

*Trial on the Merits*  
*October 24, 2013*

1                   THE COURT: Let's bring in the jury.

2                   (Jury enters courtroom)

3                   THE COURT: Good morning, ladies and  
4 gentlemen. It's nice to see you.

5                   State, you may proceed.

6                   MS. LOGAN: Thank you, Judge.

7                                   **GLEN WEST,**

8 having been first duly sworn, testified as follows:

9                                   **DIRECT EXAMINATION**

10 BY MS. LOGAN:

11           Q. All right. Good morning, Sergeant West.

12           A. Good morning.

13           Q. I believe just before we took our afternoon --  
14 or we recessed yesterday, we were talking about the  
15 evidence that you were responsible for collecting from  
16 the crime scene in this case; is that right?

17           A. Yes, ma'am.

18           Q. All right. Now, do you remember us talking  
19 about the black baseball cap, which is State's 106, and  
20 the black stocking, which is State's 105, that you  
21 collected from the scene? Do you remember that?

22           A. Yes, ma'am.

23           Q. I'm showing you State's Exhibit No. 4 now.  
24 Where were these two items located?

25           A. Okay. Right here on the bayou behind 1575

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1 Tarberry, which is right here in this location.

2 Q. Okay. So that's where State's Exhibits 105 and  
3 106 were found?

4 A. Yes, ma'am.

5 Q. Okay. Now you also recovered five items from  
6 the dead-end area where Prairie View is, right?

7 A. Yes, ma'am.

8 Q. Okay. And that's going to be State's Exhibit  
9 No. 97. Tell us what that one is.

10 A. It's a white latex glove.

11 Q. Okay. State's Exhibit 96?

12 A. It's a pair of white latex gloves.

13 Q. Okay. State's Exhibit 95?

14 A. It's a small black stocking.

15 Q. Okay. State's Exhibit 98?

16 A. A single white latex glove.

17 Q. State's Exhibit 99?

18 A. And that's another single white latex glove.

19 Q. All right. Now State's Exhibit No. 101 was  
20 also located near these items; is that correct?

21 A. That is correct.

22 Q. And then State's Exhibit 100, right?

23 A. Yes, ma'am.

24 Q. So tell the folks on the jury, when we look at  
25 State's Exhibit No. 4 there, where were these items that

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1 we've just spoken about located?

2 A. Right across the bayou near the dead-end of  
3 Prairie View, so it was right here in this location.

4 Q. All right. Now, we also recovered one item of  
5 evidence from the location of 1092 DeWalt, correct?

6 A. Yes, ma'am.

7 Q. Okay. And I'm bringing you State's Exhibit No.  
8 92. Show us on the map where State's Exhibit No. 92,  
9 the black shirt, was located.

10 A. Directly in front of the residence at 1092  
11 DeWalt in the ditch, and then 1092 DeWalt is this  
12 residence here, and then the ditch is found right here.

13 Q. And for the record, that's going to be a black  
14 shirt with a photograph of Tupac on it. Do you know  
15 that that's Tupac?

16 A. I have no idea who Tupac is.

17 Q. Okay. That's Tupac, State's Exhibit No. 92.  
18 And the other two items of evidence that we talked about  
19 yesterday, State's Exhibits Nos. 93 and 94, which is  
20 going to be one pair of black pants and one gray Toyota  
21 work shirt, show the folks on the jury where these items  
22 were located.

23 A. They were found in this field of tree line.  
24 Like I said yesterday, this house was not there. This  
25 is a vacant field, and right here on this tree line

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1 right here is where those items were found.

2 Q. All right. Now when you collected State's  
3 Exhibit No. 93, the black pants, tell us what it was you  
4 noticed about the pants that you noted in your report.

5 A. It had some stains on the front that I thought  
6 were questionable that might be bloodstains, so I just  
7 indicated that in my report.

8 Q. Okay. And are you trained to look for that  
9 sort of thing as a crime scene officer?

10 A. Yes, ma'am.

11 Q. Okay. Now we can see here in court today that  
12 these pants have a couple of holes in them. Were they  
13 like that when you first collected them?

14 A. No, ma'am.

15 Q. Okay. Is that something that the labs did, as  
16 far as testing goes in this case?

17 A. That's the normal procedure for testing items,  
18 yes, ma'am.

19 Q. Okay. And the locations where we see those  
20 holes, was that where you saw the stains that you noted  
21 as possible blood evidence in your report?

22 A. Yes, ma'am.

23 Q. Okay.

24 MS. LOGAN: May I approach the witness,  
25 Judge?

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1                   THE COURT: You may.

2           Q.    (By Ms. Logan) Sergeant West, I'm going to  
3 show you State's Exhibits 134, 135 and 136 and ask you  
4 if you recognize them?

5           A.    Yes, ma'am, I recognize the items.

6           Q.    All right. Were these items of evidence that  
7 you tagged in this case?

8           A.    Yes, ma'am.

9           Q.    And do they contain the incident report number  
10 that we spoke about yesterday?

11          A.    Yes, ma'am.

12          Q.    Tell the folks on the jury where you located  
13 these items of evidence.

14          A.    These items were found in the right pocket of  
15 those black pants we just looked at.

16                   MS. LOGAN: At this time, Your Honor, I  
17 would offer into evidence State's Exhibits 134, 135 and  
18 136. I am tendering them to defense counsel for  
19 inspection.

20                   MR. EASTERLING: No objection, Your Honor.

21                   THE COURT: Okay. State's Exhibits --

22                   MS. LOGAN: State's 134 through 136.

23                   THE COURT: 134 through 136 are admitted.  
24 You may publish.

25          Q.    (By Ms. Logan) So these items were items that

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1 you found in the pocket of these pants, which is State's  
2 Exhibit 93?

3 A. That's correct.

4 Q. Okay. Now did you take them out of the pocket  
5 when you were out there on the scene, or is that  
6 something you do later?

7 A. That's something I did later.

8 Q. Okay. Tell us the procedure for doing that.

9 A. Once I got back to the office, I wanted to  
10 check the clothing. I didn't want to do it at the scene  
11 and may lose some kind of trace evidence. So when I got  
12 back to the office, I put out some butcher paper. We  
13 have rolls of it up there. And I laid it out on the  
14 floor, and then I took the bags that I had my -- the  
15 pants and the shirt in. And I opened up the bag over  
16 the white butcher paper; and I placed the item, kind of  
17 laid it out where I can take a look at it and take  
18 pictures of it. And then in the pants pocket I noticed  
19 there were some items in there, so I took them out and  
20 laid them next to the clothing and then took some  
21 pictures of that.

22 MS. LOGAN: May I approach the witness  
23 again, Judge?

24 THE COURT: You may approach.

25 Q. (By Ms. Logan) Let me show you State's

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1 Exhibits 83 through 90. Do you recognize those?

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

3 Q. Do they fairly and accurately depict the  
4 photographs of the evidence that you took at your office  
5 like you were just describing for us?

6 A. Yes, ma'am.

7 MS. LOGAN: At this time I would offer  
8 State's Exhibits 83 through 90 into evidence. I'm  
9 tendering to defense counsel for inspection.

10 THE COURT: Okay.

11 MR. EASTERLING: No objection, Your Honor.

12 THE COURT: Okay. State's 83 through 90  
13 are admitted.

14 You may publish.

15 MS. LOGAN: Thank you, Judge.

16 Q. (By Ms. Logan) Now, Sergeant West, we spoke a  
17 moment ago about these black pants and that you noticed  
18 an apparent bloodstain on them. At the point in time  
19 that you're doing your investigation, do you know whose  
20 blood that is?

21 A. No, ma'am.

22 Q. Okay. Did it appear to be a fresh stain?

23 A. It appeared to me, yes, ma'am.

24 Q. Okay. But you can't tell us when it got put  
25 there, but it appeared to you to be fresh?

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1 A. Yes, ma'am.

2 Q. All right. Now, at the point in time when you  
3 were out at the field and you're collecting this  
4 evidence, have you been inside the Happy Food Store yet?

5 A. I don't believe I had even stepped foot in  
6 there yet.

7 Q. So you haven't gone inside the Happy Food Store  
8 where Thi Nguyen and his blood were?

9 A. That's correct.

10 Q. All right. Let me show you State's Exhibit No.  
11 89. What is it that you're photographing in this  
12 picture?

13 A. The stain that I noticed on the pants, on that  
14 left leg. That's a photograph of that stain.

15 Q. All right. Now once you had retrieved all of  
16 these items, and I guess before you went back to the  
17 station to do the photographs, did you go to the Happy  
18 Food Store on Veterans Memorial?

19 A. Yes, ma'am.

20 Q. Do you recall about what time you got there to  
21 conduct your scene investigation?

22 A. That, I don't know.

23 Q. Approximately how many hours did it take you to  
24 do your investigation over here at the DeWalt and  
25 Prairie View area?



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1           A.     All of that may have taken about an  
2 hour-and-a-half to two hours.

3           Q.     So, we can say later in the afternoon,  
4 June 15th of 2006, you went to the Happy Food Store to  
5 do your scene investigation?

6           A.     Yes, ma'am.

7           Q.     All right.  When you get there, tell us what  
8 the first thing you do is.

9           A.     First thing I do is I walk in the store, of  
10 course, and assess the scene, look at what we have  
11 inside.  And then I'll go and videotape the scene.

12          Q.     When you got there, did you find the scene to  
13 be secured by Houston Police Officers?

14          A.     Yes, ma'am.

15          Q.     After you conducted your videotape, crime scene  
16 video of the location, what else did you do to document  
17 the scene?

18          A.     I also took several 35-millimeter photographs.

19                    MS. LOGAN:  May I approach the witness,  
20 Judge?

21                    THE COURT:  You may.

22          Q.     (By Ms. Logan)  Do you also take measurements  
23 and create a scene diagram for an investigation such as  
24 this?

25          A.     Yes, I do.

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1 Q. All right. So I'm going to show you State's  
2 Exhibits 16 through 55 and State's Exhibit 91 and ask  
3 you whether you recognize those items?

4 A. Okay. Yes, ma'am, I recognize all these.

5 Q. And do the items fairly and accurately depict  
6 the scene as it appeared June 15th of 2006 and your  
7 scene diagram that was created for this incident?

8 A. Yes, ma'am.

9 Q. Let me also, while I'm up here, show you  
10 State's Exhibit No. 5. You recognize that?

11 A. Yes, I do.

12 Q. Does it fairly and accurately depict the  
13 location of the capital murder from June 15th of 2006?

14 A. Yes, ma'am. Just south of the actual  
15 convenience store location, yes, ma'am.

16 Q. Okay.

17 MS. LOGAN: I will offer State's Exhibit  
18 5.

19 MR. EASTERLING: No objection.

20 THE COURT: State's 5 is admitted.

21 MS. LOGAN: I will also offer State's  
22 Exhibits 16 through 55 and 91, tendering to defense  
23 counsel for inspection.

