Judge, may I approach
21 the witness?

22 THE COURT: You may.

23 Q. (BY MR. PENEГУY) For purposes of the
24 record, I'm going to show you what has been marked
25 for evidence purposes as State's Exhibits Number 101,

1 102, 103, 104, 105, 106. Do you recognize these
2 items?

3 A. Yes, sir.

4 Q. And are these items that you tagged at 5126
5 Van Fleet Street?

6 A. Yes, sir.

7 Q. Are these in substantially the same
8 condition as when you tagged them?

9 A. Yes, sir.

10 Q. 101 all the way through 106, are they the
11 items that you marked in your exhibit as Marker
12 Number 2?

13 A. Yes, sir.

14 Q. How did you package these?

15 A. In paper bags as well.

16 MR. PENEGUY: Judge, at this time we
17 would offer State's Exhibit Number 101 through 106
18 and tender to opposing counsel.

19 MR. SCOTT: We have no objection.

20 THE COURT: State's Exhibit Number 101
21 through 106 are admitted.

22 Q. (BY MR. PENEGUY) Talk about State's Exhibit
23 Number 101.

24 A. This will be another piece of chair that
25 broke off, and this one contains substantial amounts

1 of blood as well.

2 Q. Okay. In relationship to Number 1, where
3 are the items that you marked as Item 2? State's
4 Exhibit 101 through 106, where are they on the
5 diagram?

6 A. To the left of Number 1.

7 Q. Okay. Are they still in close proximity to
8 where you found the deceased?

9 A. Yes, sir.

10 Q. What about State's Exhibit Number 102?
11 What is it?

12 A. 102 is another piece of the chair. This
13 one doesn't necessarily contain any blood evidence on
14 it, but it was still part of the whole collection
15 that was there on the floor.

16 Q. Why did you tag it?

17 A. Because it's there. It's not for me to
18 separate what I think. Especially if you have a pile
19 like you have here, you collect everything as a whole
20 rather than differentiate between what should go and
21 what not.

22 Q. Okay. We're not going to kill the court
23 reporter here.

24 What is 103?

25 A. 103, again, another piece of the chair

1 broken off here and at the top here.

2 Q. Okay. What about 104?

3 A. 104, another piece of the chair broken off
4 at the bottom, broken off at the top, and some blood
5 evidence here at the top of this.

6 Q. State's Exhibit Number 105?

7 A. Again, one more piece of the chair broken
8 off from both ends.

9 Q. And 106?

10 A. The last piece that I collected, a larger
11 piece of the chair itself broken off here, broken off
12 here, and with some blood evidence on the back here.

13 Q. Okay. State's Exhibit Number 101 through
14 106, are these blunt objects?

15 A. Yes, sir.

16 Q. Capable of causing serious bodily injury or
17 death?

18 A. Yes, sir.

19 Q. We're tracking through the crime scene.
20 What do you put Marker Number 3 on?

21 A. That'll be a metal flower stand.

22 Q. Okay. Why do you mark Item Number 3?

23 A. It had a significant amount of blood on it.
24 Could have been castoff or it could have actually
25 been used in committing the crime itself. You err on

1 the side of good judgment, take that as well.

2 MR. PENEGUY: Judge, may I approach
3 the witness?

4 THE COURT: You may.

5 Q. (BY MR. PENEGUY) I marked this as State's
6 Exhibit Number 107. Do you recognize what has been
7 marked State's Exhibit Number 107?

8 A. Yes, sir.

9 Q. Have you had an opportunity to look at
10 that?

11 A. Yes, sir.

12 Q. And the box it's contained in, is this an
13 item you tagged as evidence in this case?

14 A. Yes, sir.

15 Q. It contains some of your writing on it?

16 A. Yes, sir.

17 Q. Are those reference items for this piece of
18 evidence?

19 A. Yes, sir.

20 Q. How did you secure this piece of evidence?

21 A. With this clear tape to keep the box
22 secure, and with any possible openings or edges, you
23 use evidence tape.

24 Q. Did you break it out, did you unseal this
25 for purposes of trial?

1 A. Yes, I did.

2 Q. Is State's Exhibit Number 107 in the same
3 or substantially the same condition as when you
4 tagged it?

5 A. Yes, sir.

6 MR. PENEGUY: Your Honor, at this time
7 we would offer State's Exhibit Number 107, tender to
8 counsel.

9 MR. SCOTT: We have no objection, your
10 Honor.

11 THE COURT : State's Exhibit
12 Number 107 is admitted.

13 Q. (MR. PENEGUY) Take it out of the box.

14 A. (Complies.)

15 Q. Okay. I want you to describe for the jury
16 what has been admitted into evidence as State's
17 Exhibit Number 107.

18 A. Just a metal plant stand.

19 Q. Okay. And describe the coloration of it.

20 A. Kind of a bronze, rustic.

21 Q. Okay. And when you tagged it at the crime
22 scene, you told us you believed that it contained
23 blood evidence?

24 A. Yes. I don't know if you can see it or
25 not, but you've got blood evidence right here and a

1 little bit like right here (*indicating*).

2 That could be considered castoff.

3 Castoff is me hitting something, swinging back, and
4 whatever liquid is contained goes in a different
5 direction. It could have been caused by that, or it
6 could have been caused by actually striking somebody.

7 Q. Okay. And when you're examining blood
8 evidence, sometimes it's over time when blood dries
9 on an item of this color, is it harder to see some of
10 that?

11 A. Yes.

12 Q. Do you actually kind of have to look
13 closely in order to be able to see that?

14 A. Yes.

15 Q. Do you contain -- State's Exhibit 107
16 contained biological material?

17 A. Yes, sir.

18 Q. Did you tag it that way?

19 A. Yes, sir.

20 Q. Describe the weight of State's Exhibit
21 Number 107.

22 A. Probably about maybe 7 pounds at the most.
23 Not extremely heavy, not extremely light. Something
24 that could be used to cause damage.

25 Q. Would you consider this to be a blunt

1 object?

2 A. Yes, sir.

3 Q. Consider to be capable of causing serious
4 bodily injury or death?

5 A. Yes, sir.

6 Q. On State's Exhibit Number 80, can you tell
7 us where the Marker Number 4 is?

8 A. That's on top of the small stereo.

9 Q. Okay. And what -- would that be the item
10 you were specifically trying to indicate?

11 A. Yes, sir.

12 Q. And did you tag that as a piece of evidence
13 in this case?

14 A. Yes, sir, I did.

15 Q. Why?

16 A. It was positioned on his body, as I said
17 previously, particularly on his left arm. I didn't
18 know if it fell over on him when he fell to the
19 ground or if it was actually used to strike him.

20 Q. When you were processing items of evidence,
21 did you try to get everything that was there?

22 A. Yes, sir.

23 MR. PENEGUY: Judge, for purposes of
24 the record, I'm showing the officer what has been
25 previously marked State's Exhibit Number 108.

1 Q. (BY MR. PENEGUY) Prior to testifying today,
2 have you had an opportunity to examine State's
3 Exhibit Number 108?

4 A. Yes, sir.

5 Q. And can you tell us what State's Exhibit
6 Number 108 is?

7 A. A small stereo system.

8 Q. Is that the stereo that you tagged as
9 evidence in our case?

10 A. Yes, sir.

11 Q. Is it in the same or substantially same
12 condition as when you tagged it?

13 A. Yes, sir.

14 Q. Does it contain biological material?

15 A. Yes, sir.

16 MR. PENEGUY: Judge, at this time we
17 offer State's Exhibit Number 108, tender to opposing
18 counsel.

19 Bob, do you want me to carry it over
20 there?

21 MR. SCOTT: Well, if it's too heavy
22 for you --

23 MR. PENEGUY: No, it's not.

24 MR. SCOTT: We have no objection.

25 THE COURT: State's Exhibit Number 108

1 is admitted.

2 Q. (MR. PENEGUY) Did you package this in the
3 same way in paper?

4 A. Yes, sir.

5 Q. Is this the item that you tagged by Marker
6 4 in this case?

7 A. Yes, sir.

8 Q. Talk to the jury about what State's Exhibit
9 Number 108 is.

10 A. It's a small stereo system. In the picture
11 it was found lying on the decedent. Therefore, I
12 took it because of the fact -- the position of it
13 indicated it might have been used as a striking
14 object.

15 Q. Was there any blood evidence located on
16 State's Exhibit Number 108?

17 A. Yes, sir.

18 Q. Kind of tilt it. Describe it to the jury.

19 A. Right here, all this stuff right here is
20 blood evidence. This is blood evidence. Right down
21 here is blood evidence as well. Along the railing
22 here. And that was pretty much it.

23 Q. Okay. Now I'm going to change the
24 photograph real quick and show you, we've already
25 talked about it, State's Exhibit Number 27. Do you

1 see that?

2 A. Yes.

3 Q. Okay. Can you identify where State's
4 Exhibit Number 108 was on State's Exhibit Number 27?

5 A. Right there.

6 Q. Okay. Kind of describe how it was in
7 relationship to the victim's left arm.

8 A. If you picture me laying down here face
9 down with my feet going that way, this would have
10 been lying like this along my left arm.

11 Q. Okay. Was it positioned on top of his left
12 arm?

13 A. Yes.

14 Q. Was it kind of resting on top of his left
15 arm and leaning up against another item?

16 A. Kind of leaning in between the baker's rack
17 and his left side.

18 Q. And what is the baker's rack? What are you
19 talking about there?

20 A. It's the only word I know for this thing.

21 Q. Is that the light piece of wire furniture?

22 A. Correct.

23 Q. What was resting on top of the victim's
24 right arm?

25 A. A sofa cushion.

1 Q. Did that sofa cushion match the upturned
2 sofa over kind of, I guess, off this image to the
3 left side of the image?

4 A. To my recollection, yes. I would have to
5 look at the actual closeup photo to make sure it
6 matched the pattern.

7 Q. Okay. Do you indicate on the diagram what
8 is the item that's laying with that sofa cushion on
9 the ground in State's Exhibit Number 27?

10 A. This was like a metal table leg.

11 Q. Okay. Did you indicate that with an
12 evidence marker?

13 A. Yes, sir.

14 Q. Which marker?

15 A. That would have been Item Number 5.

16 Q. Okay. Showing what has been admitted in
17 evidence as State's Exhibit Number 85. Does that
18 show that item?

19 A. Yes, sir, it does.

20 MR. PENEГУY: Judge, may I approach
21 the witness?

22 THE COURT: You may.

23 Q. (MR. PENEГУY) Showing you what has been
24 marked for evidentiary purposes as State's Exhibit
25 Number 109. Do you recognize this item?

1 A. Yes, sir.

2 Q. Okay. Is this an item that you tagged as
3 evidence in this case?

4 A. Yes, sir.

5 Q. Is it in the same or substantially same
6 condition as when you tagged it?

7 A. Yes, sir.

8 MR. PENEГУY: At this time we offer
9 State's Exhibit Number 109, tender to opposing
10 counsel.

11 MR. SCOTT: No objection, your Honor.

12 THE COURT: 109, State's Exhibit is
13 admitted.

14 Q. (MR. PENEГУY) Tell the jury what 109 is.

15 A. It's a metal table leg broken off.

16 Q. Did you see evidence of a table, some type
17 of end table in this house?

18 A. I don't recall if I saw a specific one. I
19 just remember these table legs.

20 Q. Did he have several of these type of table
21 legs?

22 A. Yes, sir.

23 Q. Tell the jury what you observed about
24 State's Exhibit Number 109.

25 A. 109 had a substantial amount of blood right

1 here around this corner piece that is broken off.
2 Blood here, here. A little bit down here. Old
3 table, rusted. But the blood was fresh when I found
4 it.

5 Q. Describe the corners at the mounting down
6 where you said you saw some blood on State's Exhibit
7 Number 109.

8 A. It's made of like a pressed wood. They're
9 extremely soft corners. Pressing like that you can
10 see a break, but still it takes some pressure.

11 Q. Can you describe the angles on 109?

12 A. Very sharp.

13 Q. State's Exhibit Number 109, is it a heavy
14 object?

15 A. Fairly, yeah.

16 Q. Is it a blunt object?

17 A. Yes, it is.

18 Q. Is this item capable of causing serious
19 bodily injury?

20 A. Yes, sir.

21 Q. Capable of causing death?

22 A. Yes, sir.

23 Q. Okay. Tracking through the scene, can you
24 tell us what you denoted on Marker Number 6?

25 A. Number 6 was some additional wooden chair

1 legs.

2 Q. Okay. And the type of chairs that you were
3 seeing here, were these the same kind of tone of
4 wood?

5 A. Yes, sir.

6 Q. Okay. And were these things that basically
7 you were trying to document whatever you could tell
8 about them, whether they could be evidence or not?

9 A. Yes, sir.

10 Q. Show you for evidentiary purposes what has
11 been marked State's Exhibit Number 110 and 111.

12 A. Yes, sir.

13 Q. Do you recognize these items?

14 A. Yes, sir.

15 Q. Are they items you tagged as evidence in
16 this case?

17 A. Yes, sir.

18 Q. Are they in the same or substantially the
19 same condition as when you tagged them?

20 A. Yes, sir.

21 MR. PENEGUY: Judge, at this time
22 offer State's Exhibit Number 110, 111, tender to
23 opposing counsel.

24 MR. SCOTT: We have no objection.

25 THE COURT: 110, 111, State's exhibits

1 admitted.