24 MR. EASTERLING: No objection to State's  
25 Exhibit 91.

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1                   THE COURT: State's 91 is admitted.

2                   MR. EASTERLING: No objection to State's  
3 Exhibits 16 through 55.

4                   THE COURT: Okay. State's 16 through 55  
5 are admitted.

6                   MS. LOGAN: May they be published, Your  
7 Honor?

8                   THE COURT: They may be published.

9                   MS. LOGAN: Thank you.

10                  Q.    (By Ms. Logan) All right. Sergeant West, the  
11 first thing I want to do is have you walk the folks on  
12 the jury through your crime scene diagram that is  
13 State's Exhibit No. 91. Can you show us where the front  
14 door of the convenience store is?

15                  A.    Yes, ma'am. Right here.

16                  Q.    Okay. And as you enter through that front  
17 door, what's there to the left?

18                  A.    It's a security glass from about the countertop  
19 to the ceiling. And all the items there are all, like,  
20 I call the employee area where regular customers don't  
21 have access to.

22                  Q.    All right. And we can see right here that  
23 there is a little opening in your diagram. Is there  
24 actually a door that can be closed so that folks can't  
25 go back in that area?

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1           A.    I'm not sure about the door; but I know it's a  
2 really small area where I had to turn sideways and kind  
3 of, I guess, kind of shim through to get through this  
4 real small opening.

5           Q.    And once you enter the front door and you look  
6 straight ahead, what was it that you saw?

7           A.    I can see some items along the open area, like  
8 a cooler; and I think there was a small round cooler  
9 that have drinks and ice. And then I could see the feet  
10 and legs of Mr. Nguyen.

11          Q.    Look at State's Exhibit No. 16 here. And this  
12 is -- tell us what this is.

13          A.    This is a photograph standing by the front door  
14 and kind of turning to the left, looking at the employee  
15 area and the transaction counter.

16          Q.    And State's Exhibit No. 21 here?

17          A.    It's standing in the same place as I was before  
18 but just turning to the right, looking straight into the  
19 convenience store.

20          Q.    Okay. And we can see here. Is this the body  
21 of Mr. Nguyen that you were referring to?

22          A.    Yes, ma'am.

23          Q.    Okay. I'll put State's Exhibit No. 25 up here.  
24 Can you tell us what our vantage point is in this  
25 photograph?

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1           A.    Yes, ma'am.  We're in the north side of the  
2 store, kind of northwest.  Behind me is the large cooler  
3 where all the drinks are kept.  I'm looking south of the  
4 store, in the very back of the store, and taking a  
5 picture of this last aisle.  There is a Coca-Cola can on  
6 the floor, and Mr. Nguyen's body is in the back right of  
7 the photograph.

8           Q.    All right.  Let's look at State's Exhibit  
9 No. 27 here.  Was this kind of your typical convenience  
10 store that is full of different kind of merchandise?

11          A.    Yes, ma'am.

12          Q.    Lots of areas that are concealed by product.  
13 Is that fair to say?

14          A.    Yes, ma'am.

15          Q.    If we look at State's Exhibit No. 37, what is  
16 our point of view here?

17          A.    This is standing back there in the rear of the  
18 store, I think standing right near Mr. Nguyen's body,  
19 and then looking towards the front doors.

20          Q.    State's Exhibit No. 38?

21          A.    That's a photograph of Mr. Nguyen laying on the  
22 floor.

23          Q.    State's Exhibit No. 42, what are we looking at  
24 here?

25          A.    This is the transaction counter.  I'm back in

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1 the employee area, that I call it, behind the security  
2 glass. And there is a cash register here. And I think  
3 that's a State lottery ticket machine, I think is there.

4 Q. Now during the course of your investigation in  
5 this case, did you collect any lottery tickets as  
6 evidence?

7 A. Yes, ma'am.

8 Q. Okay. Tell us about that.

9 A. Well, there were about ten rolls of fresh  
10 unopened lottery tickets that hadn't been opened yet.  
11 So they were behind the counter; but they were kind of  
12 thrown behind the counter on the floor, like somebody  
13 had gone through them and pulled them out of some place,  
14 and they were just kind of laying down. And they had a  
15 plastic wrapper over them; and I collected those in  
16 hopes we would get some fingerprints off of those  
17 plastics, and whoever may have touched it may have left  
18 some prints on it.

19 Q. And do you know whether or not those containers  
20 of lottery tickets were submitted for fingerprint  
21 testing?

22 A. Yes, ma'am, I did submit those.

23 Q. Were we successful in getting any fingerprints  
24 from the plastic of those items?

25 A. To my knowledge, no, ma'am, they were not.

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1 Q. Now you're a crime scene investigator, right?

2 A. Yes, ma'am.

3 Q. And you've had experience in lifting  
4 fingerprints and making identifications. Is that fair  
5 to say?

6 A. Lifting fingerprints. Identifying them, no.  
7 I've never identified fingerprints.

8 Q. Okay. Well, in your experience as a crime  
9 scene officer, can you tell us what sorts of things  
10 might affect whether or not a person leaves a  
11 fingerprint on an object that they touch?

12 A. Oh, there is a multitude of things that would  
13 likely leave prints. Generally, you don't leave  
14 fingerprints, generally, that are good enough to look at  
15 or to view or to identify with. It's the oils in your  
16 hand. If you have oils in your hand, your hands are  
17 completely dry and you're touching items, you may not be  
18 leaving a good enough print to get an identification  
19 from.

20 The item you're touching, smooth surface  
21 like this marble top, you can leave pretty good  
22 fingerprints on. Plastics, it just depends on how the  
23 plastic is folded. If it's folded in a certain way and  
24 you touch it and you have oils on your hands or leave a  
25 print, if you straighten out the plastic, the

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1 fingerprints are going to be scattered all over that  
2 plastic. A textured surface would be hard to leave a  
3 print on. You can get prints off of it with a certain  
4 tape lift; but generally, they're really hard to leave a  
5 print on things like that.

6                   Weather affects it. Humidity affects  
7 prints, how long they stay. So it's generally pretty  
8 difficult to get a fingerprint at a scene, but it's not  
9 unheard of. We do do that. It's just hard to do it off  
10 certain items.

11       Q.     Okay. And, you know that we located some latex  
12 gloves in this case as evidence, right?

13       A.     Yes, ma'am.

14       Q.     Now, if a person were wearing a latex glove  
15 over their hand, would you expect that person to leave a  
16 fingerprint on items that they may have touched?

17       A.     No, ma'am.

18       Q.     Now the area behind the counter, I think is  
19 what we see in State's Exhibit No. 47. Would you  
20 characterize that as in disarray?

21       A.     Yes, ma'am.

22       Q.     And we can see some Kool cigarette packs down  
23 here, right?

24       A.     Yes, ma'am.

25       Q.     And this part of the register, right?



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1 A. Yes, ma'am.

2 Q. And if we look at State's Exhibit No. 45, can  
3 you see here -- tell us what you noticed about the Kool  
4 cigarette display.

5 A. Yeah. This particular drawer that housed the  
6 cigarette packs was pulled out; and some of the  
7 cigarette packs were on the floor, and then some were  
8 laying down in the drawer.

9 Q. Now you and I have already talked about State's  
10 Exhibit No. 135. What brand of cigarette is that?

11 A. Kool.

12 Q. And does that package of cigarettes look just  
13 like the packages of cigarettes we see here in State's  
14 Exhibit No. 45?

15 A. Yes, ma'am.

16 Q. Now, we can also see on State's 135 that it  
17 looks like there is kind of a black powder on that  
18 cigarette container. Can you tell the folks on the jury  
19 why that is?

20 A. That black powder on there is very similar to  
21 the fingerprint powder that I use at scenes when I'm  
22 trying to find prints.

23 Q. And do you know whether or not the items that  
24 were inside the pants that you recovered at the scene --  
25 whether or not those items were sent away for

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1 fingerprint testing?

2 A. Yes, they were.

3 Q. And we didn't get any prints on those, either,  
4 did we?

5 A. To my knowledge, no, ma'am.

6 Q. Now you're not telling this jury that you know  
7 that that pack of cigarettes is from the bunch that was  
8 in there, in that Kool cigarette display, right?

9 A. That is correct.

10 Q. We're just saying they look the same?

11 A. Yes, ma'am.

12 Q. Now we did not put ten containers of lottery  
13 tickets into evidence in this case. Can you tell the  
14 folks on the jury why that is?

15 A. The lottery tickets, generally if we're using  
16 them as evidence and we collect them, if we don't find  
17 any evidence on them, they're generally given back to  
18 the State. They're State property, so they go back to  
19 the State.

20 Q. State's Exhibit No. 52, what is this orange  
21 item down here at the bottom of the picture?

22 A. That's a typical money safe that's generally  
23 found in convenience stores.

24 Q. Now State's Exhibit No. 55, we can see a couple  
25 of containers of those Kool cigarettes on the floor,

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1 right?

2 A. Yes, ma'am.

3 Q. And then we can see an object down here. What  
4 is that?

5 A. That is a plastic toy gun.

6 Q. Okay. Did you pick that up and look at it to  
7 see whether or not it was an actual firearm?

8 A. Yes, ma'am, I did examine it for that.

9 Q. Okay. And would that thing shoot bullets?

10 A. No, ma'am.

11 Q. Now in your report, you also indicate that you  
12 took three swabs of blood samples from the scene of the  
13 Happy Food Store convenience store, right?

14 A. Yes, ma'am.

15 Q. Why did you do that?

16 A. They were bloodstains on the floor back by Mr.  
17 Nguyen's body, and I did not know where the blood came  
18 from or who it may belong to. So I collected those in  
19 anticipation they belong to a suspect.

20 Q. Okay. And we can see some areas that are  
21 labeled A, B and C here on your scene diagram, which is  
22 State's Exhibit No. 91. Tell us what A, B and C are.

23 A. A, B and C, it's up here at the top of this  
24 right there. And that is -- those are the locations of  
25 where I took the blood samples from.

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1 Q. Okay. And what did you do with those blood  
2 samples as a part of your investigation in this case?

3 A. I also submitted them to the property room for  
4 later examination by the Crime Lab.

5 Q. Possible DNA testing, right?

6 A. Yes, ma'am.

7 Q. Did you locate any shell casings at the  
8 convenience store?

9 A. No, ma'am.

10 Q. Okay. Are there certain kind of firearms that  
11 you would expect to find shell casings at a crime scene  
12 versus another kind of firearm where you would not  
13 expect to find casings?