2 Q. (MR. PENEГУY) Officer Tompkins, State's
3 Exhibit Number 110, 111, are they what you show on
4 the diagram to be the two lines in the diagram as
5 Marker Number 6?

6 A. Yes, sir.

7 Q. Can you describe State's Exhibit
8 Number 110?

9 A. Just a chair leg like we saw earlier,
10 broken off at the joint right there and at the top.

11 Q. Okay. And are -- State's Exhibit 6, are
12 they kind of -- are they close to the entrance to the
13 hallway for the back bedrooms?

14 A. Yes, they are.

15 Q. What about State's Exhibit Number 111?

16 A. Same thing. Just another piece of the
17 chair leg broken off with some slight bloodstains on
18 it.

19 Q. Describe the blood evidence on State's
20 Exhibit Number 111.

21 A. 111 is -- you've got some blood stains
22 here, but oddly enough you've got what almost looks
23 like a tennis shoe print of blood right across and it
24 was dry.

25 Q. Okay. What did you mark with evidence

1 Marker Number 7 at your crime scene?

2 A. I believe that was another metal chair
3 leg -- excuse me -- metal table leg, yes.

4 Q. Did you collect those as evidence in this
5 case?

6 A. Yes, sir.

7 Q. For purposes of the record, I'm going to
8 show you what has been marked State's Exhibit Number
9 112 and 113, ask if you recognize these items.

10 A. Yes, sir.

11 Q. Are these items of evidence that you
12 collected in this case?

13 A. Yes, sir.

14 Q. Are they in the same or substantially the
15 same condition as when you tagged them?

16 A. Yes, sir.

17 MR. PENEGUY: At this time we offer
18 State's Exhibit Number 112 and 113, tender to
19 opposing counsel.

20 MR. SCOTT: No objection, your Honor.

21 THE COURT: State's Exhibit Number 112
22 and 113 admitted.

23 Q. (MR. PENEGUY) I'm going to let you pull out
24 112 first.

25 A. (Complies.)

1 Q. Describe State's Exhibit Number 112.

2 A. Just like I showed you earlier on the metal
3 table leg, this is basically the same thing. Almost
4 the exact same condition where you've got sharp edges
5 coming out here, bloodstains right along the edge
6 here, a lot of rust. Approximate weight, maybe
7 2 pounds at the most. And more blood up here.

8 Q. Okay. This item, State's Exhibit
9 Number 112, is it similar to the other table leg that
10 you recovered at Item Marker Number 5?

11 A. Yes, sir.

12 Q. Does it look like it's a separate piece of
13 the same table?

14 A. Yes.

15 Q. In relationship to where the victim was in
16 this case, about how far away were these items?

17 A. Probably no more than 12 feet at the most.

18 Q. Was this a big room or small room?

19 A. Small.

20 Q. Okay. State's Exhibit Number 112, is it a
21 blunt object?

22 A. Yes, sir.

23 Q. Capable of causing serious bodily injury or
24 death?

25 A. Yes, sir.

1 Q. Okay. Now, Number 113, what is this?

2 A. Larger piece of the table, larger in the
3 fact you've got more of the surface area here than on
4 the other two pieces. Same thing, aluminum. Had a
5 heavier concentration of blood on this one. In this
6 case, like I said, this is still together. Actually
7 looking at it, you can see it's almost like these fit
8 together. But since I don't know the actual original
9 construction of the table, I couldn't tell you
10 exactly how they fit together.

11 Q. Okay. State's 113, was there blood
12 evidence found on it?

13 A. Yes, sir.

14 Q. Okay. Where was that located?

15 A. Located right along here, quite a bit of
16 it.

17 Q. Okay. And State's Exhibit Number 113, is
18 this a blunt instrument?

19 A. Yes, sir.

20 Q. Capable of causing serious bodily injury or
21 death?

22 A. Yes, sir.

23 Q. Did you continue to process the scene and
24 try to document everything that might have been used
25 as an instrument to cause injury?

1 A. Yes, sir.

2 Q. What is the last item that you marked, the
3 exhibit that you tagged for blood?

4 A. That would have been probably Number 8, the
5 chair.

6 Q. And is that shown in some of the
7 photographs that we looked at earlier?

8 A. Yes, sir.

9 Q. Is that the bedroom with the red bedspread
10 [sic] on it?

11 A. Yes, sir.

12 Q. Is that what you indicated in the diagram?

13 A. Yes, sir.

14 Q. Did you tag that?

15 A. Yes, sir.

16 Q. Prior to testifying today, did you have an
17 opportunity to look at State's Exhibit Number 114?

18 A. Yes, sir.

19 Q. And the bag it's contained in?

20 A. Yes, sir.

21 Q. Is this the item you tagged in evidence as
22 Marker Number 8?

23 A. Yes, sir, it is.

24 Q. Does it appear to be the same or
25 substantially the same condition as when you tagged

1 them?

2 A. Yes, sir.

3 Q. And did you take some photographs of this
4 stuff at the scene?

5 A. Yes, sir.

6 Q. And did we attempt to kind of keep it in
7 the bag for a little bit?

8 A. Yes, sir.

9 MR. PENEGUY: Judge, I'm showing the
10 defense what has been marked State's Exhibit
11 Number 114.

12 MR. SCOTT: We have no objection, your
13 Honor.

14 THE COURT: State's 114 is admitted.

15 Q. (BY MR. PENEGUY) Show you the photograph,
16 Number 49. Would you help me remove the rest of the
17 paper on 114?

18 A. Yes, sir.

19 Q. I want you to describe Item 1 or State's
20 Exhibit Number 114.

21 A. A typical wooden dining room chair broken
22 off in several places. You can see no legs. Large
23 swatch of blood on the bottom of the chair as well as
24 some on the back behind here, too.

25 Q. Now, can you describe the weight of State's

1 Exhibit Number 114?

2 A. Maybe about 7 pounds, if that.

3 Q. And is this -- the color tone, is this
4 consistent with some of the chair legs you found
5 throughout the house?

6 A. Yes, sir.

7 Q. Does it have a spot where the legs appeared
8 to have come off?

9 A. Yes, sir, broken off.

10 Q. Can you show that to the jury?

11 A. *(Indicating.)*

12 Q. That dark spot on it, when you were
13 originally at the crime scene, did it appear brighter
14 in color?

15 A. Yes.

16 Q. What color was it?

17 A. Red.

18 Q. Consistent with blood evidence?

19 A. Yes.

20 Q. Was there also evidence from this room
21 where items that were marked as Number 8, State's
22 114, came from the blood evidence as well?