14 A. Yes, ma'am. There are certain firearms that  
15 don't leave fired cartridge cases at the scene.

16 Q. What do we call those kinds of firearms?

17 A. Revolvers.

18 Q. Okay. And does that look like a cowboy gun  
19 with the barrel, where the bullets are placed inside the  
20 gun?

21 A. Yes, ma'am.

22 Q. Okay. Do you recall having information while  
23 you were out there on the scene about how many shots  
24 folks thought had been fired inside the store?

25 A. We were told one. I mean, we looked for

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1 multiples; but we just looked for multiples, and we know  
2 at least one was fired, but we didn't know how many.

3 Q. Okay. And in a convenience store like that, is  
4 it difficult to find evidence of bullet holes with all  
5 of the merchandise and items present inside the store?

6 A. It can be, yes, ma'am.

7 Q. Why is that?

8 A. Well, there are so many items there, loosely  
9 laid there with different textures and packaging. There  
10 is metal, there is plastics, paper. So if a bullet was  
11 fired in a store like a convenience store, it could be  
12 pushed behind something and you don't see the hole  
13 because something either fell in front of it or moved it  
14 aside. A hole would be hard to see in some items.

15 Q. You didn't open every bag of potato chips or  
16 rip everything off of the displays to see if there was  
17 evidence of a bullet behind there?

18 A. That's correct, I did not.

19 MS. LOGAN: I'll pass the witness, Judge.

20 THE COURT: Okay. Your cross.

21 MR. EASTERLING: Can I have a conference  
22 with Miss Logan real quick, Judge?

23 THE COURT: You may.

24 (Off-the-record discussion)

25

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Cross-Examination by Mr. Easterling

1 **CROSS-EXAMINATION**

2 BY MR. EASTERLING:

3 Q. Okay. Hello, Mr. West. How are you doing?

4 Good to see you again.

5 A. Good morning.

6 Q. You're in Internal Affairs now?

7 A. Yes, sir, at my division.

8 Q. Okay. All right. When you first got  
9 dispatched out to the scene, it looks like you got there  
10 11:00 a.m. or a little bit after 11:00 a.m. Does that  
11 sound right?

12 A. I arrived at the scene about 11:36.

13 Q. 11:30, that's right. And did you go first to  
14 the Happy Food Store to get briefed on what kind of  
15 crime scene and what kind of incident you had?

16 A. Yes, sir, I did.

17 Q. Who briefed you? Was it Sergeant -- a sergeant  
18 at the scene, or was it a detective already there?

19 A. It was Officer Alan Brown, who was a Homicide  
20 investigator.

21 Q. All right. And then he informed you about the  
22 body inside of the store and that it was an apparent  
23 robbery/murder, correct?

24 A. Yes, sir.

25 Q. And then did he tell you there is a second

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1 scene that we've talked about, Tarberry and the little  
2 bayou, also?

3 A. Yes, sir. He explained there were other scenes  
4 at different locations.

5 Q. What did he tell you about the other scene that  
6 maybe y'all ought to be there?

7 A. He said there are other pieces of evidence that  
8 may be out there related to this case and that we go out  
9 there and look and examine.

10 Q. Do you think he had been on the radio maybe  
11 with some other officers over there to learn that, or do  
12 you know?

13 A. I don't think he would have, but I don't know.

14 Q. Do you know whether Officer Alan Brown had been  
15 to that other scene first to inform you about it?

16 A. I don't think he had been there, no, sir.

17 Q. So he must have learned it from somebody, I  
18 guess, right?

19 A. Yes, sir.

20 Q. Okay. So, did you get in your vehicle and  
21 drive over -- without going into the store, y'all  
22 decided to send you to the Tarberry location where the  
23 car was found, correct?

24 A. That is correct.

25 Q. Okay. So, to your knowledge, you didn't even

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1 walk inside the store to look around, correct?

2 A. That's correct.

3 Q. Okay. Okay. So did that put you over to the  
4 Tarberry scene about ten or fifteen minutes after  
5 getting to the Happy All Store (sic). Does that sound  
6 right?

7 A. Yes, sir. Probably before the noon hour, yes,  
8 sir.

9 Q. All right. What is it, a mile, mile-and-a-half  
10 or something to that second scene, approximately? What  
11 would you say?

12 A. Yeah, probably about a mile, mile-and-a-half,  
13 two miles.

14 Q. Same general neighborhood of Acres Homes,  
15 correct?

16 A. That's right.

17 Q. Okay. Now, when you get to that scene, you  
18 looked at the -- this car, the white car that was in the  
19 driveway first, correct?

20 A. Yes, sir.

21 Q. And it had no license plates, correct?

22 A. That's correct.

23 Q. And that can be a typical thing on a stolen car  
24 or a car used in a crime, right?

25 A. Yes, sir.



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1 Q. Did you learn at any time that that car had  
2 been stolen a week prior to that from somebody in an  
3 aggravated robbery?

4 A. I don't know if I heard that.

5 Q. Did you hear anything about the status of the  
6 ownership of the car?

7 A. I did hear that the vehicle was coming back  
8 stolen.

9 Q. So somebody must have run the VIN number, since  
10 there is no license plate; and then the VIN number would  
11 be in your system as being stolen or not, correct?

12 A. Yes, sir.

13 Q. Okay. And you didn't go inside the car at the  
14 scene, correct?

15 A. That is correct, I did not.

16 Q. And that would be standard protocol. You would  
17 wait for it to be towed to a vehicle examination place  
18 where it's more secure to do that kind of work?

19 A. Yes, sir.

20 Q. But you took -- you walk around and generally  
21 look at it, right?

22 A. Yes, sir.

23 Q. You didn't see anything obvious in terms of  
24 evidence that you wanted before the vehicle was moved?

25 A. That is right.

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1 Q. Like, if the door would have been open and an  
2 item would have been dropped there or something, you  
3 might have picked up a piece of evidence like that,  
4 right? But you didn't see anything like that?

5 A. Generally, I would not take anything out of the  
6 car. If the door is open like that I would, of course,  
7 look in it; but I wouldn't take anything out.

8 Q. I'm talking about an item maybe in the  
9 driveway.

10 A. Well, that wouldn't be in the vehicle. Yes,  
11 sir, I probably would collect the item.

12 Q. You didn't see anything like that, because the  
13 doors and windows were closed like we see in the  
14 photograph?

15 A. Yes, sir, that's correct.

16 Q. So, no evidence from the white stolen car that  
17 morning, correct?

18 A. That's correct.

19 Q. Okay. Now, was there neighbors, a few  
20 neighbors congregating around with the police cars up  
21 there?

22 A. Yes, sir, there were some people that came out  
23 of their houses and standing around in front of their  
24 doors.

25 Q. That's common. They want to know what's going

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1 on, right?

2 A. Yes, sir.

3 Q. And there wasn't a taped-off with the crime  
4 scene tape -- there wasn't any tape off of this whole  
5 intersection or anything like there would be around the  
6 front of the convenience store, correct?

7 A. Correct. There was not all that.

8 Q. So before you got there to the scene, you have  
9 no idea how many people may have been walking around the  
10 car, how many people may have walked in between these  
11 houses down through the area towards the bayou? You  
12 just have no knowledge of that, correct?

13 A. Prior to my arrival, yes, sir, that's correct.  
14 I had no idea.

15 Q. Did you see the K-9 officer?

16 A. Yes, sir.

17 Q. Did you see him?

18 A. Yes, sir.

19 Q. Did you see him working the dog, or was he  
20 already finished working his dog?

21 A. I'm not sure if he was working the dog or not.  
22 He may have been finished.

23 Q. But you do remember seeing him?

24 A. Yes.

25 Q. Now -- Deputy Thomas, right?

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1 A. Yes, sir.

2 Q. You've seen him at other scenes back in that  
3 time frame, in 2005, 2006?

4 A. I believe so, yes, sir.

5 Q. All right. Were you briefed by anybody else  
6 there near the car about these other items of evidence  
7 that were found?

8 A. There was an officer that was standing back  
9 along the bayou, standing near the hat and black  
10 stocking that was found back there. And he was standing  
11 over those items to secure them as evidence, and he  
12 explained to me that these were here.

13 Q. Okay. So was that the first items you went to  
14 when you saw that officer there?

15 A. Yes, sir. After the vehicle?

16 Q. Yes, sir. I'm trying to take it  
17 chronologically with you.

18 A. Yes, sir.

19 Q. Okay. Did you see any civilian down near that  
20 area talking to the dog officer or talking to any other  
21 officer --

22 A. I don't recall --

23 Q. -- at that time?

24 A. I don't recall any civilians being on the bayou  
25 area.

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1 Q. Okay. All right. Now that was seven-plus  
2 years ago, right?

3 A. Yes, sir.

4 Q. So there might have been. You just don't  
5 specifically have a memory of that, right?

6 A. Yeah. I have no memory of any civilian being  
7 on the bayou.

8 Q. Okay. Now, Miss Logan asked you about the car.  
9 The car was towed to the vehicle examination room at  
10 HPD, correct? That's normal?

11 A. Yes, sir.

12 Q. Okay. And it's your understanding from talking  
13 to other investigators, talking to the prosecutor,  
14 talking to Homicide, there was no DNA or fingerprints  
15 that matched anybody that came out of that car. That's  
16 the bottom line, right?

17 A. I have no idea of the evidence that was found  
18 or not found in the car.

19 Q. Okay. So you didn't get into the details about  
20 that?

21 A. That's correct.

22 Q. Okay. I thought maybe you had, so I was going  
23 to ask you in case you knew. There is another officer  
24 that's responsible for doing that kind of work at the  
25 Vehicle Examination Building, correct?

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1           A.     That's correct.

2           Q.     Okay. All right. You're now moving down  
3 behind the home where the car is into the grassy areas.  
4 This makeshift trash bridge, was there any water in  
5 this -- on this day, was there any water in this little  
6 bayou or ditch, whatever we're calling it?

7           A.     There was a little bit. It wasn't much at all,  
8 but there was a little bit.

9           Q.     I mean, there was enough where you could hop  
10 over it?

11          A.     I think it was wide enough, if you couldn't hop  
12 over it without getting muddy, a little bit muddy.

13          Q.     It was nothing like the larger bayous you see  
14 that are twenty or thirty feet wide, right?

15          A.     That's correct.

16          Q.     It's very small, right?

17          A.     Yes, sir.

18          Q.     Somebody running could just hop over it and  
19 maybe get their feet muddy a little or something, right?