23 A. Yes, sir.

24 Q. And on the mirror?

25 A. Yes, sir.

1 Q. State's 114 a blunt object?

2 A. Yes, sir.

3 Q. Is it capable of causing serious bodily
4 injury and death?

5 A. Yes, sir.

6 Q. Later on, after processing the scene at
7 5126 Van Fleet Street, did you continue down the
8 street and also document some evidence a couple of
9 doors down?

10 A. Yes, sir.

11 Q. What was that location?

12 A. 5118, 5118 Van Fleet, and it was at the
13 front door of a residence.

14 Q. How many houses down was that?

15 A. Two.

16 Q. Is that distance shown on the video? Do
17 you actually walk it out?

18 A. Yes, sir.

19 Q. Is it far?

20 A. No, sir.

21 Q. The numbers aren't necessarily consistent.
22 Does it seem to skip some numbers between houses?

23 A. Skips one number, yes.

24 Q. Is a house shown?

25 A. Yes, sir.

1 Q. On State's Exhibit Number 90?

2 A. Yes, sir.

3 Q. And State's Exhibit Number 91, does that
4 kind of show some of the street and the gutter?

5 A. Yes, sir.

6 Q. I want you to tell us about what you found
7 on the location at the 5118 Van Fleet.

8 A. A small set of dumbbells and a carpenter's
9 knife.

10 Q. And set of dumbbells. Was there any blood
11 evidence in relationship to the dumbbell?

12 A. I don't recall.

13 Q. Okay. I'm going to show you State's
14 Exhibit Number 94. Does that show the house or the
15 door that you're talking about?

16 A. Yes, sir.

17 Q. Where are the dumbbells in relationship to
18 that?

19 A. *(Indicating.)*

20 Q. Is that right by the screen door?

21 A. Yes, sir, it is.

22 Q. Do you note any blood evidence out there at
23 that location?

24 A. Yes, sir.

25 Q. Can you describe it?

1 offer State's 115, tender to opposing counsel.

2 MR. SCOTT: We have no objection, your
3 Honor.

4 THE COURT: State's Exhibit Number 115
5 is admitted.

6 Q. (MR. PENEГУY) Okay. What is State's
7 Exhibit Number 115?

8 A. A set of dumbbells.

9 Q. Looking at the photograph, where is the
10 dumbbells in relationship to where you saw some of
11 the blood evidence?

12 A. Actually right there at the corner is a
13 small puddle of blood right there, and then probably
14 less than maybe 18 inches from the actual trail of
15 blood.

16 Q. Okay. Describe the blood trail.

17 A. The blood trail is consistent with somebody
18 or something being dragged. It's not spatter. It's
19 not leakage. It's not seepage. It's somebody
20 concentrating an effort -- I don't know what to tell
21 you -- an effort of the blood concentrated on the
22 ground and then being pulled along.

23 Q. Did you try to track the blood evidence
24 into the street?

25 A. Yes.

1 Q. Was it hard to see out there?

2 A. Yes.

3 Q. Were you guys looking for everything you
4 could find?

5 A. Yes, sir.

6 Q. That item, State's Exhibit Number 114,
7 describe it.

8 A. Rusted set of dumbbells, 3.8 -- excuse
9 me -- 8.8 pounds apiece.

10 Q. 115. I'm sorry. Is it heavy?

11 A. I mean, you know, what is it, about 17, 18
12 pounds plus the -- well, about 20 pounds. So, sure.

13 Q. Is it a blunt object?

14 A. Yes, it is.

15 Q. Capable of causing serious bodily injury or
16 death?

17 A. Yes, sir.

18 Q. Why did you tag it?

19 A. Because I was told that --

20 MR. SCOTT: Object to any comments
21 made. That would be hearsay to this officer.

22 THE COURT: Sustained as to hearsay.

23 Q. (MR. PENEGUY) Did you tag it as possible
24 evidence?

25 A. Yes, sir.

1 Q. Did you go back and try to examine the
2 house and try to locate a gun?

3 A. Yes.

4 Q. Tell me: Where did you look?

5 A. I don't remember if we specifically
6 searched the house or if we went directly to the back
7 bedroom, but we recovered an airsoft gun out of one
8 of the dressers in the back bedroom.

9 Q. Okay. What is an airsoft gun?

10 A. Shoots plastic pellets.

11 Q. Can you tell me where you found the airsoft
12 pistol?

13 A. In a drawer located in the back bedroom.

14 Q. Was it the same bedroom where you marked 8?

15 A. Yes, sir.

16 Q. And can you tell us how many -- if it
17 was -- or where it was in that room?

18 A. If I recall, it was in the top left drawer
19 under some clothes.

20 Q. Okay. Did you know whether it was relevant
21 to the case or not?

22 A. No, sir, I did not.

23 Q. Did you locate any evidence of firearms in
24 the house?

25 A. Other than that, no, sir.

1 Q. Not a pellet gun, but a firearm.

2 A. No, sir.

3 Q. Did you look for bullets?

4 A. Yes, sir.

5 Q. Did you look for shell casings?

6 A. Yes, sir.

7 Q. Inside and out?

8 A. Yes, sir.

9 Q. Did you find any?

10 A. No, sir.

11 Q. Did you find a real gun?

12 A. No, sir.

13 Q. The airsoft pistol, did you tag it?

14 A. Yes, sir.

15 Q. Okay. Showing you what has been marked

16 State's Exhibit Number 116, do you recognize this

17 item?

18 A. Yes, sir.

19 Q. And prior to it coming into the courtroom

20 today --

21 MR. PENEGUY: Judge, for purposes of
22 the record, I brought this to the deputy. He cleared
23 it.

24 THE COURT: Okay.

25 Q. (MR. PENEGUY) Was this the item of evidence

1 that you tagged in that house in that back bedroom,
2 the airsoft pistol?