20          A.     I suppose, yes, sir.

21          Q.     Did you ever see any -- in your work out there,  
22 did you ever see any places where somebody tried to jump  
23 over it, their shoe or boot or whatever they were that  
24 landed in mud and then they tracked some mud for some  
25 distance? Did you ever see anything like that?

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1           A.     Sure.

2           Q.     Okay.  Did you photograph any of that?

3           A.     At this scene, I don't think I saw anything  
4 like that.

5           Q.     That's what I'm asking about, this scene.

6           A.     I thought you were talking in general.

7           Q.     Sorry, sorry.  At this scene, did you see  
8 anything like that near that makeshift bridge or  
9 anywhere on this area where you were looking for  
10 evidence where somebody, you know, went into the mud and  
11 tracked some mud?

12          A.     I saw no evidence of that, no, sir.

13          Q.     Okay.  Now, there were several places where  
14 somebody could have crossed there.  I assume you didn't  
15 cover every single inch of that, right, or every foot of  
16 it?

17          A.     I guess I didn't.  I mean, I walked the bayou  
18 looking for things along in the grass; but I didn't see  
19 anything out of the ordinary or muddy footprints or  
20 anything like that, no, sir.

21          Q.     Okay.  The gloves.  Let's talk about these  
22 rubber latex gloves first.  I have down State's Exhibits  
23 95, 96, 97, 98 and 99; because there were five of them  
24 that were located, correct?

25          A.     Yes, sir.

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1 Q. Which is an odd number. A pair would be two.  
2 Two pairs would be four. So there was one extra, right?

3 A. Yes, sir.

4 Q. Okay. All right. I'm looking at these  
5 envelopes. Is this black magic marker with the incident  
6 number and all that -- is that your handwriting?

7 A. Yes, sir, it is.

8 Q. Okay. All right. Because you would put G.H.  
9 West, CSU 4, on there to identify yourself, correct?

10 A. Yes, sir.

11 Q. And it looks very consistent on all of these  
12 envelopes as you're printing on these, correct?

13 A. Yes, sir.

14 Q. Standard operating procedure, again, so that  
15 when we get to trial you can remember things like this,  
16 right?

17 A. Yes, sir.

18 Q. Now, State's Exhibit No. 9 --

19 MR. EASTERLING: May I approach the  
20 witness, Your Honor?

21 THE COURT: You may approach.

22 Q. (By Ms. Logan) Read to the jury what you wrote  
23 about what you put inside there, right there.

24 A. One pair of white latex gloves from under black  
25 sweatshirt at dead-end of 9000 Prairie View.



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1 Q. One pair, meaning two gloves together, correct?

2 A. Yes, sir.

3 Q. Okay. So there is two in here, right?

4 A. Yes, sir, there should be.

5 Q. Okay. Let's look in there. There is two in  
6 there, isn't there?

7 A. Yes, sir, looks like there was.

8 Q. Looks like what?

9 A. It looks like there is two -- one pair, two  
10 gloves.

11 Q. Blow this up, what you just read there to them.  
12 You just read this one pair of white latex gloves, where  
13 you found it, right?

14 A. Yes, sir.

15 Q. All right. You've gone to several trainings,  
16 conferences, that kind of thing for crime scene work  
17 that you did for many years. How long were you in the  
18 CSU?

19 A. About ten years total.

20 Q. About ten years. All right. Tell the jury  
21 what cross-contamination is.

22 A. If you have an item that -- if you have an item  
23 that was found at this location or item found at this  
24 location, if you put them together, you could get one  
25 item mixed with the other; and loose debris or hair that

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1 might have been on one could get on the other.

2 Q. Not only hair. How about perspiration, skin  
3 cells, also, right?

4 A. It could, yes, sir.

5 Q. Which is what DNA is, right?

6 A. Yeah. It's part of DNA, yes, sir.

7 Q. And, so, you're trained not to put two items  
8 together in one sack, correct?

9 A. No, sir, that is not correct.

10 Q. That's not correct? You're not trained to keep  
11 them separate so that cross-contamination doesn't  
12 happen?

13 A. Yes, sir, I am trained to not cross-contaminate  
14 evidence. Those gloves were found together, already  
15 touching each other; so I left them together and tagged  
16 them accordingly.

17 Q. Okay. Where's the photograph that they were  
18 touching each other together? Where is that?

19 A. I don't know. I hadn't seen it here in the  
20 court.

21 Q. Well, neither have I. Did you take a  
22 photograph of the two gloves together?

23 A. I believe I did, yes, sir.

24 Q. A close-up photograph?

25 A. I believe I did, yes, sir.

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1 Q. You believe you did. Well, maybe we'll have to  
2 try to find that at the break. There are some  
3 photographs in here where you put the flag next to the  
4 gloves on that trail. Remember that?

5 A. Yes, sir.

6 Q. And in there are several photographs. They  
7 look like they're taken about six or seven feet away  
8 from a bunch of bushes and things.

9 A. Yes, sir.

10 Q. I remember those. But the two that you think  
11 were together, you still didn't think that it was  
12 prudent to separate them into a separate paper bag?

13 A. That's correct.

14 Q. Because they're found close to each other?

15 A. No, sir. They were touching each other.

16 Q. They were touching each other, right?

17 A. That's correct.

18 Q. Okay. But didn't even come across your mind,  
19 hey, even if these things are touching each other, I  
20 better put them in separate bags to avoid  
21 cross-contamination?

22 A. No, sir, it did not cross my mind.

23 Q. Okay. Those two, this pair -- and if you need  
24 to -- I know it's a long time ago. If you need to  
25 refresh your memory, you have a report that you wrote to

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1 document how you found things, correct?

2 A. Yes, sir.

3 Q. On this pair of gloves in State's Exhibit 96,  
4 did you notice any bloodstains on the gloves?

5 A. No, sir.

6 Q. Did you document, or do you have any memory on  
7 whether the two gloves you put in the same thing were  
8 like they normally are, or did they look like they had  
9 been pulled and been inside out?

10 A. That pair of gloves, I don't remember. And I  
11 don't think I put that in my report if they were inside  
12 out or right side out. I don't recall that.

13 Q. I'm with you. Want to be sure. Okay. All  
14 right. The other gloves. Here's State's Exhibit 93.  
15 Here, I'll put it up on the screen for everybody real  
16 quick. I'm sorry. I'm wrong. State's Exhibit 97.  
17 This one has one of three white latex gloves and then  
18 their location. So this one should have one in it,  
19 right, correct?

20 A. That's correct, sir.

21 Q. I'm looking at it. Yeah, it's just got one.  
22 Same question about State's Exhibit 97, the one glove.  
23 Did you document, or do you have any memory whether  
24 there was any bloodstains on this glove?

25 A. I don't recall any bloodstains on any of the

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1 five gloves that I recovered out there.

2 Q. That would be my next question, I guess. So if  
3 you would have seen bloodstains on any of the gloves,  
4 that would have been something you would have documented  
5 in your report, right?

6 A. That is correct.

7 Q. State's Exhibit 98, one of three latex gloves,  
8 again, from your location. So that should be one inside  
9 here, right?

10 A. Yes, sir.

11 Q. And it appears to be one, okay. So that's four  
12 so far. See if we can find the fifth one. This is the  
13 stocking, 95. Let me get the number real fast. Okay.  
14 State's Exhibit 95 is a stocking. Looks like Miss Logan  
15 has State's Exhibit 95 as a latex glove.

16 THE COURT: Counsel, we're going to take a  
17 five-minute recess.

18 Please remember your admonitions from the  
19 Court. Do not discuss this case with anyone, not even  
20 among yourselves.

21 Court's in recess for five minutes.

22 *(Brief recess)*

23 *(Jury enters courtroom)*

24 THE COURT: You may proceed,  
25 Mr. Easterling.

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1 Q. (By Mr. Easterling) Okay. During the break we  
2 found the State's Exhibit 99, envelope with the plastic  
3 glove. You wrote on that one, one of three white latex  
4 gloves. So this would be the fifth one, correct?

5 A. That's correct.

6 Q. Okay. All right. Now, it's your testimony --  
7 make sure I heard you right before the break -- all five  
8 of the gloves that you collected out there that day, you  
9 didn't see any bloodstains on them?

10 A. That's correct.

11 Q. Okay. Now we also did something else at the  
12 break. We looked through some photographs, and we found  
13 State's Exhibit 68. The prosecutor, you and I, we  
14 looked at it together. And this appears -- I'm going to  
15 zoom it -- this appears to be a black item there in the  
16 woods on that exhibit, correct?

17 A. Yes, sir.

18 Q. Can you see it on your monitor okay?

19 A. Yes, sir.

20 Q. Okay. Which item is this that you collected?

21 A. That's the black sweater.

22 Q. Okay. And from your report and your memory,  
23 two white latex gloves were found underneath this item,  
24 this sweater?

25 A. That's right.

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1 Q. Okay. And that's the two that you put together  
2 in the same envelope, correct?

3 A. Yes, sir.

4 Q. All right. Did you put the white -- excuse  
5 me -- did you put the black sweatshirt and the two  
6 gloves into one bag?

7 A. No, sir.

8 Q. They all three were touching each other,  
9 weren't they?

10 A. Yes, sir.

11 Q. So you separated the black sweatshirt, like you  
12 should have, into one bag, correct?

13 A. That's correct.

14 Q. But you didn't separate the two gloves?

15 A. That's correct.

16 Q. Now we also looked through all the photographs  
17 you took; and you've now discovered that you never took  
18 a close-up photograph of the two gloves that you say  
19 were underneath this black sweatshirt, correct?

20 A. That's correct.

21 Q. You thought you might have. You took a hundred  
22 or more. But you didn't do that, correct?

23 A. Apparently, I did not, yes, sir.

24 Q. All right. Well, you wrote it in your report  
25 and documented it back then, almost seven-and-a-half

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1 years ago, that you found the two gloves underneath  
2 there, right?

3 A. That's correct.

4 Q. We've looked and seen that, confirmed that.  
5 All right.

6 Okay. Let me shift backwards real quick  
7 to the car for a moment. I found two pictures that I  
8 showed you, and I'm going to put them up on the monitor.  
9 I've marked Defendant's Exhibit 1.

10 MS. LOGAN: Don't offer them.

11 MR. EASTERLING: I'll offer Defendant's  
12 Exhibit 1 and Defendant's Exhibit 2, photographs, at  
13 this time.

14 MS. LOGAN: And I have no objection.

15 THE COURT: Defense 1 and 2 are admitted,  
16 you may publish.

17 Q. (By Ms. Logan) Let me show you Defense Exhibit  
18 1. You took several photos of this white Integra that  
19 was there in the driveway on Tarberry, correct?