3 A. Yes, sir.

4 Q. Is it in the same or substantially the same
5 condition as when you tagged it?

6 A. Yes, sir.

7 MR. PENEGUY: Offer.

8 MR. SCOTT: We have no objection, your
9 Honor.

10 THE COURT: What number was it?

11 MR. PENEGUY: 116.

12 THE COURT: It is admitted.

13 Q. (MR. PENEGUY) I want you to describe what
14 116 is.

15 A. A plastic airsoft pistol.

16 Q. Does it have kind of an odd tip to it?

17 A. Yes, sir.

18 Q. Okay. Is this type of gun -- what type of
19 round does it shoot? Would you even call it a round?

20 A. No, sir.

21 Q. What would you call it?

22 A. What I would compare it to is my son's gun,
23 and it shoots plastic BBs.

24 Q. You said this was found in a top drawer,
25 right?

1 A. Right.

2 Q. Did it look like it had been -- I mean, was
3 it under stuff or was it just shoved there? How was
4 it?

5 A. It was just placed under some clothing.

6 Q. Did you inspect the house and search it for
7 narcotics?

8 A. No, sir. That was not our primary goal
9 there.

10 Q. But while you were going through the house,
11 did you find any drugs?

12 A. Found some marijuana.

13 Q. Anything else?

14 A. No, sir.

15 Q. During the course of your investigation,
16 primarily what were you investigating?

17 A. The homicide itself.

18 Q. At any point in time do you recall trying
19 to find any evidence of a sexual assault?

20 A. Briefly.

21 Q. Okay. What do you remember about that?

22 A. I was told by Detective Stahlin that he was
23 investigating a possible sexual assault. We looked
24 in one of the back rooms, not the room pictured, the
25 one toward the back, of evidence of a sexual assault,

1 be it semen or blood or hair or anything indicating
2 an assault of any kind.

3 Q. Describe that back area where you looked.

4 A. Just cruddy, nasty, stained from anything
5 and everything. Very dirty. Very unorganized.

6 Q. Did you find anything specific that you
7 thought you needed to tag at that point?

8 A. No, sir.

9 Q. Was there a lot of stuff, a lot of clothing
10 in that room?

11 A. There was quite a bit of it.

12 Q. I guess you could have swabbed the entirety
13 of the room if you wanted to, right?

14 A. Correct.

15 Q. But you guys chose not to because you
16 couldn't figure anything out, right?

17 A. Correct.

18 Q. At that point in time were you being walked
19 through by any victim?

20 A. No, sir.

21 Q. Who were you with?

22 A. Detective Stahlin.

23 Q. Who is he?

24 A. A homicide detective.

25 Q. After all this, you collect evidence, you

1 bring it downtown, is that the end of your
2 investigation or do you talk to people and interview
3 them?

4 A. No, I don't talk to people or interview
5 them.

6 MR. PENEGUY: Judge, I pass the
7 witness.

8 THE COURT: Do you need a break?

9 Lunch is at 12:30, I think I was told.
10 So, we've still got about an hour and 15 minutes
11 before lunch. Do you want to continue or do you need
12 a break.

13 JURORS: Continue.

14 THE COURT: Okay.

15 CROSS-EXAMINATION

16 Q. (BY MR. SCOTT) In relation to your duties,
17 you testified you had been certified as an officer
18 and further that you had gone through the appropriate
19 training, that you were in -- I think you said --
20 patrol for a while and then ultimately you went to a
21 CSU unit; is that correct?

22 A. Yes, sir.

23 Q. Before you get into that unit, do you
24 undergo certain training to familiarize yourself with
25 the duties that you would have plus the expertise

1 that you might have before you get into the unit?

2 A. Not -- of course you have your basic
3 investigator courses that you're going to take. When
4 you actually go to the unit, you're trained by a
5 qualified, certified crime scene unit investigator
6 himself. He attends every scene with you. Plus
7 you're scheduled for additional classes, photography
8 being one of them, to help you improve your
9 investigative skills.

10 Q. So, basically on-the-job training after
11 your basics that you get going through the academy
12 and that situation, correct?

13 A. Yes, sir.

14 Q. All right. So, when you have your
15 on-the-job training, then do you do that for awhile
16 until you're -- is there a certification or just an
17 in-house recognition that you're geared up enough to
18 go handle it by yourself?

19 A. At the time that I was going it was
20 in-house recognition that you could handle it on
21 yourself.

22 Q. Okay. So, you get a phone call. You get
23 some kind of notice on the 8th of June. I think you
24 told us you were at the job, at the office. You said
25 you got a call, had some communication. Then you got

1 your gear and you went out to the location, right?

2 A. Yes, sir.

3 Q. What does get your gear -- what type of
4 stuff do you have to gather up before you walk out to
5 the truck to get in the truck to go to the location?

6 A. Things have changed a bit since I left. It
7 hasn't been that long, but at the time I had a tool
8 box that contained a tape measure, some shoe covers
9 that you can wear inside so you don't get your shoes
10 bloody or whatever, flashlights, pencils, paper bags,
11 plastic bags. Anything you can think of that you
12 might need to go out and process the scene, that's
13 what you bring with you. That's what the gear is.

14 Q. So, that would be personal to you as
15 opposed to maybe one of the other fellows in CSU.
16 You might not have as much of or different things
17 that you take out with you; is that correct?

18 A. Yes, sir.

19 Q. All right. The truck then, that's just a
20 vehicle by which you go to the location?

21 A. That's correct.

22 Q. About the cameras and those kind of things,
23 were they in with your gear or in the truck, or how
24 did you get that equipment?

25 A. The cameras are issued to us, and we carry

1 that along with our gear.

2 Q. And I don't recall -- did you say you went
3 out there by yourself when you're in the truck or did
4 you have someone who went out there from the unit
5 with you?

6 A. Generally we work the scenes by ourselves.
7 We're one-man units. On that particular night, I
8 happened to have an officer from Missouri City who
9 was doing a rotation, seeing how we did our job.

10 Q. Okay. He was rotating out his CSUs or did
11 he just --

12 A. He was just visiting, so to speak. He's an
13 officer with Missouri City. They wanted to see how
14 our crime scene unit worked. So, he came to Houston
15 for one week and rode with different officers to see
16 how we run our operation.

17 Q. So, he would be basically on-the-job
18 training with you guys, even though he's from
19 Missouri City?

20 A. Correct.

21 Q. All right. As a person that was there
22 though, he's just observing, I gather, watching you
23 go about your business; is that accurate?

24 A. Yes, sir.

25 Q. Did he actually participate in any way

1 other than eyeballing you doing your duties?

2 A. Other than writing down stuff, no, sir.

3 Q. When you say "writing down stuff," was he
4 making field notes for you or just for his own
5 benefit or what was it for?

6 A. For me.

7 Q. So, part of the information and I guess
8 that you've now given us in relationship, say, to the
9 chart there about the wooden table legs, anywhere,
10 the numbers on here, that might have been generated
11 by him; is that accurate?

12 A. No, sir.

13 Q. Not on the piece of paper itself, but in
14 the field notes.

15 A. No, sir.

16 Q. Okay. So what would he write down?

17 A. What I was telling him to write.

18 Q. Right. I understand. You would tell him
19 possibly -- I'm just saying -- you have something
20 here that is marked Number 1 and it's Number 1 on the
21 diagram. Hold on. Wooden chair leg. So, you might
22 say, "Missouri City Guy, I'm marking this as Number
23 1. This is a chair leg. Is that what he was writing
24 down?