20 A. Yes, sir.

21 Q. And Defendant's Exhibit 1, does that fairly and  
22 accurately depict one of the photos that you took? It's  
23 got the crime scene tape behind it, same white car,  
24 right?

25 A. Yes, sir.



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1 Q. See this white item right behind the left front  
2 tire?

3 A. Yes, sir.

4 Q. What is that?

5 A. This appears to be a white plastic baggie.

6 Q. Like you get at Wal-Mart, or grocery store or  
7 something, right?

8 A. Yes, sir.

9 Q. Okay. Collect that as evidence?

10 A. No, sir.

11 Q. Did you inspect that to see what it was close  
12 up?

13 A. Looked at it like I'm looking at it now.

14 Q. So you looked at it from this, what, six,  
15 seven, eight feet away when you took the photo?

16 A. And I looked at it when I was walking around  
17 the vehicle, yes, sir.

18 Q. That could have been an item that the suspects  
19 discarded when they got out of the car, right?

20 A. Yeah, I guess it could have been, yes, sir.

21 Q. And you didn't look in it, and you didn't tag  
22 it as evidence so we could see or test it, correct?

23 A. I did not tag that evidence, no, sir.

24 Q. What do you think about that performance on  
25 that item today by you?

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1 A. I don't have --

2 Q. Do you want to grade your paper on that one?

3 A. Yes, sir.

4 Q. Okay. What?

5 A. I give myself an A.

6 Q. An A. If I said I gave you an F, we just have  
7 to disagree on that, right?

8 A. Yes, sir, we have to disagree on that.

9 Q. So, in a capital murder case it's not important  
10 to collect all the items that are near the suspects?

11 A. I did not say that, either.

12 Q. Okay. Plastic can have DNA on it. If somebody  
13 touches that plastic bag, they can leave their DNA on  
14 it, correct?

15 A. Yes, sir.

16 Q. Okay. Sometimes you can get fingerprints, if  
17 it's the right situation, off the plastic bags, right?

18 A. That's correct.

19 Q. Sometimes you could get a blood transfer stain  
20 if they have blood on their hands or on a glove or a  
21 portion of their body. Blood could get transferred to  
22 that item; and you could test the blood for DNA,  
23 correct?

24 A. That's correct.

25 Q. Defendant's Exhibit 1, we looked at this. Is

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1 Defendant's Exhibit 2 another photograph of the white  
2 automobile, just from a little bit different angle and  
3 to the left side, correct?

4 A. That's correct.

5 Q. You still see the white bag there, right?

6 A. Yes, sir.

7 Q. What is this item right here, oh, four or five  
8 feet into the grass right there? What is that?

9 A. That's a plastic soda bottle.

10 Q. Did you collect the plastic soda bottle as  
11 evidence in this case?

12 A. No, sir.

13 Q. Did you even look at it?

14 A. Yes, sir.

15 Q. Okay. From that same distance there?

16 A. I'm sure I walked right over it, yes, sir.

17 Q. All right. And if something is that close to  
18 the driver's side door of a vehicle that allegedly had  
19 suspects in it, that allegedly had suspects that bailed  
20 out of that, they could have dropped or knocked that out  
21 of the car, correct?

22 A. It could have happened, yes, sir.

23 Q. And did you think to collect that item as  
24 evidence in a capital murder case?

25 A. That particular item, yes, I did think; but I

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1 did not collect it.

2 Q. Plastic bottles, such as that one right there  
3 and the one Miss Logan has and my water bottle, they're  
4 plastic. It's a hard surface, right --

5 A. Yes.

6 Q. -- semi hard surface? You can collect swabs  
7 for DNA off those kind of items; and that's a ripe place  
8 when somebody has their hand on the bottle, right?

9 A. Yes, sir.

10 Q. And sometimes you can get fingerprints off of  
11 that surface under right conditions, correct?

12 A. That could happen, yes.

13 Q. Same thing with blood transfer that I asked you  
14 about the plastic bag. If somebody transfers some blood  
15 from maybe a deceased in a store, it could transfer over  
16 to that; or if they cut themselves, it can transfer over  
17 to that kind of surface. You could swab it and get DNA,  
18 correct?

19 A. That's correct.

20 Q. How do you grade your performance on not  
21 collecting this bottle at the scene in this case?

22 A. Again, I would grade myself an A on that.

23 Q. And if I graded you an F, we can agree to  
24 disagree, right?

25 A. That is correct.

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1 Q. Do you know of any other items that were out  
2 there that you took the same approach as the plastic bag  
3 and the bottle and said, nah, I'm not going to collect  
4 that?

5 A. Well, I guess the way you're asking me the  
6 question, you can pick a number and that would be it;  
7 so, I don't really know how to answer that question.

8 Q. Well, let's say a natural path that you took --  
9 because you learned from somebody that there was a path  
10 from that car around the side of that house down towards  
11 that first officer, right?

12 A. Yes, sir.

13 Q. Okay. So how many items between that car and  
14 that first officer did you notice and say, nah, I'm not  
15 going to pick those up, don't need them?

16 A. If you're asking me what I made a determination  
17 of what I'm collecting or not, I made a determination by  
18 if the item is -- appears to be a fresh dropped item, if  
19 it's been there awhile, if it has dirt on it, if there  
20 is something above it, below it. Just whatever is on --  
21 just looking at an item, has it been there awhile?  
22 Between the vehicle and the black baseball cap and the  
23 stocking, I don't recall any items, small items I may  
24 have picked up in the bag -- I don't recall any items  
25 being between those two locations.

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1 Q. Okay. You're throwing out some hints to the  
2 jury with your answer, so let me ask you this question:  
3 On the white plastic bag that's by that tire, looks  
4 pretty fresh to me in the photograph. Doesn't look like  
5 it's weathered or muddy or stomped down or anything.  
6 Looks pretty fresh, doesn't it?

7 A. Yes, sir.

8 Q. Same thing with that soda bottle. Looks pretty  
9 fresh, doesn't it?

10 A. The soda bottle, no, sir, it does not.

11 Q. Okay. What does it look like to you?

12 A. It looked like it had been there awhile.

13 Q. Okay. What is awhile to you?

14 A. Looked like it had been there more than a few  
15 days.

16 Q. Why?

17 A. There was dirt stains on the actual bottle and  
18 just looked like it had been there a few days.

19 Q. Where is that in your report?

20 A. It's not in my report.

21 Q. Because you didn't write in your report there  
22 was a plastic bottle about four feet to the right of the  
23 driveway very near the white Integra that looked like it  
24 had been there a few days, so I didn't collect it. You  
25 didn't write that in there, did you?

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1 A. No, sir.

2 Q. You're winging it because I brought this up,  
3 aren't you?

4 A. No, I'm not winging it. No, sir.

5 Q. Okay. How can you remember whether it looked  
6 like it had been there a few days, seven years ago? How  
7 can you say that?

8 A. Because I did not collect it.

9 Q. Okay. But you never documented any reasons why  
10 you didn't collect it, did you?

11 A. That is correct.

12 Q. Even if you thought it had been there a few  
13 days, maybe it had been in the car for a week. Because  
14 the car had been stolen for a week, and whoever was in  
15 this car and about the car could have left something on  
16 that bottle.

17 MS. LOGAN: I object. That calls for  
18 speculation.

19 THE COURT: Sustained.

20 Q. (By Mr. Easterling) In your training and  
21 experience as a crime scene officer, if somebody leaves  
22 a plastic bottle like that in their car for a week, like  
23 in the console, the floorboard, that kind of thing, it  
24 might get some dirt on it, particularly if it's on a  
25 floorboard, right?

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1           A.    Bottles I've left in my car for a week have not  
2 got dirt on them like that, no, sir.

3           Q.    Well, maybe your floorboard isn't dirty like a  
4 stolen car.

5           A.    I guess not.

6           Q.    I'm not saying covered in dirt.  The photograph  
7 doesn't show it's covered in dirt, either, does it?

8           A.    I don't think I could tell, no, sir.

9           Q.    In fact, you can't tell from the photograph of  
10 any dirt on it, can you?

11          A.    It looked like it had some on there to me.  
12 Looked a little stained; but yes, sir, we can look at it  
13 again.  I don't know.

14                   MR. EASTERLING:  Approach the witness,  
15 Judge?

16                   THE COURT:  You may.

17          Q.    (By Mr. Easterling)  Let me show you off of the  
18 screen and up close there.  You can look at it.

19          A.    Yes, sir.

20          Q.    There is a label on the bottle, right?

21          A.    Yes, sir.

22          Q.    Like there usually is?

23          A.    Yes, sir.

24          Q.    And the label has got a light of white to it,  
25 doesn't it?



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1 A. Yes, sir.

2 Q. Do you see any smudges or dirt on the white  
3 label?

4 A. I cannot give you details about what was on the  
5 bottle, no, sir.

6 MR. EASTERLING: Can I walk it in front of  
7 the jury, please, Judge?

8 THE COURT: You may.

9 Q. (By Mr. Easterling) Okay. You continue  
10 working your way across the bayou area to find these  
11 other items. Are there any other officers standing by  
12 any of the other items?

13 A. Over at 9000 Prairie View and DeWalt Street  
14 locations?

15 Q. Yes, sir.

16 A. Yes, sir, there were.

17 Q. And that was just other patrol officers, I  
18 guess, that were standing there?

19 A. Yes, sir.

20 Q. So the dog -- the K-9 officer, Thomas, he  
21 wasn't leading you and showing, this is what my dog  
22 found, right?

23 A. No, sir.

24 Q. Okay. So you went ahead to find the wig, which  
25 looked like it was like off the ground a little bit,

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1 right?

2 A. Yes, sir.

3 Q. We already talked about you finding the black  
4 sweatshirt with the two gloves. You found a black  
5 stocking at that same location with the two gloves and  
6 the sweatshirt, correct?

7 A. Yes, sir, that's correct.

8 Q. But you separated the black stocking into a  
9 separate envelope, correct?

10 A. Yes, sir.

11 Q. State's Exhibit 95, one small black stocking.  
12 Again, dead-end of 9000 Prairie View, which is the same  
13 9000 Prairie View on each one of the gloves, too, right?

14 A. Yes, sir.

15 Q. You separate the stocking into a separate bag,  
16 right?

17 A. Yes, sir.

18 Q. Which is the proper thing to do, right, even  
19 though it touches the other things, right?

20 A. Yes, sir.

21 Q. Okay. Then you found the Toyota work shirt and  
22 the black pants with the belt, right?

23 A. Yes, sir.

24 Q. Now those items were very close together. I  
25 think there is a photograph of that, right? They were

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1 very close together?

2 A. Yes, sir.

3 Q. You didn't throw those all in the same bag, did  
4 you, or did you?

5 A. No, sir.

6 Q. Okay. But you did testify that when you got  
7 back to your office that you took -- and if I wrote it  
8 down incorrectly, let me know -- you took the pants and  
9 the shirt you had in the same bag, pulled them out and  
10 put them on the white butcher paper. Remember that?

11 A. Yes, sir.

12 Q. So before you tagged these into the property  
13 room, you had put this shirt, the Toyota work shirt, and  
14 the black pants in the same bag at the scene?

15 A. What was that again, sir? You said I did what?

16 Q. When did you fill out this on State's Exhibit  
17 94, one gray, button-down work shirt with Toyota on it?  
18 When did you fill that out, and where were you standing?

19 A. Those, I'm usually standing at the scene when I  
20 bag it into the bag.

21 Q. I didn't ask you what you usually did. I said,  
22 on this case, where were you standing and when did you  
23 write this on this bag?

24 A. I write that at the scene when I'm at the back  
25 of my truck.

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1 Q. Okay. But when you collected these two items,  
2 the Toyota work shirt and the black pants, did you put  
3 them into one sack and then separate them later?

4 A. No, sir.

5 Q. Okay. Then why did you testify before the  
6 break, when I got back to my office I took the pants and  
7 the --

8 MS. LOGAN: I'm going to object to counsel  
9 using his notes as the record in this case, as we do  
10 have a court reporter who's taking down everything the  
11 witness is saying.

12 MR. EASTERLING: This is  
13 cross-examination. I can ask him that question. If she  
14 wants to correct him with the record, I'm okay with  
15 that.

16 Q. (By Mr. Easterling) The question is, did you  
17 say before the break, when I got back to my office -- do  
18 you remember talking about when you got back to the  
19 office getting the items out of the pants?

20 A. Yes.

21 Q. Remember talking about that with Miss Logan?

22 A. Yes.

23 Q. Because you didn't take the items out there at  
24 the field or the scene, right?

25 A. That's correct.

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1 Q. All right. You testified, when I got back to  
2 my office, I took the pants and the shirt out of the bag  
3 and then took those items out of the pants. Remember  
4 saying that?

5 A. I took the items out of the bag and  
6 photographed them, yes, sir.

7 Q. The bag implies one bag, not two bags. You  
8 didn't say bags, did you?

9 A. Okay. If you're going to play on words with  
10 me, yes, sir, maybe I said bag; but they were in each  
11 individual bag. So, yes, sir, I took them out of each  
12 individual bag; and then I would place it on the butcher  
13 paper and photograph it.

14 Q. But you didn't say that before the break.

15 MS. LOGAN: I'm going to object to the  
16 argument.

17 THE COURT: Sustained.

18 Q. (By Mr. Easterling) Did you say that before  
19 the break in your testimony, yes or no? Did you say it  
20 that way?

21 A. I have no idea, sir, if I said bag or bags. I  
22 don't know.

23 Q. So you think you put the Toyota work shirt and  
24 the black pants in two separate bags right there in the  
25 field?

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1 A. Yes, sir.

2 Q. Okay. Why do you say that?

3 A. Because I did it. That's how I do it.

4 Q. I don't know how you usually do it. I want to  
5 know how you did it on the State of Texas versus Charles  
6 Jones.

7 A. I just told you, sir. I put it in each  
8 individual bag at the scene.

9 Q. Okay. Now the bloodstain that you  
10 photographed --

11 MR. EASTERLING: May I approach, please?

12 THE COURT: Yes.

13 Q. (By Mr. Easterling) Do you remember the  
14 photograph she showed you up on the screen with the  
15 bloodstain on the pants?

16 A. Yes, sir.

17 Q. Okay.

18 MS. LOGAN: I'll find it for you.

19 MR. EASTERLING: Okay.

20 Q. (By Mr. Easterling) That's a normal thing for  
21 you to photograph, something that looks like it's blood,  
22 right?

23 A. Yes.

24 Q. My question is going to be, while she's looking  
25 for it, to save time --

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1 MS. LOGAN: They're right here.

2 Q. (By Mr. Easterling) Okay. We have State's  
3 Exhibits 88 and 89. And this looks like at that point  
4 in your office when you laid the pants out on the  
5 butcher paper and took out the Kool pack, that  
6 pocketknife, and the cigarette lighter and I think the  
7 little pepper spray. Do you remember this, sir?

8 A. Yes, sir.

9 Q. And then there is a sack right there. Is that  
10 the sack where you pulled the pants out of?

11 A. Yes, sir.

12 Q. All right. Do you recall whether this stain  
13 looked moist or dry, if you can recall? I know it was a  
14 long time ago.

15 A. I don't recall if it was moist or dry. That, I  
16 cannot tell you.

17 Q. And you didn't document it one way or another,  
18 whether it was moist or dry? You said a bloodstain,  
19 right?

20 A. That's correct.

21 Q. Okay. This is more of a close-up picture, and  
22 I guess it's a little ruler to give an idea of how big  
23 it is?

24 A. Yes, sir.

25 Q. How many inches is that ruler? I don't see any

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1 numbers on it.

2 A. Those rulers are about six inches long.

3 Q. Okay. So it appears to be reddish, kind of a  
4 dark red, right?

5 A. Yes, sir.

6 Q. Okay. And you can't tell how long that blood  
7 had been on the pants at that point you took the photo,  
8 right?

9 A. That's correct.

10 Q. Have you taken some courses and training, et  
11 cetera, on blood spatter, blood transfer, that kind of  
12 thing, in your work as a crime scene investigator?

13 A. Yes, sir.

14 Q. Okay. I want to try to give you some  
15 hypotheticals and see if you do have an expert opinion  
16 about how that type of blood can get on the front of  
17 your pant leg like that. I guess there is some stains  
18 you see, like on a white T-shirt or something, where  
19 there is a drop that is a splat. That can be like a  
20 high impact or high velocity kind of splatter where it's  
21 splattering off of something and then it's hitting that  
22 object, right?

23 A. That's correct.

24 Q. Okay. It didn't appear to be that type of  
25 blood transfer, did it?



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1 A. No, sir.

2 Q. Okay. It looks like it's sort of a smudge or  
3 sort of a rubbed transfer. Would that be accurate?

4 A. Yes, sir, it looks like that.

5 Q. Or soaked somehow, right?

6 A. Yes, sir.

7 THE COURT: Excuse me, Counsel. Their  
8 food is here. We're going to take a recess.

9 We're going to recess. We'll resume  
10 testimony at 1:00, and please remember your admonitions  
11 from the Court.

12 (Lunch recess)

13 (Jury enters courtroom)

14 THE COURT: Did you guys enjoy your lunch?

15 All right. You may continue,

16 Mr. Easterling.

17 MR. EASTERLING: Thank you, Your Honor.

18 Q. (By Mr. Easterling) Okay. I think right  
19 before the lunch we were talking about the blood --  
20 apparent bloodstain on the pants. You did get to see  
21 the deceased's body laying there in the store and the  
22 blood from the gunshot wound, correct?

23 A. Yes, sir.

24 Q. If those pants had -- well, I forgot which one  
25 it was, the right or the left. But either one, if they

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1 had it on the front of the pants, that would be  
2 consistent with coming into contact with somebody that  
3 had blood, right? That could happen?

4 A. Yes, sir, that could happen.

5 Q. Or their hand, if their hand was bloody, if it  
6 went up against it somehow, I guess that could transfer  
7 that, right?

8 A. Yes, sir, it could transfer blood on your  
9 clothing.

10 Q. Or if there was a possible struggle between the  
11 shooter and the deceased after he was shot, if there was  
12 a brief struggle, somehow there could have been blood  
13 transfer that way?

14 A. Yes, sir, it could have been.

15 Q. It's really hard to know exactly without a  
16 surveillance video, right?

17 A. That's right.

18 Q. Or an eyewitness that actually saw it, right?

19 A. That's right.

20 Q. Okay. Okay. The body seemed to have some  
21 items on it. I want to see if you remember these and if  
22 you have any idea how they got there. State's Exhibit  
23 38 appears to be a large white sheet here. Do you know  
24 how that got there?

25 A. No, sir, I do not.

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1 Q. Have you seen scenes like this where maybe the  
2 EMS personnel from the ambulance put that on a body like  
3 that?

4 A. Yes, sir.

5 Q. Okay. So, is it possible they did it?

6 A. Could have been.

7 Q. Okay. You just don't know because you weren't  
8 there when it happened, right?

9 A. That's correct.

10 Q. Now up on the top part of the body where the  
11 chest area and the gunshot wound are, there appears to  
12 be toilet paper, white toilet paper along there. Do you  
13 know how that got there?

14 A. No, sir, I do not.

15 Q. Again, the same question. You don't know who  
16 deposited it there, laid it there or how it got there,  
17 right?

18 A. That's correct, I do not.

19 Q. Now, that wouldn't be something that would be  
20 common for an ambulance personnel to put on a body,  
21 would it?

22 A. No, sir.

23 Q. Okay. And, of course, it's a simple question;  
24 but that's the way the body looked when you first saw  
25 it, also? I mean, nothing had changed, right?

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1 A. That's correct.

2 Q. Nobody had disturbed it or moved it or added  
3 anything before you first -- I mean, when you first saw  
4 it to the time you took the photographs, right?

5 A. That's correct.

6 Q. Okay. I want to go back to the gloves for a  
7 moment, because you did some fingerprint dusting there  
8 at the store.

9 A. Yes, sir.

10 Q. And did you do any swabbing for possible DNA?

11 A. Yes, sir.

12 Q. Okay. Were you aware that the serologist at  
13 the crime lab found small tears in the tips of the  
14 gloves?

15 A. No, sir.

16 Q. Are you aware of that?

17 A. No, sir.

18 Q. I know you didn't do that work. I'm just  
19 curious whether anyone has ever discussed that with you.  
20 One of the tears is at the top of a glove that's on the  
21 tip of the thumb. I think another one was on maybe a  
22 ring finger, maybe the second one, maybe. If there is a  
23 large enough tear for the tip of the thumb or the tip of  
24 the ring finger to be exposed, you could still leave  
25 your skin cells even though you're wearing a glove,

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1 correct?

2 A. I guess that could happen, yes, sir.

3 Q. And conceivably, if the tear is large enough,  
4 you might be able to leave some fingerprint ridge  
5 detail, depending on the size of the tear, right?