25 A. Yes, sir. Yes, sir. I'm sorry. I

1 misunderstood.

2 Q. Now, at that point in time, Officer, you
3 had already had contact with other officers that were
4 at least visually familiar with the location,
5 correct?

6 A. Yes, sir.

7 Q. And when you do that, do you talk to the
8 scene officer, the homicide detectives? Who do you
9 talk to when you first come out to a location like
10 you did here on Van Fleet?

11 A. In most instances CSU is the first one on
12 the scene because homicide is usually on call-out. I
13 get to the scene. First thing I do is meet with the
14 primary officer, get his name, payroll number, unit
15 number. Then just ask him, What do you have? Tell
16 me what you have.

17 Q. In relation to that, who did you speak
18 with?

19 A. I'm not sure how to pronounce the name.
20 Salcido. Salcido.

21 Q. And he would have been a patrol officer
22 that was there when you got there, I assume?

23 A. Yes, sir.

24 Q. Were there any other officers there when
25 you got there beside Salcido?

1 A. I'm sure there were, but I don't recall
2 speaking with anybody.

3 Q. So he would have been the only one you
4 spoke to that you recall; is that right?

5 A. Yes, sir.

6 Q. Was the emergency personnel still there
7 when you got there?

8 A. Not that I recall, sir, no.

9 Q. Had the area been cordoned off with the
10 proverbial yellow tape --

11 A. Yes, sir.

12 Q. -- by the time you got there?

13 A. Yes, sir.

14 Q. All right. Were there any individuals that
15 was pointed out to you by Salcido that were possible
16 witnesses that at least you visualized and saw that
17 were still there when you got there?

18 A. Not that I recall, sir.

19 Q. Do you know whether Salcido had already
20 gone to the hospital and come back by the time you
21 got there, or do you have any knowledge about
22 anything he did before you walked up and talked to
23 him?

24 A. No knowledge at all, sir.

25 Q. So if he had a witness that was actually

1 there in his car, you never saw that person; is that
2 accurate?

3 A. Yes, sir.

4 Q. Even though it's not your job to talk to
5 that person, you never even saw a person like that;
6 is that accurate?

7 A. That's correct.

8 Q. All right, sir. Now, we've got the scene
9 video and we've got the photographs. The photographs
10 are basically stills of the same scene photographed,
11 correct?

12 A. Yes, sir.

13 Q. All right. When you're looking at the
14 front of the residence, there is a vehicle there; is
15 that accurate?

16 A. Yes, sir.

17 Q. What kind of vehicle was that? Do you
18 remember?

19 A. I think it was a Suburban, but I would have
20 to look at my pictures to let you know for sure.

21 Q. At least it appeared to be a Suburban-type
22 vehicle; is that correct?

23 A. Correct.

24 Q. Maybe it's a GMC Sierra or some other
25 brand, but it looked like --

1 A. Yes, sir.

2 Q. Now, is there a garage at that location, or
3 do you remember?

4 A. I don't remember, sir.

5 Q. Okay. Is some of the things you're talking
6 about things you remember and other things that you
7 had to refresh your memory from in relation to your
8 testimony? Would that be accurate?

9 A. Yes, sir.

10 Q. All right.

11 MR. SCOTT: May I approach, your
12 Honor?

13 THE COURT: You may.

14 Q. (MR. SCOTT) Officer Tompkins, in relation
15 to the photographs -- and I haven't gone back through
16 to see if they're in sequence as far as the numbers
17 put on them by the State's prosecutor -- but we're
18 starting out, the first one I think I recall is
19 Number 11 and I think they go through 95?

20 A. Yes, sir.

21 MR. PENEGRUY: Mr. Scott, there are
22 some still on the overhead. Do you want those, too?

23 MR. SCOTT: Let me see. Thank you.
24 I'm trying to see what kind of order we're in.

25 (Pause.)

1 Q. (MR. SCOTT) Well, basically, at least the
2 way I recall it -- maybe they're out of sequence
3 now -- but basically the photographs that we have
4 here are identified by the numbers and that is kind
5 of tracking the scene video; is that accurate?

6 A. Yes, sir.

7 Q. All right. I remember the one where they
8 showed the stop sign at Jutland. Number 13, is that
9 the front of the residence that we're referring to?

10 A. Yes, sir.

11 Q. And this would be the Suburban-type vehicle
12 that was there when you got there; is that correct?

13 A. Yes, sir.

14 Q. All right, sir. The photograph shows, at
15 least in my opinion, that it's more like a carport in
16 the front of that house; is that accurate?

17 A. Yes, sir.

18 Q. As opposed to -- I said garage, but
19 carport?

20 A. Correct.

21 Q. All right. Are there items that you can
22 see underneath that carport that are depicted in 13?

23 A. A chair, a table, another chair.

24 Q. These -- the door in 14, which is the
25 burglar bar door as well as the interior door, is

1 that the way you recall it when you got there?

2 A. Yes, sir.

3 Q. There is a shadow of a tripod and a person
4 standing there. Is that your shadow?

5 A. That would be me.

6 Q. That would be you. All right. The burglar
7 bars appear to be propped open by a weight; is that
8 accurate?

9 A. Yes, sir.

10 Q. And do you know who did that?

11 A. No, sir.

12 Q. All right. There looks like a pair of
13 shoes at least?

14 A. Yes, sir.

15 Q. Yes, a pair of matching shoes; is that
16 accurate?

17 A. That's correct.

18 Q. All right. Did you gather those as
19 evidence or tag those in any way whatsoever?

20 A. Yes, sir.

21 Q. All right. And do you remember the size
22 shoes those were?

23 A. No, sir, I do not.

24 Q. Did you bring those with you here today?

25 A. No, sir, I did not.

1 Q. Where would those be? Do you know?

2 A. At the property room.

3 Q. You did not see fit to bring those with you
4 or were not requested to do so?

5 A. That's correct.

6 Q. All right. Now, there is a couple, three
7 photographs -- I don't remember the numbers back
8 there -- but somewhere around 20, 18, 19, 20
9 possibly, that shows the burglar bars that were on
10 that front door; is that accurate?

11 A. That's correct.

12 Q. Now, you talked about -- I think the
13 prosecutor asked you whether or not in relation to
14 the lock or the doorjamb that there appeared to be
15 any forced exit or entry or any damage done in
16 relation to that lock; is that correct?

17 A. Correct.

18 Q. While you were out there, were you able to
19 find the keys that fit that lock on the front -- I'm
20 sorry -- the burglar bar door?

21 A. No, sir.

22 Q. All right. Did you find any type of keys
23 while you were there, either car keys, door keys, any
24 kind of keys?

25 A. No, sir.

1 Q. Would that be something that you might have
2 noted or at least remembered that you found or not?

3 A. The keys were never a question as to the
4 crime itself, so I wasn't looking for keys.

5 Q. If in fact there had been some issue --
6 well, let's see. Did you ever talk to homicide
7 officers out there at all that night?