6 A. Okay. Yes, sir.

7 Q. Okay. So, let's talk about where you did  
8 the -- let's go with the fingerprint dusting. When  
9 you're trying to get ridge detail or lift some prints,  
10 you use that black fingerprint powder, right?

11 A. Yes, sir.

12 Q. And then you have -- it's like a horse hair  
13 kind of brush, right?

14 A. I use a feather hair.

15 Q. I'm sorry?

16 A. A feather-type.

17 Q. Okay. And so, you go to an area that -- where  
18 there might be something, you dust for it and you look  
19 carefully for ridge detail, right?

20 A. That's correct.

21 Q. Like, if I put my fingers on this hard surface  
22 right here, you're going to dust along on that and see  
23 if you bring up anything, right?

24 A. That's correct.

25 Q. And if you see anything, put some tape on it,

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1 lift that tape up, and you put it on a fingerprint index  
2 card, right?

3 A. Yes, sir.

4 Q. Okay. So let's talk about where you looked for  
5 fingerprints. Did you look on the front door area, you  
6 know, where someone would grab a door? Did you do that?

7 A. No, sir.

8 Q. Okay. Why not?

9 A. I generally don't do the front door. In this  
10 case I didn't do the front door, because I wanted to get  
11 fingerprints from the area where I believed the suspect  
12 would have touched or had reason to be behind the  
13 counter where customers don't normally go.

14 Q. Okay. We'll get to that in a minute. Well, a  
15 suspect has to get in the front door somehow, right?

16 A. Yes, sir, just like every other customer, yes,  
17 sir.

18 Q. And they're normally going to touch a door  
19 handle to pull it open, right?

20 A. Yes, sir, like every other customer, yes, sir.

21 Q. So why didn't you dust the door handle of the  
22 front of the Happy All Store for fingerprints?

23 A. Because I don't want to dust the area where  
24 there is mixed traffic. I'm looking for specific prints  
25 of a suspect, and a suspect would be behind the counter

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1 where there is a disarray from the safe where the items  
2 that are strewn across the floor. That area, I know,  
3 would have been an area where I would find a suspect's  
4 fingerprints.

5 Q. Have you ever dusted fingerprints on the door  
6 handle of a convenience store where there was a robbery  
7 or a capital murder?

8 A. I believe so, yes, sir, I have.

9 Q. But you didn't do it in the Charles Jones case,  
10 did you?

11 A. No, sir, I did not.

12 Q. Okay. Let's talk about the other places.  
13 There was a cash register like there is in every one of  
14 these stores, right?

15 A. Yes, sir.

16 Q. And the cash register drawer was found pulled  
17 out and on the floor, correct?

18 A. That's correct.

19 Q. This is the cash register where the drawer's  
20 emptied. This is State's Exhibit 52. And this -- then  
21 this is State's Exhibit 55, showing right below that on  
22 the floor the actual drawer?

23 A. Still had some coins in it but no bills,  
24 correct, yes, sir.

25 Q. Okay. Did you dust this item for fingerprints?

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1 A. Yes, sir.

2 Q. Where?

3 A. Around the area where somebody may have touched  
4 it.

5 Q. Okay. Did you get any identifiable prints?

6 A. No, sir.

7 Q. Did you do it before or after you took this  
8 picture?

9 A. Oh, after.

10 Q. Okay. That's why we don't see any fingerprint  
11 powder on it?

12 A. That's correct, sir.

13 Q. Okay. All right. There was a lot of items  
14 that looked like they had been pulled away from the  
15 shelf or on top of the shelf where some suspect was  
16 rummaging for money or valuables, and they end up all  
17 down here on the floor just -- I don't know -- lottery  
18 tickets, just all kind of different things here,  
19 correct?

20 A. Yes, sir.

21 Q. Plastic -- even a plastic -- looks like sort of  
22 a bucket or container here. How many of these things  
23 did you try to dust for fingerprints?

24 A. Whatever item I could find that might have  
25 fingerprints on them, I took the dust powder to and



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1     tried to get prints off of it.

2           Q.     Is that in your report, that you fingerprinted  
3     these items?

4           A.     It's in my report I fingerprinted that area,  
5     yes, sir.

6           Q.     In that area that's pretty general, which items  
7     did you specifically dust?

8           A.     I don't recollect the exact items I tried to  
9     fingerprint.

10          Q.     The orange safe there, for the jury's  
11     information, you say it's the typical kind. This is the  
12     bottom compartment right here and this is the door right  
13     here that's open, correct?

14          A.     Yes, sir.

15          Q.     This, being the center portion in here, looks  
16     empty, right?

17          A.     Yes, sir.

18          Q.     Did you try to lift any fingerprints on the  
19     door of that safe?

20          A.     Yes, sir.

21          Q.     Any results?

22          A.     No, sir.

23          Q.     The Kool cigarette packs that appear to have  
24     been brought down from up here, this drawer that was  
25     pulled out appeared they had been pulled away or taken

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1 and some of them dropped down here. How many of these  
2 cigarette packs did you process for fingerprints?

3 A. All the ones on the floor, I picked up and  
4 dusted.

5 Q. Okay. Any results?

6 A. No, sir.

7 Q. How about the toy gun, the plastic toy gun?  
8 Did you do anything with it?

9 A. No, sir.

10 Q. Nothing on fingerprints?

11 A. No, sir.

12 Q. Did you swab it for DNA?

13 A. No, sir.

14 Q. So if the suspect had picked it up and said,  
15 oh, I've got a gun, I can take this, and they figured  
16 out, oh, it's plastic, and threw it down, he could have  
17 left DNA on that gun; and you didn't swab for it,  
18 correct?

19 A. That is correct.

20 Q. You didn't think it was important to swab a gun  
21 at a capital murder scene for DNA?

22 A. Plastic toy gun, no, sir, I did not.

23 Q. By the way, did you find any other firearm  
24 anywhere in the store?

25 A. No, sir.

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1 Q. And, specifically, a handgun?

2 A. No, sir.

3 Q. Okay. And you didn't find a firearm in the  
4 waistband of Mr. Nguyen, did you, the deceased?

5 A. No, sir.

6 Q. Okay. Let's talk about places where you  
7 swabbed for DNA. Just make sure the jury understands  
8 how you do that. You're issued Q-tips that are kind of  
9 long. The handle on it is kind of long; and there's a  
10 nice cotton ball at the end that you use to do the  
11 swabbing with, correct?

12 A. That's correct.

13 Q. And sometimes you'll dip it in distilled water  
14 to get it a little moist if you want to get something,  
15 or sometimes you just use it dry, right? It depends on  
16 the circumstances, right?

17 A. That's correct.

18 Q. Okay. Have you refreshed your memory and  
19 looked in your report to be able to tell the jury where  
20 you swabbed for DNA in the store?

21 A. You're asking me if I know in my report?

22 Q. Yeah. You read your report to refresh your  
23 memory?

24 A. Yes, sir.

25 Q. Something that happened a long time ago, right?

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1 Did you document in there where you swabbed for DNA in  
2 the store?

3 A. Yes, sir.

4 Q. Okay. Well, if you can remember the first  
5 place -- let's just go through them. Where was the  
6 first place you remember, or first area?

7 A. It would be under the title of 8935 Veterans  
8 Memorial.

9 Q. I'm sorry. 8935 what?

10 A. Veterans Memorial.

11 Q. Veterans Memorial. Okay.

12 A. It would be under that section.

13 Q. Got you.

14 A. And if you read through, I think, the  
15 descriptor section, I think it is -- I'm talking about  
16 the section that I marked at the scene as A, B and C.

17 Q. Yes, sir. Those are the blood samples on the  
18 floor?

19 A. Yes, sir.

20 Q. Let's talk about those for a minute. Let me  
21 show you -- you marked those A, B and C on the crime  
22 scene diagram so that we would know where those were  
23 found. Remember that?

24 A. Yes, sir.

25 Q. I believe those are in between the soda cans

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1 and the body, right, A, B, C here?

2 A. Yes, sir.

3 Q. And that was on the floor. And there is  
4 photographs of those, right?

5 A. Yes, sir.

6 Q. That would have been on this floor in State's  
7 Exhibit 34. That would be between this soda can and the  
8 body, right, in this area on the tile floor, correct?

9 A. Yes, sir.

10 Q. How did those blood samples -- how did they  
11 look like they got deposited there? Could you tell?

12 A. To me it looked like they were blood drops.

13 Q. Like a wound -- bear with me a minute. If the  
14 wound was in the chest, the one gunshot was in the  
15 chest, and there may have even been an exit wound, too,  
16 that blood could have been dropping from the deceased  
17 either from the front or from the back, depending on  
18 where the blood is dripping from, correct?

19 A. That is correct.

20 Q. Okay. So it looked like gravity -- it fell  
21 down towards the floor and kind of splattered there,  
22 right?

23 A. Yes, sir.

24 Q. So those are the ones you documented with  
25 photos and you took swabs of. Would that be

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1 consistent -- let me see your pen -- would those swabs  
2 be consistent with the body moving from somewhere around  
3 here and then ending up down here? Do you understand  
4 the question?

5 A. Yes, sir. It could have happened that way,  
6 yes, sir.

7 Q. And he could have been standing up or stumbling  
8 after being shot and then -- or in a struggle in that,  
9 what, ten or twelve feet and eventually falling where he  
10 landed, correct?

11 A. Yes, sir.

12 Q. Okay. Again, we don't know that for sure; but  
13 evidence like blood spatter can kind of tell you the  
14 story, to a certain degree, right?

15 A. That's correct.

16 Q. But without a surveillance video, we don't know  
17 exactly, right?

18 A. That's correct.

19 Q. Now if there was somebody that said they heard  
20 two shots and the deceased only sustained one shot to  
21 his body, it is possible that another shot from either  
22 the deceased, if he had a gun, or from the shooter, who  
23 had a gun, went somewhere in the store that you just  
24 didn't see a bullet hole, right?

25 A. Correct.

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1 Q. I mean, it could have been over here in the  
2 corner, somewhere up in the ceiling. I mean, there  
3 would be a thousand different places where you may not  
4 ever find it, right?

5 A. Yes, sir.

6 Q. Or if you found it, you probably would just be  
7 lucky, right?

8 A. Yes, sir.

9 Q. Because it's not like you're in an enclosed,  
10 small bedroom where it would be easy to see the hole in  
11 the Sheetrock, right?

12 A. Yes, sir.

13 Q. And you've seen those kind of bullet holes all  
14 the time, right?

15 A. Yes, sir.

16 Q. Now the Lotto tickets that were unopened, they  
17 were in, I think, a ten-packet you were talking about,  
18 plastic wrap? Remember that?

19 A. Yes, sir.

20 Q. Did you just submit those to the lab, or did  
21 you do any kind of fingerprint testing or DNA swabs on  
22 those?

23 A. No, sir. I submitted them to the latent lab.

24 Q. So somebody else would have handled that,  
25 right?

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1           A.     That's correct.

2           Q.     Did you follow up to see -- was it your job, or  
3 did you follow up to see what happened about the Lotto  
4 tickets?

5           A.     No, sir.

6           Q.     Okay. Now those Lotto tickets were right there  
7 on the floor next to the safe and the other items that  
8 had been pulled off the shelf, right?

9           A.     Yes, sir.

10          Q.     Okay. Did you swab the cash register for any  
11 DNA?

12                   MS. LOGAN: It's been asked and answered.

13                   THE COURT: Sustained.

14          Q.     *(By Mr. Easterling)* I'm sorry. Not the  
15 drawer, but the actual cash register up on the counter.  
16 Did I ask that?

17          A.     On DNA?

18          Q.     Yeah, for DNA.

19          A.     No, sir, I did not swab that for DNA.

20          Q.     Okay. Did you -- well, where else did you swab  
21 for DNA that we haven't discussed? Any other spots in  
22 the store?

23          A.     No, sir.

24          Q.     Now, the -- there was a storeroom next to the  
25 walk-in cooler where you drew in some flat boxes here.



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1 Would this typically be soda water, beer, or anything  
2 that would go into this cooler maybe; or do you remember  
3 looking around that room?

4 A. I just remember boxes being in that room  
5 stacked up. I have no idea what they were.

6 Q. And the boxes that you wrote as flat boxes, do  
7 you remember if that was beer, or soda water, or what it  
8 was?

9 A. That, I don't recall.

10 Q. Just probably some sort of merchandise, right?

11 A. Yes, sir.

12 Q. All right. Did the soda cans appear to have  
13 been knocked off from the display?

14 A. I believe so, yes, sir.

15 Q. Because that's -- in other words, there were  
16 other soda cans in the area on the shelf?

17 A. I believe so, yes, sir.

18 Q. That would be consistent with somebody bumping  
19 into it and either a struggle or a stagger or hitting it  
20 with an arm or something and knocking it off?

21 A. It could happen that way, yes.

22 Q. All right.

23 MR. EASTERLING: Pass the witness, Your  
24 Honor.

25 THE COURT: Okay.

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1 MS. LOGAN: May I, just briefly, Judge?

2 THE COURT: You may.

3 MS. LOGAN: Thank you.

4 **REDIRECT EXAMINATION**

5 BY MS. LOGAN:

6 Q. All right. Sergeant West, we've talked about  
7 some gloves today; and I want to cover with you the pair  
8 of white latex gloves that we have in one bag that is  
9 listed as State's Exhibit No. 96. Why did you choose to  
10 put both of those gloves in one bag when you didn't do  
11 that with other evidence in this case?

12 A. Those two gloves were together. The other  
13 gloves were separate, laying at the scene. Since those  
14 two gloves were together, they were packaged together.

15 Q. And is that a rule that you follow as a crime  
16 scene investigator when it comes to like items that are  
17 together at a crime scene?

18 A. Yes, ma'am.

19 Q. Now let's talk about State's Exhibits 97, 98  
20 and 99. Okay. These are going to be those three gloves  
21 that you mentioned were not next to each other, sort of  
22 in a sequence, right?

23 A. That's correct.

24 Q. And we found these near the dead-end of Prairie  
25 View, right?

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1 A. Yes, ma'am.

2 Q. Okay. Now during one of the breaks, you and I  
3 looked at your report. And did that refresh your  
4 recollection as to the condition of these gloves when  
5 you found them?

6 A. Yes, ma'am.

7 Q. Okay. Were they right side out or inside out?

8 A. They were inside out.

9 Q. Okay. And that's going to be State's Exhibits  
10 97, 98 and 99 that you notated in your report as being  
11 inside out?

12 A. That's correct.

13 Q. Now when you find something like this at a  
14 crime scene, is it your job to turn them right side out  
15 and look for any stains that might be on the opposite  
16 side of the glove?

17 A. No, ma'am.

18 Q. Not your job?

19 A. That's correct. It's not my job.

20 Q. I'm showing you Defense Exhibit No. 2, okay,  
21 that white plastic bag. They're kind of like  
22 tumbleweeds out there crossing --

23 A. Yes, ma'am.

24 Q. They're everywhere --

25 A. Yes, ma'am.

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1 Q. -- right? Anything about the location or what  
2 you observed about that bag -- was there anything to  
3 make you think it was part of this crime scene?

4 A. No, ma'am.

5 Q. Were there other plastic bags out there by the  
6 bayou?

7 A. I think there were, but I don't recall any at  
8 this time.

9 Q. You didn't pick those up, either, did you?

10 A. No, ma'am.

11 Q. Now, let's talk about the bottle. I'm kind of  
12 a connoisseur, because I like grape soda. Look like a  
13 grape soda bottle to you?

14 A. I really couldn't tell. Kind of looked a  
15 little purple.

16 Q. But also white, like the defense attorney was  
17 talking to you?

18 A. Purple and white, yes, ma'am.

19 Q. And in your training and experience, would that  
20 be consistent with it being sun-bleached because it's  
21 been outside for a while?

22 A. Could have been.

23 MR. EASTERLING: I object to that. That  
24 calls for pure speculation.

25 MS. LOGAN: He can testify as to whether

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1 or not he knows if it's consistent, in his training and  
2 experience as a crime scene investigator, as to whether  
3 something appeared sun-bleached.

4 MR. EASTERLING: He doesn't have that  
5 training and experience. That's pure speculation. He's  
6 never done any testing --

7 THE COURT: Overruled. The witness --

8 MR. EASTERLING: -- on sun-bleached --

9 THE COURT: -- may answer.

10 MR. EASTERLING: -- that we know --

11 THE COURT: Okay. Don't talk over me,  
12 Counsel. I'm ruling.

13 MR. EASTERLING: I'm sorry.

14 THE COURT: The witness may answer if he  
15 knows.

16 A. It could be sun-bleached, yes, ma'am.

17 Q. (By Ms. Logan) All right. What about that  
18 bottle when you looked at it helped you make your  
19 determination about whether or not you were going to  
20 pick it up as evidence in this case or not?

21 A. The condition of the bottle itself. If I felt  
22 that it had been deposited there more recently or if it  
23 had been there for a while, say, dirt, sun-bleached or  
24 things on top of it. Nothing led me to believe it had  
25 anything to do with this crime scene.

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1 Q. Okay. You're not trying to leave evidence out  
2 there so that the right person doesn't get caught, are  
3 you?

4 A. No, ma'am.

5 Q. But you also can't take the entire crime scene,  
6 like they do on TV, back to the lab with you to  
7 re-create, can you?

8 A. That's correct, we cannot.

9 Q. And that's why you have the training and  
10 experience as a crime scene officer to look at what's  
11 out there and make a decision about what is relevant  
12 based on what you know about the crime scene as far as  
13 what to collect as evidence?

14 MR. EASTERLING: Objection. That's a  
15 statement, not a question, Your Honor.

16 THE COURT: Sustained. Rephrase.

17 Q. (By Ms. Logan) Okay. Is it your job to look  
18 at everything that you see out there, take into account  
19 what you know about the crime because of all the other  
20 officers that you've talked to, and make a decision  
21 about what will give your office the best chance of  
22 catching the bad guy in the case?

23 A. Yes, ma'am, that's my job to do that.

24 Q. And if I want to grade your paper and give you  
25 an A, we would agree about that, wouldn't we?

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1           A.     Yes, ma'am, we would.

2                     MS. LOGAN:   Pass the witness.

3                     THE COURT:   Any recross?

4                     MR. EASTERLING:  Yes, Your Honor.

5                                     **RECROSS-EXAMINATION**

6   BY MR. EASTERLING:

7           Q.     Where is it in your report about the inside out  
8   condition of the gloves?  Can you help me find that,  
9   please?

10          A.     It should be under 9000 Prairie View section.

11          Q.     Okay.

12          A.     Near the front of the report.

13          Q.     Those are the ones along the path, correct?

14          A.     Yes, sir.

15          Q.     Okay.  I see where you wrote.  All right.  Now,  
16   how far were they turned inside out?  Did you delineate  
17   that?

18          A.     No, sir, I did not.

19          Q.     All right.  This is a clean latex glove.  I'm  
20   going to put it on for a second here.  Okay.  I just  
21   took it off.  Can you tell whether this is inside out or  
22   not?

23          A.     Yes, sir.

24          Q.     Okay.  From what, these two little things here?

25          A.     Yes, sir, that, too.

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1 Q. Now all the other three, you can't tell, can  
2 you?

3 A. I can't tell from here, no, sir.

4 Q. So how could you tell the gloves that you  
5 collected were inside out?

6 A. The fingers were pulled in. The tips of the  
7 fingers were pulled in on the gloves.

8 Q. Now, that time all five of them came out,  
9 didn't they?

10 MS. LOGAN: I'm going to object to the  
11 relevance of this.

12 THE COURT: Sustained.

13 Q. (By Mr. Easterling) You can't tell us for sure  
14 whether the gloves you found were inside out or not, can  
15 you?

16 A. I could see at the scene. It was my  
17 determination; and that's what I called them, yes, sir.

18 Q. Do you have any close-up photographs of the  
19 gloves so we can tell, ourselves, whether they were  
20 inside or out?

21 A. I guess I don't if we haven't seen them. I  
22 don't think I have any close-ups.

23 Q. All of them are from far away, aren't they?

24 A. Yes, sir.

25 Q. How do you grade your performance on that, not



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1 taking a close-up picture of a glove that you collected  
2 as evidence?

3 A. I have to give myself an A, sir.

4 Q. Okay. A capital murder case, it's not  
5 important to get a close-up picture of an item like  
6 that?

7 A. I didn't take a close-up picture. I didn't say  
8 it wasn't important to do so; but I just didn't take a  
9 close-up of these items, no, sir.

10 Q. Was it important or not to take a close-up  
11 picture of an item like that, a glove?

12 A. I didn't take a close-up picture of it so, no,  
13 sir.

14 Q. I didn't ask you that question. The question  
15 was, was it important to take a close-up picture on a  
16 capital murder case of an item like that?

17 A. I guess it is important, but I didn't take the  
18 picture.

19 Q. And when you picked them up to put them in the  
20 bag, did you have your own rubber gloves on?

21 A. Yes, sir.

22 Q. Well, did you look at the gloves in any way?

23 A. Yes, sir.

24 Q. Okay. And you wanted to see if you saw  
25 anything on them, right?