8 A. Yes.

9 Q. So you were still there when they finally
10 got there, I guess, in sequence of events, correct?

11 A. Correct.

12 Q. Salcido is there. You're there. And then
13 maybe homicide shows up?

14 A. Correct.

15 Q. Accurate?

16 A. Yes, sir.

17 Q. Okay. So you have an opportunity to talk
18 to the homicide officers. And it's their
19 responsibility, I assume, not only to view the scene
20 but it's their responsibility to talk to witnesses,
21 however they split up their duties, correct?

22 A. Correct.

23 Q. So generally one will do the scene
24 situation and the other would be looking for
25 witnesses?

1 A. Correct.

2 Q. Correct? All right. So you had an
3 opportunity to talk to them before you left and
4 completed your investigation, did you not?

5 A. Correct.

6 Q. All right. I don't remember. I think you
7 told us that you had made measurements of this room.
8 The little diagram -- I'm sorry. The diagram we have
9 right here, yeah, that you've got right there, does
10 it tell us how big that room is? You said it wasn't
11 very big when the prosecutor asked you. It doesn't
12 look very big to me. But did you actually measure
13 it?

14 A. I measured -- I don't remember if I
15 measured the room itself. If you give me one second,
16 I'll let you know. No, there was no measurement of
17 the room itself, just of the actual items themselves
18 and from reference points. Does that make sense?

19 Q. I'm thinking about it. I got it. What is
20 the reference point that you used then as your
21 central point to start measuring the items?

22 A. The north and east walls of the living
23 room.

24 Q. The north and the east walls.

25 A. If you look at the diagram, you're going to

1 look at the bottom.

2 Q. Right.

3 A. And you're going to look to your left. And
4 I used those measurements as far as documenting where
5 the evidence was.

6 Q. So the furthest measurement, I guess then,
7 would be the measurement from that wall back up there
8 to -- I can't see --

9 A. To the metal table legs also right here.

10 Q. I'm sorry. Yeah. There you go.

11 7.

12 A. Correct.

13 Q. Okay. All right. How far was that then?

14 A. About 18-feet 2-inches.

15 Q. So it would be about 20 feet roughly?

16 A. Correct.

17 Q. That room is about 20 feet deep, I'm
18 saying.

19 A. Probably about maybe 22, 24 tops.

20 Q. Okay. 21 and three quarters. Okay. Let's
21 settle on 24.

22 A. Yes, sir.

23 Q. All right. And if that's 24, then how
24 wide -- just looking at it, I'm guessing it's what?
25 12, 15 feet wide?

1 A. Yes, sir.

2 Q. Okay. All right. Now, not being there
3 before any items were moved, would you say it was,
4 just guessing, maybe it would -- surely be more than
5 a guess. It was not a well-kept residence.

6 A. No, sir.

7 Q. Would that be accurate?

8 A. Accurate, yes, sir.

9 Q. All right, sir. Even though there is quite
10 a bit of disarray in the photographs, it was not spic
11 and span?

12 A. Yes, sir.

13 Q. All right. Now, let me do this: Is that
14 your copy? No, that's got a sticker on it.

15 A. Right.

16 Q. Let me go over here and get mine.

17 Okay. The State was nice enough to
18 give me a copy of your diagram, which is State's
19 Exhibit Number 8?

20 A. Yes, sir.

21 Q. All right. This is same thing, right?

22 A. Yes, sir.

23 Q. All right. Now, on this one, which matches
24 the one on the easel; correct?

25 A. Yes, sir.

1 Q. All right. I'm not sure which would be
2 easier. Let me try it this way for the jury's
3 benefit. Once again this would be the front door,
4 correct?

5 A. Yes, sir.

6 Q. All right. Even though there is no front
7 door breaking in that line, which I generally see
8 which you see here and here, the front door would in
9 fact be right here in this corner, correct?

10 A. No, sir. Move your finger to your left a
11 little bit.

12 Q. My left?

13 A. Back this way. Come my way. Yeah.

14 Q. Here?

15 A. There you go.

16 Q. All right. This would be sidewalk then,
17 right?

18 A. Yes, sir.

19 Q. What is this in this black area?

20 A. That was the back half of the house.

21 Q. The right side as you face the house?

22 A. Yes, sir.

23 Q. So the black area that's on my little
24 diagram is equivalent to this. What is in that
25 black -- what is in there?

1 A. I believe it was a spare bedroom. I
2 believe the kitchen may have been back there, but
3 whatever it was was not relevant to the crime itself.
4 That's why it wasn't documented.

5 Q. Okay. But you're not sure if there was
6 more than one room back here or what is even back
7 there?

8 A. It's in the video. I believe I did a walk
9 through in the video. I would have to look through
10 my pictures to see if I actually photographed
11 anything back there. But because I didn't find
12 anything specific to the incident itself, I didn't
13 feel a need to document it.

14 Q. There were rooms through this door also,
15 correct?

16 A. Yes, sir.

17 Q. And I guess that room would have been where
18 the curtains were over that doorway, correct?

19 A. Correct.

20 Q. Then the couch is in this area?

21 A. Correct.

22 Q. Correct? Was there a cover over this door?
23 I don't remember.

24 A. I believe there was.

25 Q. Did any of them have door doors or did they

1 just all --

2 A. I think the only door door was the one to
3 the left.

4 Q. Would it be into this room or this --

5 A. Right there. Right there. Yes.

6 Q. The one I'm pointing to here?

7 A. Yes.

8 Q. Which would be midway in that long wall,
9 right?

10 A. Correct.

11 Q. Okay. Now, you talked about talking to --
12 was it Detective Stahlins?

13 A. Detective Stahlin.

14 Q. That's his name. Stahlin?

15 A. Yes, sir.

16 Q. Detective Stahlin is in fact homicide,
17 correct?

18 A. Yes, sir.

19 Q. All right. And he would have been one of
20 the people that I was referring to or that we were
21 talking about that would have come while you were
22 there doing your job, right?

23 A. That's correct, sir.

24 Q. Do you remember whether or not Stahlins had
25 talked to witnesses or not?

1 A. No idea, sir.

2 Q. He indicated to you that he had though, did
3 he not, in his instructions to you?

4 A. I'm sorry?

5 Q. Didn't he indicate that he might have
6 because he gave you instructions on something to be
7 looking for in your investigation, right?

8 A. It's possible, yes.

9 Q. Well, you went to a bathroom or you went to
10 the back of the house trying to help him in his
11 investigation?

12 A. Correct.

13 Q. Correct?

14 A. Correct.

15 Q. All right, sir. And I don't know. I
16 probably messed them all up so bad we can't find it.
17 Do you have a picture of that room? I thought we did
18 somewhere.

19 A. I'm sure we do. Give me one second.

20 Q. I'm sorry.

21 A. That's all right.

22 Q. Well, while I've got you, while you are
23 poking, 91 here is a picture of the street and the
24 curb that was outside the neighbor's house; is that
25 correct?

1 A. I believe so.

2 Q. All right.

3 A. I don't have a picture of that room.

4 Q. Just kind of going back where we were
5 there, Officer, 29 shows the two rooms or the --

6 A. To the right.

7 Q. The doors, right?

8 A. Correct.

9 Q. One has more of a beautification
10 presentation to the door to the back of the room or
11 the back of the building, right?

12 A. Yes, sir.

13 Q. As to the plain old cover up the doorway?

14 A. Correct.

15 Q. Is the one that has the more drapery
16 presentation, is that where you went back into that
17 part of the house or where --

18 A. It was in that back part of the house, yes.

19 Q. So this picture, 29, which shows the more
20 of the drapery-type entryway, would be this door
21 right here?

22 A. Yes, sir.

23 Q. And then this door right here would be the
24 one that has just got the plain old cloth up there
25 with a pattern on it?

1 A. Yes, sir.

2 Q. So it was through this door then that you
3 would have gone looking for -- you're talking about
4 evidence of a sexual assault; is that correct?

5 A. Yes, sir.

6 Q. All right. And that was after you had
7 talked to the detective who was in charge of homicide
8 who is really doing the investigation, right?

9 A. Yes, sir.

10 Q. I guess you were doing the investigation
11 too, though, correct?

12 A. I was doing the crime scene investigation.
13 He was doing the homicide investigation.

14 Q. Okay. Did anyone else come out there from
15 CSU offices besides you and the fellow from Missouri
16 City?

17 A. No, sir.

18 Q. All right. So the information that I've
19 got here --

20 A. That's yours.

21 Q. I'm sorry.

22 A. That's all right.

23 Q. These photographs then and the video have
24 the total pictures, photographs, video that were
25 taken that night by anybody from Houston Police

1 Department to your knowledge, correct?

2 A. To my knowledge, yes.

3 Q. In other words, anybody from CSU, that
4 would have been you, correct?

5 A. That's correct.

6 Q. All right. Now, in relation to the inquiry
7 as to the sexual assault that the officer -- the
8 detective was talking to you about, you say you did
9 not find any evidence of that at the scene, correct?

10 A. That's correct.

11 Q. And I think the prosecutor was asking you
12 about any semen or anything like that; is that
13 correct?

14 A. That's correct.

15 Q. Did you have blacklight facilities and
16 those kind of means to determine that?

17 A. No, sir.

18 Q. Did you think that was appropriate that you
19 use that to help you locate that if in fact it was
20 there at all?

21 A. Not necessarily.

22 Q. Well, so you just walked through and looked
23 and said, I don't see anything, and turned around and
24 walked out, correct, basically?

25 A. I wouldn't call it that.

1 Q. Well, explain to me -- what you would call
2 it?

3 A. Look for evidence such as wet linens,
4 something fresh, something glistening, something that
5 shows an assault took place. Perhaps torn clothing,
6 blood. Being that there was blood in every other
7 part of the house, why wouldn't it be in that room?

8 Q. And there was none in the room, right?

9 A. Right.

10 Q. Is there a bathroom located there in that
11 room or close to that room?

12 A. I believe so, yes.

13 Q. Do you remember any damage to the door of
14 that bathroom that you saw or any way documented?

15 A. No, sir.

16 Q. All right. We know there is a curtain at
17 least that goes back into that area. And I -- maybe
18 you said it and maybe I wasn't listening, which
19 wouldn't surprise me at all, but when you go through
20 the door where the curtain was -- that's this curtain
21 door right here I'm pointing to?

22 A. Right.

23 Q. Does that go into a hallway or is that just
24 right into the bedroom?

25 A. I believe it was a hallway, sir. I believe

1 it was two additional rooms the way it was separated,
2 but I would have to look at the video or the pictures
3 again.

4 Q. Anyway, that area back in -- this that's
5 not designated would have been where that restroom
6 is, back in here somewhere?

7 A. Yes, sir.

8 Q. So you knew what you were looking for, or
9 at least you were instructed to look for, and you
10 found nothing that was consistent with that at all,
11 did you?

12 A. Yes, sir.

13 Q. All right. How long were you out there
14 total do you think that this all took?

15 A. Honestly, unless I put it in my notes -- I
16 don't recall doing that -- probably about four or
17 five hours.

18 Q. You gathered up all this, all these items
19 that the prosecutor set on the table for the jury to
20 view. Was there anything else besides the shoes that
21 you also took but they're not here, anything else
22 that you took down at least to the property room or
23 took for some reason?

24 A. 2.6 grams of marijuana.

25 Q. All right. Was there -- did you find any

1 cocaine?

2 A. Any what, sir?

3 Q. Cocaine.

4 A. No, sir.

5 Q. Were you present when the other officers
6 found cocaine?

7 A. Not to my knowledge.

8 Q. Were you there when the -- until the body
9 was removed, or do you remember?

10 A. I was there -- I'm always there until the
11 body is removed.

12 Q. Okay. So the coroner people come out, and
13 you're still there either waiting or still doing
14 things, but you're there when the body is finally
15 transported; is that correct?

16 A. Yes, sir.

17 Q. All right.

18 MR. SCOTT: I'll pass the witness,
19 your Honor.

20 THE COURT: Redirect?

21 MR. PENEGUY: No questions.

22 THE COURT: May he be excused?

23 MR. SCOTT: To be placed on call, your
24 Honor.

25 THE COURT: All right. Subject to

1 being recalled, sir, you are excused.

2 Next witness, please.

3 MR. PENEGRUY: State calls Patricia Ann
4 Asberry.

5 May we approach briefly?

6 (At the Bench.)

7 MR. PENEGRUY: They have to get her
8 from next door. She's in custody.

9 (In open court.)

10 THE COURT: It's going to take just a
11 couple minutes. So if you would like to stand up and
12 stretch or something --

13 (Pause.)

14 THE COURT: From the State, please.

15 PATRICIA ASBERRY,
16 having been first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 Q. (BY MR. PENEGRUY) Patricia, will you please
19 introduce yourself to the jury?

20 A. My name is Aretha Horn.

21 Q. And do you have several aliases that you go
22 by? What is your father's last name?

23 A. My father's name is Reese Asberry.

24 Q. And when you were born, were you born as
25 Patricia Asberry?